

APPENDIX FFA4 : POLICY EXTRACTS

GOVERNMENT POLICY

A4.1 It is recognised that the Inspector will be fully cognisant of Government policy and so reference to it will be kept to a minimum.

PPG 1 - General Policy and Principles - March 1992

A4.2 This PPG sets out the general principles under which the planning system is to operate and incorporates advice on some specific issues not covered elsewhere in PPG's. Of particular relevance to these appeals are:-

i) Paragraph 5 which identifies that the planning system fails in its function when it prevents, inhibits or delays development which should reasonably have been permitted.

ii) Paragraphs 20-22 which recognise the importance of Government policies.

iii) Paragraphs 23-24 which comment on other material considerations, identifying that they must fairly and reasonably relate to the application concerned.

iv) Paragraphs 25-31 which cover the determining of planning applications and appeals, identifying the importance of the development plan, the Section 54A Test and other material considerations.

v) Paragraph 35 which identifies that planning legislation should not normally be used to secure objectives achievable under other legislation.

vi) Paragraph 42 which confirms that local opposition to a proposal is not in itself a ground for refusing planning permission, unless it is founded upon valid reasons which can be substantiated. The duty is to decide each case on its planning merits.

vii) Annex A which gives advice on design considerations.

Circular 8/87; Historic Buildings and Conservation Areas - Policy and Procedures; March 1987.

A4.3 Although the Government are currently preparing a PPG on Conservation Areas and Listed Buildings, this Circular remains the most recent formal document commenting on Government policy.

A4.4 General advice on policy matters, in particular the control of development in Conservation Areas, is given in paragraphs 61-64. Not surprisingly this advice does not specifically refer to the type of street furniture development proposed here but gives more general advice recognising that the emphasis will often be on control rather than prevention to allow the area to remain alive and prosperous.

A4.5 In considering Conservation Areas there is a range of Case Law relating to the "preserve or enhance" debate which may be of relevance to the determination of this appeal. The definitive judgement on this subject is now the House of Lords' decision, *South Lakeland D.C.v.S.O.S. and others* 30/1/92, in which the House of Lords confirmed the Appeal Court judgement that

"The statutorily desirable objective of preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved".

THE DEVELOPMENT PLAN

London Borough of Barnet Unitary Development Plan - Adopted November 1981.

A4.6 Reference is made in the Controller of Development Services' report to the Town Planning and Research Committee on February 24th 1993 to three policies which he considered relevant to these proposals. These are:-

"Policy G1

In meeting the aims of this plan the Council will seek to maintain and improve the character and quality of the environment throughout the Borough."

"Policy T1.1

All development proposals must be compatible with the established character and architectural identity of existing or adjoining properties and the general locality in terms of scale, form and other contextual design elements, impact on neighbouring properties and intensity of use. Original design solutions will be acceptable where they meet these requirements." My emphasis.

"Policy T3.1

The Council will not permit development or demolition proposals which conflict with the need to preserve or enhance the character or appearance of the Borough's Conservation Areas."

A4.7 Reference to further policies is made in the Council's first reason for refusal. These policies state

"Policy G2

In meeting the aims of this plan the Council will give full consideration to all relevant aspects of environmental impact when assessing land use and development proposals."

"Policy G3

The Council will preserve and enhance the special value of:

A. Conservation Areas

D. Skyline ridges and important local views."

"Policy G18

All development in residential areas should be compatible with the character of the local environment."

"Policy T2.1

The Council will not permit development which conflicts with the need to safeguard and enhance the landscape and townscape features which contribute to the identity of areas of special character."

A4.8 In my view the UDP chapter on "Community Services" is also relevant recognising that

"It is important that the Council should recognise and understand the particular needs of the diverse ethnic groups, as well as other groups within the Borough's population, for instance, the elderly, disabled, women and young people in care" (para 5.4.11).

A4.9 Policies under the heading "Ethnic, Religious and Voluntary Groups" concentrate on the subject of "Meeting Places". This is understandable because meeting places, churches, etc. are easily recognisable facilities likely to be needed by these groups and in respect of which relevant policies can readily be included in a UDP. Conversely, the Council cannot reasonably be expected to anticipate proposals relating to the provision of street furniture to complete the definition of an Eruv and it is therefore of no surprise that there is not a policy specifically relating to the subject.

A4.10 However policies ERG 1.1, 1.2 and 1.3 can be considered relevant to these appeals insofar as they identify the Council's attitude towards the provision of facilities for Ethnic, Religious and Voluntary Groups. In the preamble to these policies the UDP states that

"The Council recognises that meeting places and community facilities often need to be located in or near the area which they are intended to serve and will encourage the provision of such meeting places in suitable locations".

A4.10 These policies state:

"Policy ERG1.1

The Council will encourage the provision of meeting places for ethnic, religious and voluntary groups in suitable locations, and will resist the change of use or development of existing religious and community facilities which are suitable to meet known demands for such meeting places."

"Policy ERG1.2

The Council will consider the views and involvement of local ethnic, religious, voluntary and other community groups at appropriate stages during the planning of new community facilities."

"Policy ERG1.3

The Council will seek to identify sites and locations suitable for community facilities when and where appropriate."