

LOCATION: North West London 'ERUV'

REFERENCE: 15/01022/FUL

Received: 17/02/2015

Accepted: 16/04/2015

WARDS: East Finchley; Finchley
Church End; Mill Hill;
Garden Suburb; Childs
Hill; and Edgware

Expiry: 11/06/2015

APPLICANT: NW London Eruv Committee

PROPOSAL: In connection with the creation of an Eruv in North West London, as an amendment, four new sites are proposed and changes to three locations are proposed in this variation at the following locations:

New Locations:

01: Great North Way (A1 eastbound carriageway) NW4 (1no. 5.5m high pole and 1.0m high clear panel)

04: Spaniards Road (nr. The Spaniards Inn) NW3 (2no. 5.5m high poles and connecting wire)

06: High Street (nr. Edgware Primary School) HA8 (1no. 5.5m high pole)

07: Tavistock Avenue (nr. Grants Close) NW7 (1no. 5.5m high pole)

Existing Locations (changes):

02: Great North Way (access road west of no. 201) NW4 (replacement of 5.5m high pole)

03: North Circular Road (A406 footpath off Tangletree Close) N3 (removal of 2 no. 8m high poles and replacement of existing 2 no. 5.5m high poles with 4m high poles and connecting wires)

05: Hendon Way (A41 adjacent to 169 Cricklewood Lane) NW2 (replacement of existing 5.5m high pole with new 5.5m high pole)

RECOMMENDATION

That the Assistant Director – Development Management and Building Control approve the planning application reference 15/01022/FUL under delegated powers and grant planning permission subject to the following conditions and any changes to the wording of the conditions considered necessary by the Assistant Director – Development Management and Building Control:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

NW London Eruv General Sites Location Plan; 879.01; 879.02; 879.03; 879.04; 879.05; 879.06; 879.07; and 879_06

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01, CS NPPF and CS1 of the Barnet Local Plan.

2. This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

3. Details of the design and colour of the external surfaces of the poles and panel hereby approved shall be submitted to the Local Planning Authority and approved in writing prior to the commencement of the development. Each individual pole or panel hereby approved shall be implemented in full accordance with the details approved under this condition within 6 months of the erection of that particular pole or panel.

Reason:

To protect the character and amenities of the sites and wider area and to ensure compliance with policies DM01, CS NPPF and CS1 of the Barnet Local Plan and 7.4, 7.5 and 7.6 of the London Plan (2015).

4. No site works or other works associated with this development shall be commenced before an Arboricultural Method Statement and Tree Works Plan, detailing the precautions to be taken to minimise damage to trees within and adjacent sites 4, 6 and 7 and any works to be carried out to trees as part of the implementation of the proposal (where relevant), in accordance with British Standards BS5837:2012 and BS3998:2010, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the Arboricultural Method Statement and Tree Works Plan approved under this condition.

Reason:

To safeguard the health of existing trees which represent an amenity feature in accordance with policies DM01 and DM16 of the Barnet Local Plan and policy 7.21 of the London Plan.

5. A Construction and Maintenance Strategy, for all works hereby approved on or adjacent the Transport for London Road Network (TLRN) public highway, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Transport for London, prior to the commencement of the development. The Construction and Maintenance Strategy submitted shall include details on how the Eruv structure (poles, wire and panel) would be constructed and maintained in a manner that would not compromise highway and pedestrian safety or unacceptably impact on movements on the TLRN public highway. The development shall be implemented and in full accordance with the approved Construction and Maintenance Strategy and maintained in accordance with this Strategy in perpetuity.

Reason:

In the interests of highway and pedestrian safety and to ensure that disruption to pedestrians and traffic on the TLRN road network arising from the development would be kept to a minimum in accordance with policies CS9 and DM17 of the Barnet Local Plan.

Informatives

It is recommended that the following informatives be included on the decision notice in respect of this application:

1. The erection of the Eruv structures (poles, wires and any other associated works) on the highway would require a Highways Licence under the Highways Act 1980. This Licence would be subject to a number of conditions such as design, use of an approved contractor, indemnity insurance and a bond. If there are problems with any of these matters the licence would not be granted. The Highway Licence covers the proposal in terms of the positions of each pole and will check for any potential concerns, including impacts on clutter, sight lines, obstruction (this would be assessed in relation to all including the needs of disabled people), security and technical specification (including colour of poles and type of wire). The terms of the Licence require weekly inspections for the lifetime of the Eruv and the applicant must submit reports on the outcome of the inspection, any defects identified and actions taken to resolve. The Highways Group also charge an annual fee via the licence to carry out ad hoc inspections to ensure maintenance is being carried out.
2. Structures located on a footway or a footpath must allow for a minimum clearance of 1.5 metres for pedestrians. Location of any existing furniture in the vicinity must be taken into consideration to ensure that the minimum clearance required for pedestrians is not compromised.
3. In accordance with the general guidance given in the Traffic Signs Regulations and General Directions 2002, the applicant should ensure that structures located at the front of the kerb, on a verge or a footway should be a minimum of 0.45m away from the kerb line on borough roads and 0.6m on TLRN roads (trunk roads) to avoid damage and ensure safety.
4. The applicant is advised that any structures to be sited within or project over adopted highway will require Licences under the Highways Act 1980 in addition to planning permission. The exact location and details of these structures will be agreed as part of the licensing process. Please note that Licences under the Highways Act 1980 will be issued for structures located on areas under the Local Authority's responsibility. For structures located in other areas, the applicant should seek an agreement with the land owner. For structures impacting on adjacent boroughs, agreement must be sought from the relevant authorities.
5. The applicant is advised that on sites located on traffic sensitive routes, deliveries during the construction period should not take place during restricted hours.

6. Any and all works carried out in pursuance of this grant of planning permission will be subject to the duties, obligations and criminal offences contained in the Wildlife and Countryside Act 1981 (as amended). Failure to comply with the provisions of the Wildlife and Countryside Act 1981 (as amended) may result in a criminal prosecution.
7. The applicant is advised that they would be fully responsible for the maintenance of the proposed Eruv poles, wire and other associated structures to be placed on the public highway at all times.
8. The applicant is advised that they would be liable for the cost of any rectification work to be undertaken to rectify damages caused to the public highway resulting from construction and maintenance of the proposed Eruv structures.
9. The applicant is advised that they would be fully liable for claims and damages arising from third parties associated with the proposed Eruv poles, wire and other structures to be erected on the public highway.

1. MATERIAL CONSIDERATIONS

Key Relevant Planning Policy

National Planning Guidance

National planning policies are set out in the National Planning Policy Framework (NPPF). This document was published in March 2012 and it is a key part of reforms by national government to make the planning system less complex and more accessible. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and the document includes a 'presumption in favour of sustainable development'. In March 2014 the National Planning Practice Guidance was published (online) as a web based resource. This resource provides an additional level of detail and guidance to support the policies set out in the NPPF.

The London Plan

The London Plan (March 2015) is the development plan in terms of strategic planning policy. The London Plan policies (arranged by chapter) most relevant to the determination of this application are:

3.1 (Ensuring Equal Life Chances for All); 3.2 (Improving Health and Addressing Health Inequalities); 3.16 (Protection and Enhancement of Social Infrastructure); 6.10 (Walking); 7.1 (Lifetime Neighbourhoods); 7.2 (An Inclusive Environment); 7.4 (Local Character); 7.5 (Public Realm); 7.6 (Architecture); 7.8 (Heritage Assets and Archaeology); 7.16 (Green Belt); 7.17 (Metropolitan Open Land); 7.19 (Biodiversity and Access to Nature); and 7.21 (Trees and Woodlands)

Barnet Local Plan

The development plan documents in the Barnet Local Plan constitute the development plan in terms of local planning policy. The relevant documents comprise the Core Strategy and the Development Management Policies documents (both adopted in September 2012). The Local Plan development plan policies of most relevance to the determination of this application are:

Barnet Core Strategy (Adopted 2012):

CS NPPF (National Planning Policy Framework – Presumption in favour of sustainable development)

CS1 (Barnet's Place Shaping Strategy – Protection, enhancement and consolidated growth – The three strands approach)

CS5 (Protecting and enhancing Barnet's character to create high quality places)

CS7 (Enhancing and protecting Barnet's open spaces)

CS9 (Providing safe, effective and efficient travel)

CS10 (Enabling inclusive and integrated community facilities and uses)

CS12 (Making Barnet a safer place)

Barnet Development Management Policies (Adopted 2012):

DM01 (Protecting Barnet's character and amenity)

DM02 (Development standards)

DM03 (Accessibility and inclusive design)

DM06 (Barnet's Heritage and Conservation)

DM15 (Green belt and open spaces)

DM16 (Biodiversity)

DM17 (Travel impact and parking standards)

Relevant Planning History

Finchley, Golders Green and Hendon Eruv (Known as the North West London Eruv)

Eruv 1: Erection of groups of poles between which is suspended at high level a wire to designate the perimeter of a nominated "Eruv". Refused in 1993. Allowed at appeal in 1994.

Eruv 2: Installation of street furniture (comprising groups of poles connected by thin high level wire) to complete the identification of the perimeter of a defined Eruv. Refused in 1993. Allowed at appeal in 1994.

Eruvs 3 and 4: Erection of street furniture comprising groups of poles (usually 2) between which is suspended at high level a wire to designate the perimeter of a nominated Eruv. Approved in 1997 and 1998.

Woodside Park Eruv

Reference: B/03356/11

Proposal:

In connection with the creation of an Eruv in Woodside Park, the construction of pole and wire, or wooden, gateways, or 1m high posts known as 'leci' at a range of locations.

Decision: Approved in 2012

Stanmore/Canons Park Eruv

Reference: H/00921/09:

Proposal 9 sites around the Edgware area to complete the Stanmore/Canons Park Eruv

Decision: Approved in 2009

Mill Hill Eruv

Reference: H/01834/10

Proposal: 19 Sites in the Mill Hill area

Decision: Approved in 2010

Edgware Eruv

Reference: W13797

Proposal: Edgware Area Eruv

Decision: Approved in 2004

Consultation and Views Expressed

Public Consultation

This application has been the subject of extensive consultation with the local community. Consultation letters were sent to a total of **592** properties in May 2015. The application was also advertised on site and in the local press at that time.

The consultation process included the issuing of letters which specifically drew attention to the potential equalities impacts of the application and the provisions of the Equality Act 2010. As part of this consultative process consultees were requested to complete a questionnaire to provide information in respect of protected characteristics as defined in the Equality Act 2010 so that these factors could be taken into consideration when the LPA is determining the application.

Number of Responses

3 responses objecting to the proposal were received. **None** of the objectors to the application requested to speak at committee. **1** response supporting the proposal was received. The supporter of the application did not request to speak at committee.

Comments on the Application

The comments made in objection to the application can be summarised as follows:

- Strongly object to the erection of poles and wires next to the Spaniards Inn, a historic building.
- Proposal would be harmful to the natural beauty and historic significance of site 04.
- Do not wish the area to be marked with religious demarcation or iconography.
- Do not wish to be deemed to be living inside an Eruv or any other religiously defined territorial marking.
- Adverse impact on streetscape and environment.
- Application would exacerbate the already unacceptable impact of the existing eruv structures in the area.
- Eruv structures are an eyesore and obvious in the street.

- That there is not justified need for the structures as the entirety of Tavistock Avenue is already enclosed and there is already an eruv approved on Sanders Lane.

Officers response to the grounds of objection:

The comments raised are responded to in the report below in full. In summary the proposal is found to be acceptable and compliant with the objectives of development plan policies in all relevant regards.

The comments made in support of the application can be summarised as follows:

- Excited for the eruv to be completed so they are able to join their husband on the Sabbath and have people over to visit as they have been cut off for a long time.

Responses from Internal and Statutory Consultees and Other Bodies

Hampstead Garden Suburb Conservation Area Advisory Committee:

Have observed that additional street clutter should be avoided and note that lampposts have been used elsewhere, but advise approval of the proposal.

Traffic and Development Team:

The Traffic and Development Team response is set out in greater detail in the report below. In summary, they have confirmed that they have no objections to the development and find the proposal to be acceptable in respect of highways related matters.

Transport for London:

Were consulted on the application and did not provide any comments.

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application sites relate to alterations to the existing North West London Eruv and include areas within the East Finchley, Finchley Church End, Mill Hill, Garden Suburb, Childs Hill and Edgware Wards. The individual application sites are discussed in further detail in subsequent sections of this report.

Proposal:

An Eruv is a continuous boundary designated in accordance with Jewish Law. Whilst Jewish Law prohibits Orthodox Jews from carrying on the Sabbath, carrying is permitted within the defined boundary of an Eruv, as is the use of other items such as pushchairs and wheelchairs.

The Eruv boundary is formed by utilizing continuous local features, such as fences or walls alongside roads, railways or terraced buildings. However, where this continuity is not possible due to breaks in the boundary, for example roads, then this breach must be integrated by the erection of a notional 'gateway'. Such a gateway consists of poles linked on top by a wire or cross bar and can also include other features such as panels or posts (leci).

This application seeks additions and alterations to the 'North West London' Eruv (covering the locations identified below) which has been approved and altered under various previous planning permissions (the relevant planning history is set out above). Two established Eruvs currently exist in the borough: The Edgware Eruv and the Hendon, Finchley and Golders Green Eruv (known as the North West London Eruv), the latter of which is the subject of this application.

In common with established Eruvim in the borough the poles, which would have a diameter of 76mm, would be painted in a colour that best blends with the surroundings in each instance. Under the current proposal 5.5m tall poles and wire gateways would be installed at 6 sites, 4m tall poles and a wire gateway would be installed at 1 site and a panel would be installed at 1 site. In total seven 5.5m high poles, two 4m high poles and one panel (1m high) are proposed. In each case the connecting wire between the poles would be translucent and 0.5mm in diameter. The scheme includes the removal of two 8m poles and two 5.5m poles.

Highways Licence:

The erection of the 'gateways' on the highway requires a licence under the Highways Act 1980. This would be subject to a number of conditions such as design, use of an approved contractor, indemnity insurance and a bond. If there are problems with any of these matters the licence would not be granted.

The Highway Licence covers the proposal in terms of the positions of each structure and will evaluate potential concerns including impacts on clutter, sight lines, obstruction (this would be assessed in relation to all including the needs of disabled people), security and technical specification (including colour of poles and type of wire) matters.

The terms of the Licence require weekly inspections for the lifetime of the Eruv and the applicant must submit reports on the outcome of the inspection, any defects identified and actions taken to resolve these. An annual fee is also charged via the licence to carry out ad hoc inspections to ensure maintenance is being carried out.

Planning Considerations:

The proposed Eruv equipment is a form of built structure which fulfils a unique religious and Orthodox Jewish communal function. It falls to be considered against the relevant development plan policies.

Policy support for the principle of the proposal is found at policy CS10 of the Barnet Core Strategy. This seeks to ensure that community facilities, including places of worship, are provided for Barnet's communities. Policy DM13, in respect of community uses, seeks to ensure that there is no significant impact on the free flow of traffic and road safety and that proposals protect the amenity of residential properties. Depending on the location of the proposed Eruv equipment different policies will apply. The policies in respect of character, design and highway matters will apply almost universally. More specific policies, such as those relating to impacts on biodiversity and heritage impacts, will depend on the precise location of the equipment. Each of the proposed locations is dealt with individually below.

Site 01: Great North Way (A1 eastbound carriageway) NW4

Ward: Mill Hill

Proposal: Retain 1 no. 5.5m high pole and 1.0m high clear panel

The application site is located on the Great North Way north of the east end of Hilltop Gardens. The 5.5m pole referred to is an existing structure which is linked to a gantry above the central reservation in this location by a wire (which is also in place). The application seeks to retain these features. The scheme also proposes to replace an existing panel adjacent to the crash barrier with a 1m high 300mm wide, 10mm thick clear polycarbonate panel. The existing and proposed structures are situated close to existing means of enclosure.

The design and siting of the existing and proposed structures is found to be acceptable. They would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway. The site is located adjacent the Green Belt (the playing fields situated to the north of the site). The existing and proposed structures are not considered to have a detrimental impact on the openness of the Green Belt and are found to be fully compliant with the objectives of development plan policies on proposals adjacent Green Belt.

No site specific comments were received in respect of this site.

Site 02: Great North Way (access road west of no. 201) NW4

Ward: Finchley Church End

Proposal: Replacement of 5.5m high pole

The proposed pole would be situated on the north side of the Great North Way, on the west side of an access road running alongside number 201 Great North Way (Lime Court), close to existing means of enclosure and a telegraph pole. This structure would replace a previously approved pole which was removed during the recent redevelopment of a nearby site. A wire would span across the access road to the east to link with a previously approved pole.

The design and siting of the proposed pole and wire is found to be acceptable. The poles and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway. The site is located adjacent the Green Belt (the area situated to the north of the site). The proposed pole and wire are not considered to have a detrimental impact on the openness of the Green Belt and are found to be fully compliant with the objectives of development plan policies on proposals adjacent Green Belt.

No site specific comments were received in respect of this site.

Site 03: North Circular Road (A406 footpath off Tangletree Close) N3

Wards: East Finchley and Finchley Church End

Proposal: Removal of 2 no. 8m high poles and replacement of existing 2 no. 5.5m high poles with 4m high poles and connecting wires

This site relates to a part of the North Circular Road located to the east of Primrose Close, Finchley Church End. The two poles to be removed would be located south of the central reservation on this part of the North Circular Road. The two 5.5m high poles to be replaced with two lower (4m high) poles would be located north of a footpath leading from Tangle Tree Close onto the North Circular Road.

The design and siting of the proposed poles and wire is found to be acceptable. The poles and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway.

No site specific comments were received in respect of this site.

Site 04: Spaniards Road (near The Spaniards Inn) NW3

Ward: Garden Suburb

Proposal: 2 no. 5.5m high poles and connecting wire

The proposed poles would be located on either side of Spaniards Road, to the north-east of the Spaniards Inn and south of its junction with Hampstead Lane. The proposed posts would be situated close to existing means of enclosure and a lamppost.

The proposed poles would be situated within the Hampstead Garden Suburb Conservation Area and to the north east of a Statutory Listed Building (the Spaniards Inn). Having carefully considered the design and siting of the proposal for this site officers find that the proposed poles and wire would preserve the character and appearance of the conservation area. The proposed structures would be located close to existing street furniture and fencing and would not appear prominent, out of place or harmful to the character and appearance of the area. They would also not result in any harm to the setting of the nearby listed building, which would be located approximately 15m to the south-east of the nearest pole. The proposal is found to be entirely consistent with the objectives of development plan policies on the protection of heritage assets.

The design and siting of the proposed poles and wire is found to be acceptable in respect of the requirements of development plan policies more widely. The poles and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway.

The site is located adjacent Hampstead Heath (to the east of the site), which is designated as Metropolitan Open Land (MOL). The proposed poles and wire are not considered to have a detrimental impact on the openness of the MOL and are found to be fully compliant with the objectives of development plan policies on proposals adjacent MOL.

Specific objections (1) received in respect of this site:

- Strongly object to the erection of poles and wires next to the Spaniards Inn, a historic building.

- Proposal would be harmful to this area of natural beauty and historic significance.
- Do not wish the area to be marked with religious demarcation or iconography.
- Do not wish to be deemed to be living inside an Eruv or any other religiously defined territorial marking.

Comments on the grounds of objection:

Matters relating to the religious demarcation and designation of the area and the installation of religious iconography are addressed in greater detail in subsequent sections of this report. However, in summary the development would not change the use of the land nor impose any changes in behaviour on others. The evidence from other Eruvim suggests that it would not necessarily lead to a change in the demographics of the area nor threaten community cohesion between different faith and ethnic groups. Other than the 'gateway' constructions proposed, there are no physical manifestations delineating the Eruv boundaries. The 'gateways' would not display any signage or religious symbol. The application is therefore found to be acceptable and compliant with the objectives of the relevant development plan policies in these respects. The other concerns raised are addressed above.

Site 05: Hendon Way (A41 adjacent to 169 Cricklewood Lane) NW2

Ward: Childs Hill

Proposal: Replacement of existing 5.5m high pole with new 5.5m high pole

The proposed pole would be located on the east side of Hendon Way, north of its junction with Cricklewood Lane and to the west of 169 Cricklewood Lane. The proposed post would be situated adjacent an existing means of enclosure and various other items of street furniture. The pole would replace a previously approved pole in this location. The new pole would be connected to a previously approved pole on the west side of Hendon Way (adjacent number 17 Hendon Way) that would be unaffected by the proposal.

The design and siting of the proposed pole and wire is found to be acceptable. The pole and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway.

No site specific comments were received in respect of this site.

Site 06: High Street (near Edgware Primary School) HA8

Ward: Edgware

Proposal: 1 no. 5.5m high pole

The proposed pole would be located on the east side of the High Street, adjacent Edgware Primary School (school situated to the east of the pole). The pole would be connected by a wire to a pole on the west side of the High Street in Harrow. The proposed pole would be positioned close to existing street furniture, including a lamppost.

The design and siting of the proposed pole and wire is found to be acceptable. The pole and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway.

No site specific comments were received in respect of this site.

Site 07: Tavistock Avenue (near Grants Close) NW7

Ward: Mill Hill

Proposal: 1 no. 5.5m high pole

The proposed pole would be located on the south side of Tavistock Avenue, adjacent to the footpath which runs alongside the rear garden of 162 Devonshire Road. This would be connected by a wire to an existing approved pole in the grass verge to the north-east of the site (south of 76 Grants Close). The proposed post would be located close to an existing lamppost. The scheme also includes 5 wire strands which would span (through vegetation) from the rear of the pole to a post adjacent a fence to the south.

The design and siting of the proposed pole and wire is found to be acceptable. The pole and wire would not impact adversely on the character, appearance and amenity of the area or the amenity of residents. They would also not cause unacceptable visual intrusion or obstruct or have an unacceptable impact on the public highway.

Specific objections (2) received in respect of this site:

- Adverse impact on streetscape and environment.
- Application would exacerbate the already unacceptable impact of the existing eruv structures in the area.
- Eruv structures are an eyesore and obvious in the street.
- That there is not justified need for the structures as the entirety of Tavistock Avenue is already enclosed and there is already one approved on Sanders Lane.

Comments on the grounds of objection:

The design related points are addressed above. In respect of the other points raised, the proposal is found to be compliant with the objectives of the relevant development plan policies and does not result in any unacceptable adverse impacts. In such circumstances it is not considered that a refusal of planning permission would be justified on any of the grounds of objections raised.

Matters relevant to all sites:

Each of the above seven sites was considered carefully in respect of the scope for potential unacceptable impacts on trees and biodiversity and non-compliance with development plan policies on tree and biodiversity matters. In each case the proposal was found to be acceptable and compliant with the objectives of development plan policy on tree and biodiversity matters with the conditions recommended.

3. EQUALITIES AND DIVERSITY ISSUES

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies is set out in Section 149 of the Act. The duty requires the Council to have due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics, such as race, disability, and gender,

including gender reassignment, religion or belief, sex, pregnancy or maternity, and foster good relations between different groups when discharging its functions.

Equality duties require public authorities to demonstrate that any decision it makes is reached in a fair, transparent and accountable way, considering the needs and the rights of different members of the community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on different protected groups. Section 149 provides:

(1) A public authority must, in the exercise of its functions, have due regard to the need to -

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(3) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular steps to take account of disabled persons' disabilities.

(4) Having due regard to the need to foster good relations between persons who share relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to -

(a) tackle prejudice, and

(b) promote understanding

(5) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(6) The relevant protected characteristics are-

· age;

· disability

· gender reassignment

· pregnancy and maternity

· race

· religion or belief

· sex

· sexual orientation

There has been extensive consultation on the equalities impacts of this proposal. An equalities questionnaire was sent to all consultees, requesting information on

equalities impacts and to gather evidence for the council of the views of different groups when assessing the responses. Officers have also considered information held by the council on protected groups in the borough and the experience of other Eruvim which currently operating in Barnet. Officers recognise that not everyone will respond to a consultation but consider that the consultation carried out provided the relevant parties who are potentially affected by the proposal with an adequate opportunity to engage. The Equalities Impact Assessment based on those responses and information held by the council is set out below.

It is considered that the following protected groups could potentially be affected by the proposal:

- Jews
- Other faith groups Bahai, Buddhist, Christian, Hindu, Jain, Muslim, Sikh
- Secular Groups – Agnostic, Atheist, Humanist
- Disabled people
- Elderly Jews
- Young children and parents of young children who are Jewish
- Jewish women (on the assumption that these have greater childcare responsibility)

Before analysing the potential impact of the proposal on each of these groups it must be acknowledged at the outset that monitoring and assessing religious equality or equality between people with different beliefs can be difficult. Varying levels of commitment to particular religious or beliefs can make it difficult to interpret the information gathered. For example, in this case there may be significant differences between someone who loosely identifies themselves as culturally Jewish but does not practice the Jewish faith and an orthodox Jew who observes the Sabbath and refrains from “carrying” on that day except within an eruv.

(Orthodox) Jews:

As referred to elsewhere in the report, in the absence of an Eruv, it is forbidden under Jewish law to carry (which includes pushing and pulling) in a public thoroughfare on the Sabbath) and on the Day of Atonement. Clearly the impact of this prohibition will vary between persons depending how observant they are of the Jewish Laws. The Jewish Community composes approximately 15% of Barnet’s population.

The prohibition identified above has the following adverse impacts on the very young, the very old and the disabled members of the Jewish Community who observe the Sabbath: Parents cannot utilize a pram or pushchair to take their baby/young child with them to the synagogue or anywhere else such as to visit friends or relations. In effect this means that children aged two and under may be housebound as will at least one of their parents, a situation that would continue to exist until all the children in a family are able to walk to synagogue and back. The elderly will often walk with the aid of a walking stick or some other form of aid, this cannot be done on the Sabbath without transgressing Jewish law. Disability takes various forms and those who require an appliance such as wheelchair, walking stick, Zimmer frame to get out and about cannot make use of such equipment in a public thoroughfare without transgressing Jewish Law on the Sabbath. The prohibition also applies to the carrying of medication such as pills and nebulisers unless the absence of such medication were life threatening. Less obviously Jewish Law also prevents

the carrying of reading glasses whilst walking. The Eruv would directly benefit the members of the Jewish community who are adversely affected in the ways outlined above. Indirectly other members of the Jewish community would benefit from the lifting of this restriction on their friends and family members thus enabling all to socialize and worship together on the Sabbath.

Other faith groups:

The groups which fall within this section include Bahai, Buddhist, Christian, Hindu, Jain, Muslim, and Sikhs comprise a combined 73% of the borough's population. Of the total of 2 questionnaires that were returned completed none were completed by persons who declared themselves to be a member of these groups.

Notwithstanding the lack of objections found in responses received, set against the adverse impacts which members of other faith groups could perceive that the proposed Eruv would have on their religion or belief are the following considerations:

- The proposed Eruv equipment comprising poles, a panel, gateways and wire do not display or carry any Jewish or any other overtly religious symbolism that would allow them to be identified as being of any religious significance.
- The proposed poles would be up to 5.5m high and connected in places by relatively thin wire. Officers consider that they would appear as part and parcel of the variety of street furniture with no discernible religious significance. In addition, the poles and equipment will be located, where possible, at the back edge of the pavement so as not to stand out or draw undue attention in the general street scene.
- The physical impacts of the proposed Eruv equipment have been considered on a site by site basis earlier in this report. Officers have concluded that that the proposed siting of the Eruv equipment would not result in visual obtrusions to such a degree as to warrant refusal and would be readily assimilated into the general street scene.

There are already a number of Eruvim in existence in Barnet and elsewhere. The operation of these Eruvim provides useful evidence as to the likely potential impacts of the scheme on protected groups and is therefore relevant to the consideration of the current application. In the process of the consideration of this application officers have visited the Eruvim in Barnet. Officers consider that if an observer were to make a deliberate attempt to locate the Eruv equipment then they will be seen but otherwise they are part and parcel of the general street scene and there is nothing that identifies them as having any religious significance. Officers accept that the proposal could have a potential adverse impact on those of other non-Jewish faith groups who feel it impinges on their beliefs. Officers nevertheless consider that these concerns are mitigated by the experience of the form and operation of other Eruvim in the borough where no evidence has been forthcoming to support these concerns. The potential adverse impact of the proposal in these protected groups is outweighed by the positive outcomes that the proposal will have through enabling the very young, elderly and disabled members of the community to be able to worship at the Synagogue on the Sabbath and the Day of Atonement. In reaching this conclusion officers have given weight to the impact that the proposals would have on the identified protected groups, however the harm is outweighed by the other considerations identified.

Secular groups

This group includes Atheists, Agnostics and Humanists and they are a protected category under the Equality Act 2010. None of the completed questionnaires were received from specific members of these communities, but one respondent stated that they have no religion. Members of secular groups and non-religious persons comprise 13% of Barnet's population.

Despite the responses received members of this group may (based on responses to previous applications) have concerns that the proposal would raise secular tensions, promote inequality and imposes religious beliefs on other persons. It is considered that these potential perceived adverse impacts are mitigated by the following:

- The successful operation of existing Eruvim elsewhere in this borough and in neighbouring authorities where there is no evidence that an Eruv gives rise to tension between secular and religious groups.
- The Eruv equipment does not carry any Jewish symbolism and is usually seen as part and parcel of the normal street furniture in a suburban location.

The harm that members of secular groups perceive could arise from the proposal is significantly outweighed by the advantages that the proposal will bring to the very young, elderly and disabled members of the Jewish Community.

Disabled people

None of the questionnaires were completed and returned by disabled persons. According to information from central government sources, there are 11,280 disabled persons in Barnet represent 3.2% of the borough's population.

It is conceivable that concerns could be raised in respect of the potential impact that the proposed equipment could have on partially sighted/blind persons whereby the equipment could be a trip/collision hazard. However, the proposal would significantly and positively benefit disabled members of the Jewish community in that it would enable them to attend the synagogue for worship on the Sabbath as well as generally being able to leave their houses to socialise with friends and family on those days. It would in effect give them the same opportunity to join in the spiritual and social life of their community, as well as the wider community on the Sabbath.

Whilst the proposal would benefit disabled members of the Jewish community officers accept it is a reasonable concern that the proposed eruv equipment could create a hazard to disabled persons using the highway. Officers consider however that the design of the structures and the sites for the equipment have been carefully chosen so as to prevent such situations arising to any significant degree. The Eruv poles themselves are 76mm in diameter and so are relatively thin structures that can often be sited at the back edge of the pavement so as to minimise intrusion onto the footway. Eruv poles are considerably smaller than many items of street furniture that can be erected without the need for any planning permission. The location of the eruv poles has also had regard to existing street furniture in the area and the relationship with other equipment so as not to be prejudicial to highway or pedestrian safety.

The Council's Highways Group, who are directly responsible for highway and pedestrian safety on the Borough's roads have been consulted throughout the

process and have no objections to the proposal. The impact of street furniture on the safety of all road users, including disabled members of the community, is a paramount consideration for them. Similarly TfL have been consulted and have not raised any objections to the proposal.

In addition to planning permission being necessary, the equipment also needs to be licensed by the appropriate highway authority. This is a separate procedure to the planning process and if, in consideration of these licences the authority have concerns in respect of safety then the licence will not be issued. Officers also find that having visited the individual sites and having considered the proposed siting of the Eruv equipment, that any concerns in respect of the safety of disabled members of the community would be mitigated by the combination of the size and design of the equipment and its location.

The impact of the existing eruvim on the health and safety of disabled members of the community should also be taken into account when considering these issues. There is no evidence that there have been any incidents of eruv equipment constituting an obstruction to free passage or a hazard to disabled people.

Whilst officers accept that the uncontrolled provision of Eruv equipment on the public highway could result in a hazard to members of the public in general or disabled persons in particular that is not the case with this proposal. Each site has been carefully assessed and the design and siting of the Eruv equipment would not adversely impact disabled members of the community.

Given the above and the careful consideration given to the siting of the individual poles and panel, officers consider that the health and safety of disabled persons would not be prejudiced by the proposal in the normal course of events. Officers consider that the potential limited adverse impacts of the proposal on disabled members of the community are outweighed by the positive benefits that would accrue to the disabled members of the Jewish community.

Elderly People

There is a degree of overlap between the potential benefits and negative impacts of the proposal on elderly people and those persons who are disabled. Elderly persons may need to use walking aids such as a walking stick in order to feel more confident and safe when walking. They may also need the help of spectacles for reading and need to take medication at frequent and regular intervals. Without the introduction of an Eruv they would be prohibited from carrying these items on the Sabbath and as such would be housebound, unable to take part in religious services at the synagogue. The introduction of the eruv would remove this prohibition and similar benefits would accrue to the elderly as for the disabled.

Of the 2 questionnaires returned none were completed by persons over 65. Whilst no specific objections were raised in respect of any potential negative impacts that the eruv would have on the elderly, of whatever belief, it is nevertheless considered that similar negative impacts could arise to those identified in respect of disabled persons. However, it is found that the eruv would bring significant benefits to elderly members of the Jewish community, as described in the previous section. The proposal would have clear and significant benefits for elderly member of the Jewish

community which outweigh the potential limited harm to elderly members of the community arising from the installation of the proposed equipment.

Young Children and parents of young children in the Jewish Community

Without the introduction of an eruv young children, more specifically those that have not reached walking age or are only capable of walking short distances, would not be able to leave their home on the Sabbath to go to the synagogue to worship or go out for any other activity.

At least one parent of young children would be effectively housebound by having to look after their children who cannot walk to the synagogue, local park, friends, grandparents etc. Furthermore, it is likely that mothers would have a greater childcare responsibility and are therefore likely to be disproportionately affected. The introduction of the Eruv would enable the use of pushchairs, prams etc for taking children out on the Sabbath. This will not only increase equality of opportunity for the children themselves but also their carers. In addition there would be indirect benefits to the wider family groups and community from being able to include all members in the communal activities.

One respondent to the questionnaire circulated (wrote in support of the application) confirmed that they had a young child (as they were on maternity leave). No noteworthy potential adverse impacts on members of this group have been highlighted or drawn to officer's attention through the consultative process.

Other matters

Fostering good relations between different religious/ethnic groups, S149 (5) of the Act, requires that the Council:-

“(5) having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to “Tackle prejudice and promote understanding”.

It is considered that the planning application itself provides an opportunity for inter faith and religious understanding to be promoted. The application itself outlines the role of the Eruv thus giving more insight to the wider community of certain aspects of the Jewish faith. Additionally, the planning process involved an active consultation exercise by the Local Planning Authority (LPA), in this case some 592 local residents were written to individually. The consultation letters included a brief description of the Eruv and what it is for. The application itself gave more information. More generally it is considered that the experience of the successful operation of Eruvim in Barnet continues to foster good relations between Jews and non Jews.

Overall conclusion on equalities impacts

This planning application falls to be considered on its planning merits but, given the nature of the application, in reaching its decision the LPA must have regard to the provisions of the Equality Act 2010. This Act requires the LPA to demonstrate that any decision it makes is reached in a fair, transparent or accountable way considering the needs and rights of different members of the community.

Officers consider that the proposal has the potential to generate a number of negative and positive impacts on groups with the protected characteristics of age, disability, religion or belief. The potential impacts, both positive and negative, of the proposal on the different groups have been identified and weighed against each other. As evidenced by the report this is not an easy task particularly when assessing the impact of the proposal on the religion/beliefs of different groups.

The development proposed would not prevent walking along the pavement, driving or change the behaviour of any groups who do not currently observe the Sabbath. The development would not change the use of the land nor impose any changes in behaviour on others. Also the evidence from other Eruvim suggests that it would not necessarily lead to a change in the demographics of the area nor threaten community cohesion between different faith and ethnic groups.

The application comprises pieces of street furniture, cylindrical poles joined at the top by thin wire and a 1m high panel. The poles resemble lamp posts without the lamp fittings. Other than the 'gateway' constructions proposed, there are no physical manifestations delineating the Eruv boundaries. The 'gateways' would not display any signage or religious symbol. Fears that the development would alter the character of the local area by incentivising members of a particular minority to settle in the area encompassed by the Eruv have not been borne out in the parts of the borough which currently have Eruvim and it is considered that the benefits to the identified protected groups would outweigh the perception of harm. No one group would be significantly directly disadvantaged by the Eruv, however those Jews who observe the Jewish Law against carrying on the Sabbath would benefit significantly.

There would be benefits from the proposals to groups with protected characteristics, including parents and grandparents of young children, the disabled and their families, and the elderly. Officers consider that the benefits to these protected groups would outweigh the potential harm to members of other protected groups as previously addressed.

4. CONCLUSION

The NPPF identifies that the purpose of the planning system is to contribute to the achievement of sustainable development, which it advise has three dimensions; economic, social and environmental. It is considered that this application is promoted by the social dimension in that it reflects the community's needs and supports its health, social and cultural well being. The environmental dimension of sustainable development is also relevant in respect of the need to protect and enhance the natural, built and historic environment when considering this application.

The application is found to be supported by the London Plan, in particular policy 3.16, which seeks the protection and enhancement of social infrastructure. It is also supported by the policies of the Barnet Local Plan.

Each individual Eruv equipment site has been assessed in detail and in each case it is considered that the proposal would be acceptable in terms of its impact on the amenities of the area and the amenities of neighbouring residents. The proposal is

also found to be adequate in terms of its impacts on MOL, the Green Belt, conservation areas, the setting of listed buildings, trees and biodiversity.

The siting and design of the proposed equipment on the public highway has been carefully considered in respect of highway safety in general, the potential for causing obstructions and the potential impact the development could have on the ability of disabled persons to use the public highway. Officers consider that the proposal is acceptable in these regards.

The potential impacts of the proposal on persons with characteristics that are protected by the Equality Act 2010 have been taken into account in the consideration of this application. It is found that no one group would be significantly directly disadvantaged by the proposed Eruv, however those Jews who observe Jewish Law against carrying on the Sabbath would benefit significantly. There would be benefits from the proposals to groups with protected characteristics, including parents and grandparents of young children, the disabled and their families, and the elderly. Officers consider that the benefits to these protected groups would outweigh the potential harm to members of protected groups.

Eruvim already exist elsewhere in the borough and officers have visited these to assess the impact that the equipment has on the character and appearance of those areas. Officers consider that the Eruv equipment has no adverse impact and readily assimilates into the street scene. Similarly there is no evidence that the proposal would have an adverse impact on protected groups from these visits.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Council to determine any application in accordance with the statutory development plan unless material considerations indicate otherwise. All relevant policies contained within The Mayor's London Plan and the Barnet Local Plan, as well as other relevant guidance and material considerations, have been carefully considered and taken into account by the Local Planning Authority in their assessment of this application.

For the reasons set out in the previous sections of this report it is concluded that the proposed development generally and taken overall accords with the relevant development plan policies and constitutes a sustainable form of development. It is therefore considered that there are material planning considerations which justify the grant of planning permission. Accordingly APPROVAL subject to conditions is recommended, as set out in the Recommendation section at the beginning of this report.

SITE LOCATION PLAN: North West London Eruv

REFERENCE: 15/01022/FUL



NW LONDON ERUV REVISIONS
GENERAL SITES LOCATION PLAN