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LRO35/N5090/8/06

My Ref:

Your Ref:

Alan Perrin Esq
United Synagogue Eruv Committee
34 Lyttleton Road
London
N2 0DQ

10 May 1993

Dear Mr Perrin

THE BARNET ERUV : STOPPING UP ORDERS

Thank you for your letter of 30 April asking whether, if your Committee decides to appeal against Barnet Borough Council's decision to refuse planning permission and a public inquiry becomes necessary, it would be possible for any inquiry into a Stopping Up Order under section 247 of the Town and Country Planning Act 1990 to be held concurrently.

The Department cannot of course give an authoritative interpretation of statutes. However, section 253 of the Act of 1990 provides that where an appeal against refusal of planning permission has been lodged and the Secretary of State would have power to make a Stopping Up Order order then, notwithstanding that planning permission has not been granted, the Secretary of State may publish the draft Order. This appears to provide one possible way forward.

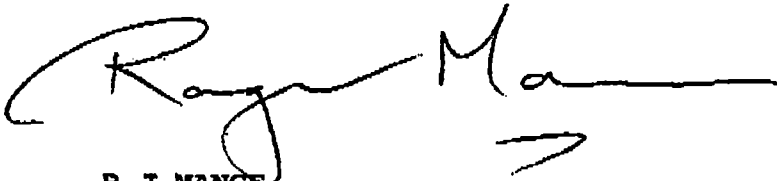
Alternatively, I draw your attention to the Highways Act 1980, as amended by the Local Government (Miscellaneous Provisions) Act 1982. Section 115B(1)(b)(iii) enables a Council to place objects or structures on, in or over a footway for the purpose of "providing a service for the public or a section of the public." Also section 115E enables a Council to grant a person permission to do anything on, in or over a footway which a Council could do under section 115B(1). So far as trunk roads in London are concerned, section 115H provides that a Council is not to exercise any power conferred by section 115B or grant permission under section 115E in relation to a highway for which they are not the highway authority without the consent of the highway authority. I am advised that if an application were made by

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Barnet Borough Council for the erection of poles on trunk roads for the purposes of creating an eruv, the Department would, in principle, be able to give its consent.

The Department is obliged to consider any applications made either under sections 247 and 253 of the Town and Country Planning Act 1990 or section 115H of the Highways Act 1990, but you will appreciate that I cannot anticipate the outcome of any application which may be made. Meanwhile, although it is for your Committee to determine how they should proceed, you may wish to consider approaching the London Borough of Barnet - in its capacity as local authority, local planning authority, local highway authority and the Department's trunk road agent - in order to discuss the relevance of the provisions I have mentioned to implementing any planning permission which may be granted on appeal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R J Mance', with a stylized flourish at the end.

R J MANCE
Director Network Management