

14 January 1993

Councillor F. P. [unclear]
Members' Room
Town Hall
Hendon NW4 4BG

Dear Councillor P. [unclear],

Planning Application for ERUV

Enclosed please find a copy of our response to the Council's consultation letter of 16.12.92 on the Eruv Application Update.

We urge you to take into account the Local Ombudsman's findings in the Towers case which show the need for great caution in granting planning permission for contentious proposals. There is little doubt that an Eruv in Barnet would be offensive to far more residents than it could benefit, and we hope you will play your part in rejecting the Application.

Yours sincerely,

Elizabeth and Jeffrey Segall

308 Cricklewood Lane
London NW2 2PX

2 January 1993

Ms D. McGurrin
The Planning Department
London Borough of Barnet
1255 High Road, N20 0EJ

Dear Ms McGurrin,

Consultation letter EPM/Erurv 1/A of 16 December 1992

We consider that the Applicants for an Eruv with poles/posts and wires act on behalf of a minority group of Barnet's Jewish residents, and that their proposal is outrageously overassertive and lacks respect for the beliefs of others. We oppose the Application in general, and specifically for the Poles in Lyndale Avenue NW2, shown on map 04, on the following grounds.

1. Insecurity. Both 04 Poles would be an open invitation to intruders. These Poles would be only 15 cm from the garden fence (West 04 Pole) and from the side wall (East 04 Pole), providing easy access to the garden and roof respectively of the two houses. The proposal ignores the Police General Advice to Householders to Prevent a Burglary, which states, "Metal drainpipes are... as good as ladders" to gain access.

Following an intrusion over our garden fence, we installed a high section of fencing to prevent a recurrence, and this would be nullified by the West 04 Pole. Moreover, the insecurity would cause us anxiety, particularly at night, would reduce the value of our property, and could result in an increase in our house insurance premium.

2. Visibility of Poles.

(a) The West 04 Pole would be visible in part from windows of our kitchen, dining annexe, and study, and from our garden. This would be psychologically intolerable to us as humanists committed to the unity of humankind, because for us the Pole would symbolise ethnocentrism and religious fanaticism.

(b) The East 04 Pole would be visible in part from our kitchen and study windows and from our garden, and would be equally offensive to us.

(c) The 04 Poles and Wire would be fully visible from the front windows of the residents in Longberrys who live directly opposite the junction of Lyndale Avenue with Cricklewood Lane, and who should therefore also have been consulted.

3. Permanence of Wire. There is no justification for a permanent wire between the 04 Poles (or other poles), as the alleged religious need for closure of an Eruv 'gateway' is only on the Sabbath; yet we (and others similarly affected) are expected to tolerate the symbolic closure of the gateway on every day.

4. Disturbance to our land. We prohibit any disturbance to the earth under our fence in the event of a decision to erect the West 04 Pole.

5. An undefined, unlicensed section of the Eruv boundary, and an unclosed 'gateway'.

(a) The Council and the Eruv Committee have failed to state which structures of our property they propose to use for the purpose of defining the 'existing boundary' of the Eruv - our fencing and low brick wall and/or our house frontage and side elevation. On principle, this information should have been included in the Application. In addition, we need to know this as we might decide to seek legal action against the Council and/or the Eruv Committee in the event of acceptance of the proposal.

(b) In the absence of this information, and of a request for permission to use structures of our property to define part of the 'existing boundary', we hereby declare that no part of our property can be so used, and that all of it is a 'non-Eruv domain'.

(c) It follows that the West 04 Pole would not be near enough to an 'existing boundary' to close the 'gateway' on this side of Lyndale Avenue, and that the alleged religious purpose of the 04 Poles and Wire would therefore be invalidated.

6. Undemocratic defining of the Eruv boundary.

(a) The statement in the Application that "Under the guidance of the Court of the Chief Rabbi, we have defined the boundary for Hendon, Golders Green and Hampstead Garden Suburb" is unacceptable in an openly accountable democratic society. Barnet residents have the right to know principles and verifiable demographic data on which the proposed boundary is based.

(b) With regard to the 04 Poles, there is no demographic justification for the inclusion in the Eruv of Cricklewood Lane, which we know has a low prevalence of Jewish residents, and therefore very few, if any, followers of the Eruv Committee. On the other hand, Lyndale Avenue has a relatively high proportion of Jewish residents, some of whom might prefer to be within an Eruv but are arbitrarily excluded. Thus the 04 Poles and Wire cannot be justified on religious grounds.

7. The purpose of the proposed Eruv.

(a) The United Synagogue Eruv Committee has changed the wording of the purpose of the Eruv. In the original Application this was "to convert the entire area within the boundary into one, notional jointly owned [public and private] domain" (a proprietary concept), while in the revised Application it is "to define the entire area within the boundary as one community [public and private] domain" for the Eruv Committee's followers - a sectarian territorial concept. The Application admits that the "poles and wires have no intrinsic religious or ceremonial significance". This indicates that the Eruv Committee could have found a non-provocative solution to the problem of dispensing with the observances in question if it were motivated only by religion and not by behavioural territoriality.

(b) The number of people who would actually benefit religiously from the proposed Eruv is unknown, because members of the United Synagogue are not individually accountable for their observances. The relevant number is not that claimed by the Eruv Committee, but only that of its followers, i.e. those members of the United Synagogue who reside within the proposed boundary and who at present observe the laws in question, but would feel free not to do so if they lived in the conceptual domain of an Eruv. This number could only be ascertained by signed statements to this effect by identifiable residents. (Such statements could be deposited in confidence with the Council, or possibly with the Electoral Reform Society). Also unknown, but equally important, is the number of Barnet's residents who would find the symbolic significance of the poles/posts and wires offensive.

(c) The Eruv Committee has organised a petition open to casual supporters who live anywhere in the Borough of Barnet and are eligible to vote. This is not a test of public opinion in the Borough, nor is it relevant to the Application in planning terms.

(d) If the Eruv Committee cared more about people and less about territoriality, it would abandon medieval thinking, and simply declare its 'communal domain' to be all the homes of its followers and the United Synagogues in Barnet, plus the walkways and road crossings that link all these.

8. Is the Council acting ultra vires?

(a) Can the Council constitutionally give visible public recognition to the concept of an Eruv as a territorial communal domain by permitting the erection of privately-owned poles/posts on public land and the suspension of wires over the public highway?

(b) If so, Can the Council give the pieces of land to the Eruv Committee for the erection of their poles/posts, free of charge or rental?

(c) Can the Council legally sanction the inclusion in the domain of the properties coming within the proposed boundary without consulting all the residents and obtaining the consent of the owners?

(d) Can the Council legally sanction the inclusion of private streets and open spaces within the domain without the consent of the owners?

(e) Can the Council legally sanction the use of fences and/or walls as parts of the 'existing boundary' without consulting all residents so affected and without the consent of the owners?

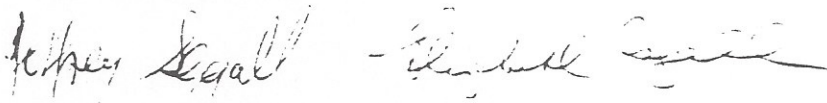
(f) Can the Council give planning permission for the proposal without stating publicly how it would deal financially with the situation in the event of a major loss in the number of followers of the Eruv Committee, the disbanding or bankruptcy of the Committee, the failure of the Committee for any other reason to meet its obligations with regard to maintenance, or the need for any reason to have the posts and wires removed?

(g) Is the Council acting irresponsibly in treating the proposal simply like any other planning application? Should it not first consider possible effects and implications: the escalation of the present communal discord into persistent antagonisms; copycat applications within the Borough by other religious and ethnic groups and/or by environmentalists (for e.g. nuclear-free or dog-free zones); the exploitation of resulting disharmonies by political extremists; possible public disorder and/or spontaneous or planned violence; similar applications by the Eruv Committee in other boroughs, with Barnet cited as the national precedent, and with the same possible consequences?

(h) Can the Council act so undemocratically as to ignore the interests of the overwhelming majority of Barnet's residents, by failing to take steps fully to inform everyone in the Borough of the issues and implications involved in the erection of Eruv poles/posts on public land and wires over the public highway?

9. Our personal position. In the event of acceptance of the Application, as a last resort we would need to move (after 36 years in residence in our house). To potential buyers, the eyesores of the Poles and Wire, the added risk of intrusion, and the possibilities of communal discord and violence fired by the physical symbols of territoriality, would significantly reduce the value of our property in the housing market. We have served Barnet residents over many years in the medical and educational fields respectively, and feel that we are owed a better retirement prospect than that with which we are now threatened.

Yours sincerely,



Jeffrey and Elizabeth Segall

cc. All Councillors of Borough of Barnet
The Local Government Ombudsman