

CHIEF EXECUTIVE MAX CALLER BSc(Eng) C.Eng MICE MCIWEM FRSA CDipAF

The Town Hall
The Burroughs
London NW4 4BG
Telephone: 0181-359 2000
Fax: 0181-359 2480
Doc. Exch. 59318

Contact:
Direct Line: Janet England
2036

Our reference

Your reference

Date

JAE

29 November 1996

TO : ALL MEMBERS OF THE DEVELOPMENT AND PROTECTION COMMITTEE
DEVELOPMENT AND PROTECTION COMMITTEE
4 DECEMBER 1996

I refer to the Agenda for this meeting.

Attached is the report which appears at Item 8 relating to the ERUV. Please bring this with you to the meeting.

Agenda Item 9, referring to the Membership of the Hendon Development and Protection Sub - Committee erroneously appeared on the Agenda for the meeting. No such report is being submitted to the Committee.

I apologise for the inconvenience.



For Chief Executive

<u>COMMITTEE</u>	: DEVELOPMENT AND PROTECTION
<u>DATE</u>	: 4 December 1996
<u>SUBJECT</u>	: 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
<u>CONTRIBUTORS</u>	: Controller of Development and Protection
<u>STATUS</u>	: Public
<u>WARD</u>	: Childs Hill, East Finchley, Finchley, Garden Suburb, Golders Green, Hendon, Mill Hill, West Hendon
<u>ENCLOSURES</u>	: Appendix 1: The decision of the Secretary of State for the Environment and the Inspectors conclusions in respect of applications ERUV1 and 2. Appendix 2: Schedule of the revised proposal and plans of the new locations

1. SUMMARY

- 1.1 This report considers amended proposals (planning application ref ERUV3) by the United Synagogue Eruv Committee for the erection of poles connected by 'wire' at various locations in the borough. The area within the poles and 'wire' and existing 'boundaries' such as railway embankments, motorway barriers and contiguous buildings would form an Eruv.

2.

Recommendations/Conclusions

2.1

That planning application ref ERUV3 be approved subject to the following conditions:-

- 1. This development must begin not later than five years from the date of this permission.**

Reason: To comply with Section 91 of the Town & Country Planning Act 1990.

- 2. The development hereby permitted shall not begin until details of the external colour of the poles have been submitted to and approved by the Local Planning Authority. Such details shall incorporate the use of a nondrying coating above a height of 2 metres measured from adjacent ground level at the following locations:**

**09 West Heath Road, NW2
15 Aylmer Road, N2
16 Bancroft Avenue, N2
18B Prospect Place, N2
21 Squires Lane, N3
25 Watford Way, NW4
26 Colindeep Lane, NW4
34 Ashley Lane, NW4
35 Great North Way, NW4
40 Mortimer Close, NW2
42 Hendon Way/Greenfield Gardens (footpath) NW2
43 The Vale, NW2
44 Malvern Gardens, NW2
45 Pennine Drive, NW2
46 Grampian Gardens, NW2
47 Clitterhouse Playing Fields (footpath) NW2
50 Tilling Road, NW2**

Reason: To safeguard the security of neighbouring properties and the appearance of the locations.

- 3. The 'wire' used to span the poles hereby permitted shall be Drennan Special Matt Sub-Surface Green Fly Leader fishing line 0.3mm in diameter or such other similar 0.3mm diameter monofilament line as agreed in writing with the Local Planning Authority.**

Reason: To safeguard the visual amenity of the locality.

- 4. No works to trees, including cutting or damage to branches and roots shall be undertaken in implementing the approved development.**

Reason: To safeguard the trees of the borough which represent a significant amenity feature.

- 5. Revised details of the position of the proposed poles at location 20 (North Circular Road) shall be submitted to and agreed in writing by the Local Planning Authority before any part of the development is commenced.**

Informatives:

The plans accompanying this application are those received on 8 August 1996.

3. RELEVANT PREVIOUS DECISIONS

- 3.1 Town Planning and Research Committee 24/2/93-3, 27/10/93-4. Public Works Committee 28/4/92-6, 30/6/92-11.**
- 3.2 On 30 June 1992 the Public Works Committee resolved to grant consent to the United Synagogue Eruv Committee to erect wires over the public highway at prescribed crossing points for a period of one year from the initial granting of the licence, subject to various conditions.**
- 3.3 On 24 February 1993 the Town Planning & Research Committee resolved to refuse planning application ref ERUV1, for the erection of groups of poles between which is suspended at high level a wire to designate the perimeter of a nominated 'Eruv' at various locations within the London Borough of Barnet, for the following reasons:**
- The proposed poles and wire would result in the introduction of additional street furniture which would be visually intrusive and detrimental to the character**

and appearance of the street scene contrary to policies G1, G2, G3 A and D, G18, T1.1, T2.1 and T3.1 of the Unitary Development Plan.

- The proposed poles and wires along Wildwood Road by reason of their size, number and general appearance would be visually intrusive, impair the continuous landscape of Turners Wood and the adjoining Meadow Land and cause demonstrable harm to the environment of a conservation area of national importance.

- 3.4 An appeal against the refusal of planning permission was heard at a Public Inquiry in December 1993 and on 20 September 1994 the Secretary of State for the Environment allowed the appeal and granted planning permission subject to conditions. A copy of the decision letter is attached as Appendix 1.

4. POLICY CONSIDERATIONS

- 4.1 Policies G1, G2, G3A & D, G18, T1.1, T2.1 and T3.1 of the Unitary Development Plan.

5. RESOURCE IMPLICATIONS

- 5.1 The costs of dealing with this planning application, as with other planning applications, is met from the Development & Protection Committee's budget.

6. MONITORING OFFICER'S OBSERVATIONS

- 6.1 None

7. HEAD OF PAID SERVICES' OBSERVATIONS

- 7.1 None

8. BACKGROUND INFORMATION/OFFICERS' COMMENTS

- 8.1 The Proposal

- 8.1.1 The United Synagogue Eruv Committee have submitted a revised planning application to erect groups of poles (usually 2) at 39 locations in the borough between which is suspended at high level a wire to designate the perimeter of a nominated Eruv.
- 8.1.2 According to Jewish law, a distinction is drawn between the public and the private domain. The carrying of any items on the Sabbath from one domain to another is prohibited. A zone may be declared, however, known as an Eruv, within which, for example, the carrying of keys and the pushing of prams is permitted, thus giving greater freedom of movement to persons of the Jewish faith. An Eruv must have a continuous clearly defined boundary. Its perimeter may be defined by existing permanent boundaries, natural or manmade, such as railways and the frontage of houses.
- 8.1.3 The proposed Eruv would include Hendon, Golders Green and Hampstead Garden Suburb, together with areas of Childs Hill, Cricklewood, East Finchley, Finchley and Mill Hill. The area of the Eruv relies, for the majority of its perimeter, on existing boundaries such as the Northern Line, the M1

Motorway, the British Rail St Pancras line and neighbouring buildings. Where the perimeter is breached by a road, a pole and wire "gateway" is required. It is only for the erection of these poles and wire constructions that planning permission is required.

- 8.1.4 The proposal, ERUV1, which was allowed by the Secretary of State for the Environment related to the erection of poles and wire at 38 locations but because of possible changes likely to affect the perimeter of the Eruv, it is now proposed that 12 of the original locations be omitted and 13 new locations be included.

A schedule of the revised requirements and plans of the new locations are attached as Appendix 2.

- 8.1.5 Most of the poles are sited at the back edge of pavements. They would be of three different heights, small = 3.5m, medium = 5.5m, tall = 6.5m and it is likely that standard lighting columns would be used. The detail of the poles and their colour would be finalised as part of the requirement of the licence which will be considered by the Public Works Committee.

The 'wire used to span the poles would be Drennan Special Matt Sub Surface Green Leader fishing line having a diameter of 0.3mm.

8.2 Consultation and Views Expressed

- 8.2.1 Following receipt of the revised planning application, occupiers of properties immediately adjoining the new locations for the poles were consulted by letter. In addition, notices have been displayed at the new locations and a notice was published in the Hendon Times newspaper. The planning application has been available for inspection at Barnet House and at the following libraries; Hendon, Church End, Golders Green, Childs Hill, East Finchley, Hampstead Garden Suburb and Mill Hill.
- 8.2.2 At the time of the preparation of this report 347 letters had been received within the Development and Protection Division. Some of these have been passed to officers by Members to whom they were originally sent.
- 8.2.3 271 of the letters raise objections or concerns which can be summarised as follows:

A) The Principle of Adding to Street Furniture

- i) Additional street furniture is unacceptable and unnecessary, particularly when it is not required for a purpose for the benefit of the whole community.
- ii) Our pavements are already overcrowded with street furniture, it should be reduced not added to. The Council have a legal obligation to prevent non-essential obstructions and protect public rights.

- iii) There has been much concern at the recent erection of advertising displays on public footpaths and the same concerns of clutter, safety and unsightliness apply to the proposed poles and wire. A lesson should have been learned.

B) Visual Amenity

- i) The poles and wire will be a visual intrusion, unsightly and add to clutter. The large number of poles, particularly the tall ones cannot fail to detract from visual amenity. They would be detrimental to the character and appearance of the street scene and a ridiculous adjunct to the landscape.
- ii) The poles and wire would be unattractive in a conservation area of exceptional beauty.
- iii) The visual intrusion of the poles and wire would be contrary to Barnet's Strategic Plan, other published documents and Agenda 21.
- iv) The decision of the Secretary of State to approve ERUV1 predates the document 'Quality in Town & Country' in which he sets out his vision for higher standards of design for both buildings and townscape in general.

C) Public Safety

- i) The poles and wire would create a hazard and be detrimental to public safety. They will create further obstacles particularly for the visually impaired.
- ii) Damaged/trailing wire could get caught in moving vehicles or around pedestrians with inevitable consequence of injury.

D) Trees

- i) The erection of the poles and wire would cause damage to trees and their roots. Enough damage has already been caused by the installation of cable TV.
- ii) If the condition of the original permission is to be complied with ie no works to trees including cutting or damage to branches or roots, the proposal cannot be undertaken.

E) Danger to Birds

- i) The poles and wire would create a hazard to flying birds which could kill them. Sunnyhill Park has numerous nesting birds and there is a danger that young birds will fly into the wire. Wildlife should not be put at risk.

- ii) The Royal Society for the Protection of Birds should be consulted.

F) Damage to Property

- i) The erection of the poles would cause damage to the foundations of neighbouring property.

G) Comments about Specific Locations

- i) Poles and wire at Wildwood Road (location 13) would be unsightly and a blight on the landscape of the Heath extension.
- ii) Pole outside 1 Wildwood Rise (location 13) would be on a strip of Hampstead Heath which is 29 inches wide.
- iii) Pole adjacent to retaining wall at 'Wylde Close Corner' (location 13) will have to be changed if condition re: no work to trees is to be complied with.
- iv) Poles at Church Lane (location 19) would be an unwanted and unjustified eyesore.
- v) There is already a conglomeration of poles and signs outside 'Elmwood' North End Way (location 12).
- vi) Poles and wire at the footbridge across Hendon Way (location 41) would be unsightly, irritating and worrying. They would present an open invitation for children to climb and get hurt, and for the wire to be vandalised. Some pedestrians may find the use of the footbridge as part of the Eruv offensive and be unwilling to use it. Any resulting road accident to them could be Barnet Council's responsibility.
- vii) Proposal will add to the rubbish and graffiti in the walkway next to 65 Hendon Way (location 42) and be another play thing for children to cause more noise nuisance and vandalism. It would also make it easier for burglars to gain access to the property.
- viii) The area outside 179 Hendon Way (location 46) is already overcrowded with posts and signs.
- ix) The pole near the garage of 191 Hendon Way (location 47) would provide an easy route for burglars onto the garage roof and into the house.
- x) Create ugly poles and wire around 'Longberrys' Cricklewood Lane causing offence to tenants. There are wonderful trees bordering these flats.
- xi) The pole outside Northway Tyres (location 24A) would obstruct an existing sign.

H) The Principal of Creating an Eruv and its Consequences

- i) Would be divisive causing resentment where people of all religions have previously lived happily in the same place. It will be a symbol of power and division. Will damage good relations between different communities in the Borough. Foster an atmosphere of prejudice and conflict. Discontent and disharmony will be exacerbated. Seriously threatens the peaceful multi-ethnic multi-cultural relationships that have existed here for many years. Overtly provocative. Cause deep sectarian strife and division. An area so far widely known for its excellent mixed community relationships will become an ideological battlefield where antagonism replaces consideration. Make good neighbourliness more difficult to maintain. An Eruv is a territorial claim and will always be seen as such. A backward step for society. Probably exacerbate stress and tension. Be a dangerous catalyst for unrest. Will incite anti-semitism, attract terrorism, possibly cause riots and be a target for vandals.
- ii) Affect social mix, create imbalance and sow the seed of change in population pattern in the area. Affect character of the area. Create an exclusive zone, an Orthodox Jewish enclave, a sectarian border, a potential ghetto. Would be bad planning practice to encourage the concentration of any group, whether class, religious, sectional or ethnic. Cause an unacceptable flow of single interest people into the area. Attract many other Orthodox Jews whose lifestyle and culture is so different and separate from the indigenous population. If it results in a concentration of people who are increasingly orthodox the facilities and environment of other faiths, may be reduced eg shops close on a Saturday. Some estate agents are already advertising property as being within the Eruv.
- iii) It is no argument to plead the Eruv will be hardly noticeable. It will be noticeable as a restriction of the freedom enjoyed in Golders Green for nearly 40 years.
- iv) Would set a precedent for others.
- v) Would be diametrically opposite to the founding principles of the Hampstead Garden Suburb.
- vi) An Eruv has no place in a liberal society.
- vii) Would be abhorrent and distasteful because it represents a barrier. The every day sight of the installations would be an affront to many. The poles would be a sign of entering or leaving an Eruv.

I) General

- i) The wishes of the majority should not be ignored. It would be undemocratic for the will of a few to override the will and legal rights of the majority. The proposal constitutes a vilification and human rights and the right of choice of the majority of local residents. The proposers show total disregard for the wishes of the majority. It would be unfair to bow to pressure of one ethnic group. It is wrong for one section of a community to inconvenience another. Unfair for all residents to be placed within it.
- ii) Only a small proportion of Jews support the Eruv. The majority of the Jewish community are against it. Some Orthodox Jews are against it.
- iii) Alleged need is created entirely by the Jewish community. Generations of Orthodox Jews have lived and worshipped here without an Eruv. There is no need. Is it absolutely necessary?
- iv) Orthodox Jews should seek dispensation from their Rabbi so that an Eruv is not necessary, or an alternative method of forming the Eruv ie avoiding the need for poles and wire, should be used. A less intrusive means should be found to complete the perimeter. Jews should alter their own rules. Jewish law is archaic. Should not be allowed on grounds that there is no alternative.
- v) British law guarantees freedom of religion which means that no religion can be allowed to impose its will outside its own members. Religious minorities should solve their difficulties without imposing their solutions on the rest.
- vi) The Council have a legal obligation to minimise risk to children, the disabled, visually impaired and elderly.
- vii) The Council should not be tied by the Minister's decision. The proposal should be refused as before. No planning permission should be granted that detracts from the conditions laid down by the Minister, particularly relating to trees.
- viii) It would be impractical to erect wires over busy highways. Each site needs to be inspected for location of services and this would be costly. An Eruv patrol would be needed to check that the wire has not been cut.
- ix) Concern about who will pay for the proposals and their maintenance. The poles and wire will be vulnerable to our weather. If there are accidents, who will pay for the compensation? The applicants have no experience in this field and the status/legal qualification of the United Synagogue Eruv Committee is questioned.

- x) Money spent by the Council on this issue could have been better spent on other areas which benefit the community as a whole.
- xi) The owner/occupiers of properties have not been consulted about the use of their property as part of the perimeter of the Eruv. Many do not consent to their property being used. The Council has no mandate to use property as part of the perimeter. Individuals within every residence in every street affected by poles and wire should be consulted, otherwise Council policy will be in disrepute. The Council have a duty to consult widely. People who are within the area of the Eruv have not been asked if they mind living within it.
- xii) Planning permission has not been given for the properties which form part of the Eruv perimeter to be used for religious purposes.
- xiii) There are no details of the precise location of the poles and wire, or the colour and height of the poles. The Council has not ascertained where the perimeter of the Eruv would actually be and therefore in respect of 'Longberrys' in particular the Council cannot give this vital information to its tenants.
- xiv) Property value will be reduced. Value of properties which contain poles would rise or fall in price depending on the buyer.
- xv) The proposals would spoil the individuality of the Suburb.
- xvi) The proposals would infringe upon the privacy of residents who are not Jews.
- xvii) The Council are avoiding dealing with the Eruv on real grounds of divisiveness. The principle of the Eruv remains to be dealt with in accordance with the powers, duties and responsibilities which the Council is required to exercise.
- xviii) Supposed benefit will only apply to a tiny handful. The United Synagogue has a 40% affiliation of British Jews but only 9% define themselves as strictly Orthodox. Not of much use to people in Childs Hill.
- xix) If we are to get any peace for the whole world we ought to start from our own community where we can implement influence.
- xx) Would be contrary to natural justice to have a facility for religious observance of one sect.
- xxi) How can poles and wire on the public highway be allowed when a Church has been refused a directional sign?

- xxii) Fundamentalist groups of whatever kind should not be encouraged to misuse the democratic process.

8.2.4 Officers Comments on the Objections

Other than some of the comments about the new locations, the objections raised are similar to those that were raised during the consideration of the applications ERUV1 and 2 and the Inquiry. The conclusion of the Secretary of State was that the previous proposals did not have any adverse visual impact on the environment and that they were not in conflict with the general policies in the Unitary Development Plan (G1, G2, G3, G18, T1.1, T2.1, T3.1). The Inspector had recognised that there was no UDP policy directed at street furniture.

The Secretary of State did not find it necessary to decide if social harmony was capable of amounting to a material consideration since he considered that the arguments adduced on this issue were of insufficient weight to amount to a planning objection which merited refusal. It is considered that no new arguments have been introduced.

With regard to the additional objections (G(vi), (vii), (viii), (ix), (x) and (xi)) about the new locations, it is considered that they are of insufficient weight to justify refusal of the current proposal. It is however recommended that new locations 40, 42, 43 44, 45, 46, 47 and 50 be included within Condition 2 so that these poles can also be covered in a non-drying coating above a height of 2m from adjacent ground level as a security safeguard. None of the proposed poles are adjacent to 'Longberrys'.

Other objections are considered to be of insufficient weight to justify refusal and many are not relevant to planning.

8.2.5 74 letters have been received expressing support for the proposals. The views can be summarised as:

- i) The Eruv will benefit/help/enhance lives of thousands of practising Jews particularly the elderly, the disabled, young children and young mothers.
- ii) The poles and wire would be unobtrusive and almost invisible.
- iii) The poles will cause very little inconvenience. Any implication that the poles are likely to be a risk to children, the disabled, the visually impaired or the elderly is scaremongering.
- iv) The proposals will allow for the satisfaction of a minority at no cost or inconvenience to the majority. The cost will be borne by the Jewish community.
- v) An Eruv strengthens community and social ties. It would be a positive and beneficial asset to the borough. We should be doing all we can to help the elderly and disabled. vi) There is no other means of providing such freedom on the Sabbath.

- vii) Eruvs have been constructed around the world with no disruption to the well being or demographic make-up of those cities.
- viii) Those who oppose the Eruv do so out of ignorance, fear of change and even on anti-religious grounds.
- ix) Approval will allow the Council to be an example of tolerance and understanding in a multi-ethnic society.
- x) Pavement clutter of advertising boards, signs on lamp posts and bins for recycling are a far more serious problem.
- xi) The questioning of the right to include residential property as part of the perimeter without the owners consent is almost laughable. There must be many properties which form borders and boundaries, of postcodes, parishes, towns etc where no one is asked and there can be no possible harm in the case proposed.
- xii) Any attempt to reject the application would be a flagrant abuse of the democratic process bearing in mind previous history.

8.2.6 2 letters received cannot be classed as either in support or against. The comments raised can be summarised as:

- i) One of the main reasons for buying our house was that once the Eruv was in place we would be able to take children to Synagogue and visit family and friends. There are a number of young people who have bought property to the west of Hendon Way who will be disappointed at the decision to move the Eruv boundary.
- ii) Unreasonable pressure is being applied to take sides in this matter. We should be allowed to make a decision without undue pressure.

8.3 Appraisal/Conclusions

- 8.3.1 Members of the Committee will be aware that strong feelings both for and against the proposals have been aroused. However, many of the views expressed are considered to have no relevance to Planning and in reaching a decision, the Committee should only take into account material planning considerations. The Council has a general statutory duty to make appropriate arrangements with a view to securing that its functions are carried out with due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The Committee should not attempt to evaluate or examine religious, social or ethnic issues not related to Town & Country Planning and must disregard non-planning considerations in whatever form they may be raised.
- 8.3.2 Whilst certain locations for the poles and wire are different from the previous application there has been no change in the approach which should be taken to the determination of the application.

Planning Policy Guidance Note PPG1 General Policy and Principles states:

Para 23. "In principle.... any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances " (Stringer v MHLG 1971) . Material considerations must be genuine planning considerations, ie they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned (R. v Westminster C. C., ex parte Monahan 1989). Much will depend on the nature of the application under consideration, the relevant policies in the development plan and the surrounding circumstances.

Para 24. The Courts are the arbiters of what constitutes a material consideration. Over the years the scope of what can be regarded as material has been clarified by judicial authority. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

Para 25. The approach that decision-makers should take the consideration of planning applications is set out in sections 70(2) and 54A of the 1990 Act (the latter inserted by section 26 of the 1991 Act). Section 70(2) requires the decision-maker to have regard to the development plan, so far as it is material to the application, and to any other material considerations. Where the development plan is material to the development proposal, and therefore must be taken into account, section 54A requires the application or appeal to be determined in accordance with the plan, unless material considerations indicate otherwise. In effect, this introduces a presumption in favour of development proposals which are in accordance with the development plan.

Para 26. Those deciding planning applications or appeals should therefore look to see whether the development plan contains policies or proposals which are relevant to the particular development proposal. Such material policies and proposals may either give support to a development proposal in a particular location or indicate that it is not appropriate. If the development plan does contain material policies or proposals relevant to the application and there are no other material considerations the application or appeal should be determined in accordance with the development plan.

Para 27. Where there are other material considerations, the development plan should be taken as a starting point, and the other material considerations should be weighed in reaching a decision. One such consideration will be whether the development plan policies are up-to-date and apply to current circumstances, or whether they have been overtaken by events (the age of the plan is not in itself material). For example, policies and proposals in the plan may have been superseded by more recent planning guidance issued by the Government, or

developments since the plan became operative may have rendered certain policies or proposals in the plan incapable of implementation or out of date.

Para 28. In those cases where the development plan is not relevant, for example because the plan does not contain a policy relating to a particular development proposal. or there are material policies in the plan which pull in opposite directions so that the plan does not provide a clear guide for a particular proposal, the planning application or appeal should be determined on its merits in the light of all the material considerations.

8.3.3 The decision of the Secretary of State to allow the appeals for applications ERUV1 and 2, the previous applications, is now a material consideration which should be taken into account in reaching a decision on the new application.

8.3.4 The main issues to be decided are considered to be:

- (1) the effect of the poles and wire on the character and appearance of the street scene at various locations in the borough.
- (2) the effect of the proposal on the appearance and character of particular parts of the Hampstead Garden Suburb Conservation Area.
- (3) whether, if there are any planning objections to the proposal, the need for the proposal outweighs these objections, and
- (4) whether there are any other considerations which are sufficient to amount to a compelling planning objection.

These were the issues identified by the Inspector who reported to the Secretary of State for the Environment following the Public Inquiry in December 1993. The Secretary of State agreed with the Inspector.

8.3.5 Having examined these issues, the following conclusions are drawn on application ERUV3:

- i) 26 of the 39 locations for the poles and 'wire' are the same as in application ERUV1 and the impact of the poles and 'wire' on character and appearance at these locations remains unchanged.
- ii) With regard to the 13 new locations, it is accepted that the poles would be seen from the pavement or adjoining path or highway. However, in all cases it would be difficult to see the 'wire'. The new locations are considered to be similar in respect of their character and appearance to the other locations and it could not be demonstrated that the poles and 'wire' would seriously harm the character and appearance of the street scene at the new locations.

At 12 of the 13 new locations, a pole or poles would be visible from nearby residential properties, however it is considered that this by itself does not amount to a compelling planning objection.

iii) The 5 locations for the poles and wire within the Hampstead Garden Suburb Conservation Area are the same as in ERUV1 and the impact of the poles and wire' therefore remains unchanged and the character and appearance of the Conservation Area is unharmed.

iv) It is considered there are three options open to Members:

- Firstly, to approve the application in accordance with the officers recommendation.
- Secondly to refuse the application for the erection of the poles at all of the locations on the grounds of their impact on the street scene.
- Thirdly to refuse the application for the erection of poles at individual locations because of their impact on the street scene.

If it is decided to refuse the application, it is considered that the Council would have difficulty in justifying its decision at those locations which have already been considered by the Secretary of State.

In addition, if Members consider the proposal unacceptable on planning grounds, then they should consider whether the need for the Eruv outweighs the harm it causes. In this respect, the prime reasons given for the Eruv was to relax rabbinical law in the interests of the disadvantaged, for example the elderly and disabled. Members have received extracts from the appeal decision which deals with need.

v) Other objections to the new application do not raise additional concerns to those which were raised at the Inquiry. It is concluded that they are of insufficient weight to amount to objections which justify refusal of the application.

9. LIST OF BACKGROUND PAPERS

9.1 Planning application files ref: ERUV1 and ERUV2.

9.2 Any person wishing to inspect these background papers should telephone 0181-359 4981.

10. AUTHORS

10.1 Clive Townsend Tel: 0181-359 4981. Directorate of Environmental Services, Development Control Section.

10.2 MO - JEL

10.3 DF - JB