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David Schreiber Esq.
The United Synagogue Eruv Committee
9 West Heath Road
London NE3 7UX.

Your reference

Our reference

Date

EF/PJ67/CAW

9th March 1993

Dear David,

THE UNITED SYNAGOGUE - ERUV

I was pleased to see you again last week when Graham and I met with you and your colleagues to discuss the refusal of the London Borough of Barnet to grant planning permission for the erection of groups of poles and wire to designate the boundaries of your Eruv.

I write to summarise our discussions and to set out our proposals for you.

NECESSARY ACTION

The London Borough of Barnet have refused planning permission and the only remedy against that decision is an appeal to the Secretary of State for the Environment. Any such appeal must be made within six months of the date of the Council's decision notice but, in practice, the sooner any appeal is lodged the better. It may also be worthwhile considering submitting a "repeat" application incorporating minor amendments. Those amendments could include the use of very thin "invisible" wire and/or the use of existing street furniture in place of new poles. Any such amendments should of course be made following consultation with the Council's Highway Department and with the Royal Society for the Protection of Birds.

APPEAL PROCEDURE

As you know planning appeals can be dealt with by means of formal Public Inquiry, Informal Hearing, or Written Representations. The Department of the Environment encourage the use of the written procedure and, where appellants wish to be heard by an Inspector, the use of the Informal Hearing procedure. However both the appellants and the Council have the right to insist on a Public Inquiry, and the Department of the Environment also may insist on that procedure if they perceive a significant degree of public interest.

In that connection an Inspector has the power to cancel an Informal Hearing if he perceives the degree of public interest to be inconsistent with that procedure.

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To: D.Schreiber Esq.

9.3.93.

In this case many of the matters raised at application stage by third parties have been of an emotional and subjective nature unrelated to planning issues. In those circumstances I think we all agree that your best interests would be served by running a low-profile appeal and that therefore the Written Representations procedure would be preferable. Any appeal should therefore be lodged on that basis. It may however be that the Council will wish to insist on their right to a Public Inquiry; or it may be that the volume of application stage correspondence will lead to the Department of the Environment insisting on an Inquiry.

In either case, the use of the Informal Hearing procedure would not be appropriate.

INPUT FROM FIBBENS FOX ASSOCIATES

We should be very happy to argue this case for you and can deal with both appeal procedures and the submission of any new applications.

We are conscious of your cost constraints and, if the matter does run by way of Public Inquiry, this is a case where we feel that we can offer you a full service with myself acting as the advocate and Graham providing the evidence. We do have considerable experience of dealing with Public Inquiries in this manner, typically running about six a year, and we have a very good track record with 75% success during the past two years (ie about double the national average).

Your solicitor colleagues may not be used to planning consultants acting as advocates and I therefore enclose some short notes providing brief details of the cases we have dealt with in this way during the past two years. If you or your Committee require further details we should be happy to provide them.

Notwithstanding that we feel that this is a case where we can provide the full service ourselves, we are of course quite happy to work within a team, either instructing Counsel by direct access, or working via one of your solicitor colleagues or any appointed firm of solicitors.

If you do decide to proceed with Counsel we have recommended either Robert Carnwath of 4 Breems Buildings or Jeremy Sullivan of 4 Grays Inn Square (both Silks); or John Male of 4 Breems Buildings if you want any experienced Junior. In all three cases the barristers concerned have a fairly quiet relaxed style which I believe to be the right approach to an emotive matter of this kind.

COSTS

You have quite properly asked for an indication of costs and this is a matter which should be charged in accordance with our normal time rates. I believe that you are familiar with these but enclose a copy for the avoidance of any doubt.

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I am aware that this a community rather than a commercial project and in those circumstances we are prepared to assist by agreeing fixed costs based on a discount down from budget estimates.

In this case the issues are reasonably straight-forward but the large number of individual sites involved will inevitably add to costs since each site must be inspected, be analysed, and be dealt with separately in the evidence.

Our budget estimates together with our fixed price offer for each of the options is as follows:-

PROCEDURE	BUDGET ESTIMATE	FIXED PRICE OFFER
Written Representations	£ 9,000	£ 7,500
Public Inquiry Evidence Only (Graham Murdoch)	£12,000	£10,000
Public Inquiry Advocacy (Eric Fibbens) and Evidence (Graham Murdoch)	£15,000	£13,000

Please note that our fixed price quotation is exclusive of:-

- a) any photography or photo-montage work,
- b) disbursements as defined in our Terms of Business,
- c) VAT.

Concerning photography or photo-montage work I have assumed that we shall take the photographs as part of our site inspection work and therefore those labour costs are already included in our offer. The main problem to be addressed is then one of how to insert the proposed development accurately into the photo-montage. This cannot sensibly be done "by hand" and we have found that credible photo-montage evidence is best produced by independent specialists working with computers. We have very successfully used a firm known as Chief Executive Assignments and we have also very successfully worked with a firm of architects, C. A. Cornish & Associates, who in my view are one of the leading firms in this field. I am waiting to hear from Chief Executive Assignments with a quotation. C. A. Cornish & Associates have indicated that an A4 sheet showing "before and after" photographs could be produced at a cost of £65 per view. On that basis thirty-two sites would cost £2,080 if we were able to get away with one view per site; or £4,160 if we feel the need for two views per site.

Concerning disbursements the main items are likely to be travel and copying, and for budget (rather than quotation) purposes you should assume something in the order of £500.

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CONCLUSIONS

As I mentioned at our meeting, the vast majority of the public objections to your scheme seem to be based on non-planning issues and, in planning terms, this case is a simple matter of aesthetics; either your proposed poles and wire will cause an unacceptable loss of visual amenity with no compensating public benefit such that permission should be refused; or it will not.

The answer to that question is essentially subjective such that we shall be very much dependent on the individual attitude of the Inspector appointed to determine the case. That being so the point of the argument should be to dispense with the extraneous matters and focus his attention on the single aesthetics issue; and the point of the evidence should be to demonstrate the minimal impact.

We recommend that an appeal against the Council's refusal should be lodged as soon as possible, and that you should agree to the use of the Written Representations procedure.

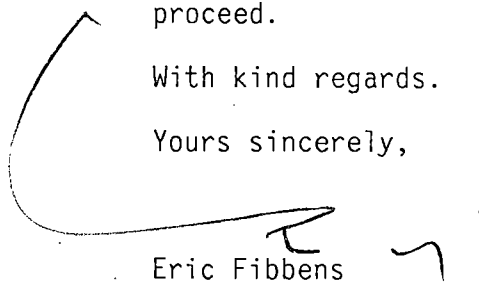
We also recommend that you consider submitting a revised application involving minor amendments designed at minimising the visual impact. It will probably be preferable for you and your colleagues to continue to be the primary contact with officers of the Highway Authority and, for example, the Royal Society for the Protection of Birds but, once the appeal procedures are running, we believe that it would be preferable for us to deal with the formal submission of any application.

In the event that either the Local Planning Authority or the Department of the Environment insist on the Public Inquiry procedure then we feel confident that we can offer you a full service. Alternatively, we shall be happy to work in collaboration with the Bar and/or solicitors as you wish.

If you or your colleagues wish to discuss any points please let me know. Otherwise I look forward to hearing from you once you have decided how to proceed.

With kind regards.

Yours sincerely,



Eric Fibbens

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