

**C.868 CAMDEN 'ERUV'**

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**DESIGN, HERITAGE, SOCIAL COHESION AND ACCESS STATEMENT**

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**Origin of application**

This application is being submitted on behalf of the United Synagogue, which is the central body of traditional Judaism in England, founded with the sanction of the Jewish United Synagogue Act, 1870; it is the largest Jewish religious grouping in Europe, having a total of 63 communities under its aegis.

This application follows the recently approved application (ref 2014/2464/P) for the Camden section of the Brondesbury 'Eruv' which was approved in October 2014.

It also follows upon a previous 2012 application (ref 2012/3240/P) which was subsequently withdrawn.

**Background to and definition of an 'Eruv'**

All United Synagogue constituent synagogues and the other communities in Camden associated with this application subscribe to traditional Orthodox Jewish practice, the laws of which are derived from the first five books of the Bible, known as the Pentateuch. These laws were subsequently interpreted in detail by generations of rabbis and codified in the Talmud, completed in the 6<sup>th</sup> century. Further interpretation and derivation has continued throughout the intervening period including in modern times, to confront differing circumstances in living conditions including those of the modern technological era.

One of the fundamentals of Judaism is the observance of the Sabbath from sunset on Friday until nightfall on Saturday. Among the basic rules defining this observance is a prohibition of the use of any form of transport and, in addition, the carrying or moving of any object from a private into any other domain other than within an 'enclosed' area.

This is a basic 'relevant protected characteristic' (as defined in the Equality Act 2010) of Jewish religious law, which also permits it to be addressed -- and it is that which is the impetus for the provision of an 'Eruv'.

It assists the creation of an 'eruv' that the qualifying definition of an 'enclosure' under Jewish law includes, in addition to walls or fences at least 1 metre high, a 'structure' comprising two poles connected with a thin filament to provide the necessary continuity where the boundary crosses a road or public footpath. The generally agreed height of the poles is 5.5 metres so as to be safely above any high vehicles. Further, the integrity and safety of the eruv is required under Jewish law to be checked at least once a week.

Thus it is possible to achieve a notional 'enclosure' as defined in Jewish law (known by its Hebrew term 'eruv') encompassing a large area throughout which carrying of objects and movement of non-ambulant persons is permitted.

This is of great benefit to Sabbath observant people who are thus able to carry not only personal effects (handkerchiefs, keys, spectacles, etc) but, most importantly, it enables non-ambulant persons, i.e. all wheelchair users and babies to be pushed in the street thus overcoming a very limiting restriction on them and also on their carers.

The applicant, the United Synagogue, is acting on behalf of two constituent synagogues, as well as five other associated communities within the borough, the oldest of the communities having been founded in 1892 and the most recent in 2014. The total population of Camden who will benefit from the proposal, as described below, is estimated as in excess of 6,000.

This figure excludes a far greater number of residents from the adjoining eruv in Golders Green, and the imminent eruvs in Brondesbury, St John's Wood, and Highgate, who will benefit from the more inclusive accessibility for social, leisure, community and religious participation and more importantly, facilitates access for all to the Royal Free Hospital which serves those areas.

**It is the street furniture comprising these pairs of poles and the filament between them which form the subject of this application.**

### **Existing examples**

In recent years an eruv has been approved and established in NW London, Mill Hill, Edgware, Stanmore, Belmont, Borehamwood and North Manchester; the street furniture to achieve an eruv has also been granted planning approval in Bushey, Barnet, Woodside Park, Pinner and Chigwell – and recently, as referred to above, within the London Borough of Camden as part of the Brondesbury eruv. Applications for planning consent have been or will imminently be submitted for, among others, North Westminster and Highgate/Muswell Hill. There are numerous examples of eruvs in cities throughout Europe, America, South Africa and Australia.

### **Design**

The large majority of the notional enclosure required for an 'eruv' utilises existing walls and fences. There unavoidably remain a number of locations where no existing enclosure exists, principally across roads and footpaths and for which pairs of poles and a nylon monofilament are proposed to provide the necessary 'enclosure' in the form defined.

The boundary of each eruv is very carefully researched so as to maximise the use of existing walls, fences and buildings and to minimise the number of poles and their visual impact where they are necessary; this is *especially* so adjacent to listed buildings, within Conservation Areas or otherwise significant locations.

Mindful of real and also of perceived concern about the visual impact of the proposed poles and wires, these follow precedent in having the narrowest possible diameter pole (76mm) with a colour-coated finish to conform to local street furniture or, where appropriate, to match immediately adjacent painted walls or other features; the filament spanning between the poles is less than 0.5mm clear nylon fishing line which is visually imperceptible.

Where eruv structures are unavoidable in Conservation Areas and in the settings of listed buildings, particular measures have been incorporated into the structures to minimise their potential impact. In all these locations, it is proposed to install a pole tapering over its height from 101mm at the base to 38mm at the top, giving it a slender and elegant appearance.

The height of poles is generally 5.5 metres, being the preferred height to achieve clearance even for exceptionally overheight vehicles; a lower height is adopted for public footpaths.

The siting of poles, where required to be installed, has throughout been extremely carefully considered in each location so as to minimise visual impact on the streetscape as well as avoid any impact on existing trees in both the public and private domain.

Pole locations have also been carefully considered to minimise impact on access, such as along footpaths, where additional structures could hinder the free movement of prams/buggies, wheelchairs or other mobility devices.

Existing eruvs have demonstrated that neither poles nor the filament poses any risk to birds, bats or other wildlife.

### **Heritage and Conservation Locations**

Whilst these are avoided wherever possible, the location for some poles falls unavoidably within Conservation Areas or adjacent to listed buildings.

In *all* locations, but particularly within these designated areas, in addition to the tapered pole, *especial* care has been exercised both in the location of each pole and its colour, which is assessed and specified so as to minimise its local visual impact; the colour of poles is indicated in the application and also stated 'to be agreed' on an individual basis if required by the authority.

Existing eruvs all demonstrate that with appropriate sensitive choice of location and colour, once erected poles are visually imperceptible without a specific search for them.

An assessment of the heritage impact of the 'eruv' structures' on conservation areas and listed buildings is provided further below.

## **Social Cohesion**

The unfamiliar concept of an eruv and the associated description and terminology understandably give rise to concern that it will lead to the concentration of a particular minority group and an imbalance in the existing social, ethnic and religious character of the area concerned.

The six eruvs already in existence for some years in and around London, referred to above, have clearly demonstrated that they have no effect whatever in altering the composition of the local population or the pattern of local activities in any significant way.

What the eruv does achieve is the ability of orthodox Jewish residents who are either themselves wheelchair bound and very young children, and the carers of both these groups, to participate fully in social, community, leisure and religious activities beyond the confines of their homes on Friday evenings and Saturday. For many wheelchair-bound persons, their weekly visit to the synagogue on Saturday is their principal social activity of the week -- and is enabled by the provision of an eruv.

In this regard, an eruv adds significantly to the growth, social cohesion and *inclusivity* of the established local Jewish community and is encouraged by the various statutory guidelines specified in the final section below -- without any collateral detriment.

## **Access**

As referred to above, the existence of an eruv not only relaxes an ancient religiously-held prohibition for the benefit of all observant Jewish residents but more significantly, it allows those who are disabled, as well as those who are carers of disabled adults or pre-ambulant children, to leave the confines of their homes on Friday evenings and Saturdays and move freely within the local designated eruv area and into adjoining eruv areas -- and participate fully in social, communal, leisure and religious activities.

This has been shown greatly to enhance the lives of young and old, parents and carers within areas where an eruv has already been erected and to have allowed existing communities to be fully inclusive and to flourish.

## **Statutory guidelines and recommendations**

Statutory support for provision of an eruv can be found in various national and local legislative documents; a selection of extracts is, for ease of reference, set out below.

### **Equality Act 2010, Section 149**

#### **Clause (1)**

A public authority must, in the exercise of its functions, have due regard to the need to—

subsection (b)

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

Clause 3

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

subsection (a)

remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

subsection (b)

take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

Clause 4

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Clause 6

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited under this Act.

Clause 7

The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy;
- race;
- religion or belief;
- sex;
- sexual orientation

**Planning and Heritage Assessment**

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application is to be decided in accordance with the development plan unless material considerations indicate otherwise.

## Legislative Framework

Where any development may affect designated or undesignated heritage assets, there is a legislative framework to ensure proposed works are developed and considered with due regard for their impact on the historic environment. This extends from primary legislation under the Planning (Listed Buildings and Conservation Areas Act 1990. The relevant legislation in this case extends from Section 66 of the 1990 Act, which states that ‘in considering applications for listed building consent, the local planning authority shall have special regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses.’

Section 2 further states that special regard must be given by the authority in the exercise of planning functions to the desirability of preserving Listed Buildings and their setting. Furthermore, Section 72 of the 1990 Act states that in exercising all planning functions, ‘local planning authorities must have special regard to the desirability of preserving or enhancing the character and appearance of Conservation Areas.’

## The Development Plan

The statutory Development Plan comprises the London Plan (2015), the London Borough of Camden Core Strategy (November 2010) and the London Borough of Camden Development Management Policies (November 2010).

The Council’s Supplementary Planning Documents are also material to the application.

Development Plan policies relevant to this application are :-

## London Plan

Policy 3.1 ‘Ensuring equal life chances for all--Development proposals should protect and enhance facilities and services that meet the needs of particular groups and communities. Proposals involving loss of these facilities without adequate justification or provision for replacement should be resisted.’

Subsection 3.5 states that ‘it is important that the needs of all in society, such as faith groups, are addressed – if necessary through coordinated action with neighbouring boroughs. How these needs should be met is a matter for local determination; delivery will be the responsibility of local strategic partnerships and other relevant locally based partnerships and organizations to identify those with greatest needs in , and the mechanisms by which they can be met, using statements of community involvement to support this.’

Policy 3.16 ‘Protection and enhancement of social infrastructure—London requires additional and enhanced social infrastructure to meet the needs of the growing and diverse population. Development proposals which provide high quality social infrastructure will be supported in light of local and strategic social infrastructure needs assessments.’

Policy 7.2 An inclusive environment—‘The Mayor will require all new development in London to achieve the highest standards of accessible and inclusive design and supports the principles of inclusive design which seeks to ensure that developments

- a can be used safely and easily and with dignity by all, regardless of disability, age, gender, ethnicity or economic circumstances
- c are flexible and responsive taking into account of what different people say they need or want, so people can use them in different ways.’

Policy 7.8 Heritage assets and archaeology—‘Heritage assets should be identified so that the desirability of sustaining and enhancing their significance and of utilising their positive role in placeshaping can be taken into account. Development should identify, value, conserve restore and incorporate heritage assets, where appropriate. Development affecting heritage assets and their settings should conserve their significance by being sympathetic to their form, scale, materials and architecture detail.’

### Local Development Plan

Camden’s adopted Core Strategy states that Camden will be a borough of opportunity that adapts to its growing population and will be a connected community. It acknowledges the diversity of the borough.

Core Strategy Policy 5 (CS5) Managing the impact of growth and development – ensuring that development protects the environment, heritage, amenity and quality of life, and ensuring that the amenity of residents is protected by making sure that the impact of development on neighbours is fully considered.

Core Strategy Policy 10 (CS10) Supporting community facilities and services – the Council will work with its partners to ensure that community facilities and services are provided for Camden’s communities and people who work in and visit the borough. The Council will seek to support community organisations and religious groups to help them to meet their need for faith facilities.

Core Strategy Policy 14 (CS14) Promoting high quality place and conserving our heritage – requires development of the highest standard of design and preserving the borough’s heritage assets.

Development Management Policy 24 (DP24) ‘Promoting high quality design – maintains the character of Camden’s Conservation areas by taking account of Conservation Area Statements, only permitting development on Conservation Areas that preserve and enhance their character and appearance. Preserves or enhances the borough’s listed buildings by preventing their total or substantial demolition, only allowing extensions or alterations where it would not harm the building’s special interest and not permitting development that would cause harm to the setting of the building.’

## National Planning Policy Framework (2012)

The National Planning Policy Framework (NPPF) was published on 27<sup>th</sup> March 2012 and replaces the previous suite of Planning Policy Statement and Guidance Notes.

Paragraphs 6 to 10 deal with the purpose of the planning system as a means of achieving sustainable development.

Paragraph 7 identifies the three dimensions of sustainable development, namely social, economic and environmental which are defined as :-

- An economic role—contributing to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- A social role—supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of the present and future generations and by creating a high quality environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- An environmental role—contributing to protecting and enhancing our natural, built and historic environment; and as a part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

Paragraph 8 advises that these roles should not be undertaken in isolation as they are mutually dependent.

Paragraph 9 emphasises that sustainable development involves 'improvements in the quality of the built, natural and historic environment, as well as in people's, quality of life..'

Paragraph 10 states that 'decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas'.

Paragraphs 11-16 establish the presumption in favour of sustainable development.

Paragraph 14 with regard to decision taking advises 'approving development proposals that accord with the development plan without delay; where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:-

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole;
- Specific policies in this Framework indicate development should be resisted.'

Paragraphs 56 – 58 deal with design; paragraph 56 states that the government attaches great importance to the design and built environment and that good design is a key aspect of sustainable development.



Paragraph 69 requires that planning policies and decisions should aim to achieve places which promote opportunities for members of the community who might otherwise not come into contact with each other.

Paragraphs 126 – 141 relate to developments that have an effect upon the historic environment. These policies provide the framework to which local authorities need to refer when setting out a strategy for the conservation and enjoyment of the historic environment in their Local Plans.

The NPPF advises local authorities to take into account the following when drawing up strategies for the conservation and enjoyment of the historic environment :-

- The desirability of sustaining and enhancing the significance of heritage assets and preserving them in a viable use consistent with their conservation;
- The wider social, cultural, economic and environmental benefits that the conservation of the historic environment can bring;
- The desirability of new development in making a positive contribution to local character and distinctiveness; and
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

Paragraph 128 states that to determine applications for development, local planning authorities should require applicants to describe the significance of the heritage assets affected and the contribution made by their setting. The level of detail provided should be proportionate to the significance of the asset and sufficient to understand the impact of the proposal on this significance.

Paragraph 129 requires local authorities also to identify and assess the significance of a heritage asset that may be affected by a proposal and should take this assessment into account when considering any impact upon the heritage asset.

Paragraphs 132-136 consider the impact of a proposed development upon the significance of a heritage asset; paragraph 132 emphasises the need for proportionality in decision making and identifies that when a new development is proposed, the weight given to the conservation of a heritage asset should be proportionate to its importance, with greater weight given to those assets of higher importance. Paragraph 134 states that where less than substantial harm is proved to a designated heritage asset, the harm should be weighed against the public benefits of the proposal, which include securing the asset's viable optimum use.

With regard to Conservation Areas, it is acknowledged in paragraph 138 that not all aspects of a Conservation area will necessarily contribute to its significance. This allows some flexibility for sustainable development to take place in or near Conservation areas, without causing harm to the overall heritage significance of the heritage asset.

Paragraphs 186-206 provide guidance on the approach to decision taking, encouraging decision taking 'in a positive way to foster the delivery of sustainable development'.

Paragraphs 187 states that 'decision takers at every level should seek to approve applications for sustainable development where possible'.

### National Planning Practice Guidance

The National Planning Practice Guidance (NPPG) was published on 6<sup>th</sup> March 2014 and supplements the NPPF; since its initial publication, sections of the PPG have been updated and republished.

In April 2014 the government published updated guidance to conserving and enhancing the historic environment; this is contained at ID reference number 18A. It emphasises the importance of properly assessing the nature, extent and importance of the significance of a heritage asset and the contribution of its setting is very important to understanding the potential impacts of development proposals. When assessing an application which may affect the setting of a heritage asset local planning authorities should thoroughly assess the impact, however it should be proportionate to the significance of the heritage asset. The impacts of cumulative development should also be considered by the local planning authority.

### Supplementary (Camden) Planning Guidance

Section 5.36 of Camden's Supplementary Planning Document (known as 'Camden Planning Guidance') which is considered part of this application is Local development Framework, Policy CPG7 (Transport); at Section 8 it addresses streets and public spaces.

It states that new development should contribute to the creation of attractive, clean and well-maintained public place and all new pedestrian areas and footpaths are required to be constructed to a standard that is considered appropriate for adoption by the relevant Highway Authority. It seeks to ensure the safety of vulnerable road users, including children, elderly people and people with mobility difficulties, sight impairments and other disabilities and maximise pedestrian accessibility. It seeks to minimise street clutter and ensure that the installation of street furniture, which it acknowledges is often necessary, should be positioned so they do not interrupt the minimum area of footway designated for pedestrians.

The main planning matters relevant to the proposed development are the design and siting of the eruv structures, their impact on heritage assets and the streetscape generally and access.

Under Section 38 of the Act and the NPPF any impact caused by the structures must be balanced against the planning and public benefits that the structures would bring.

Other considerations that weigh in the consideration of the application include the relevant clauses from Section 149 of the Equality Act 2010 set out above.

## **Design and Heritage Matters**

The eru' structures have been designed to minimise the potential visual impact such that it will be minimal.

The poles are as narrow as possible; they match typical street furniture such as the ubiquitous parking posts, traffic signs, sign posts, etc – and are thinner than lamp posts. Thus the structures will in most cases blend into the streetscape and, as has been demonstrated with eruvs already in position, they will be barely noticeable. The degree to which they could be considered to cause harm to heritage assets, including in conservation areas in which they may be located, or to the settings of listed buildings where applicable, is therefore extremely limited. This is especially the case for conservation areas which take their significance from a wider area. The potential for a pole, or a number of poles located at some distance from one another to harm a conservation area is therefore extremely limited especially recognising that not all aspects of a conservation area will necessarily contribute to its significance (see NPPF, para 38).

The proposed structures will be placed at locations that minimise their potential impact further; siting has been selected to ensure that they are not in unduly prominent locations or in prominent local views. Locations near listed buildings have been sensitively chosen to minimise or obviate entirely the potential impact on their setting.

Furthermore, the proposed structures are located very widely across a large part of the borough. Their potential impact is commensurately dispersed, rendering any potential for cumulative impact negligible.

Overall and recognising the all above considerations, the proposed structures would cause no harm to designated or undesignated heritage assets. Against this, the substantial public benefit the eruv will provide would outweigh any perceived harm caused – the proposals fully complying with Camden policies CS14, DP24 and DP25.

## **Access references**

Section 8.8, page 43 of CPG7 (Transport) sets out to minimise 'street clutter'. However, in the case of this proposal, particular care has been taken in siting the poles adjacent to walls or other features, the structures will not impede free, safe and convenient movement and access along footpaths by all users, regardless of their mobility requirements.

## **Conclusion**

Very great pains have been taken to ensure that the proposed structures are all located to minimise any potential impact on access or movement; the proposed development will cause no harm to designated heritage assets and will have no significant impact on the character and appearance of Camden's streetscape in general.

On the other hand, the proposals will bring substantial public benefit to a significant part of the borough's population and to those visiting by enabling freedom of movement on the Sabbath to wheelchair bound or non-ambulant adults and children and their carers. This is of particular importance in enabling elderly people to attend the principal social and community functions which take place on Saturdays.

Thus, recognising the relevant policies of the Development Plan for Camden, the NPPF, NPPG and all other legislation and guidelines referred to above, there is no reason why the development should not be defined as 'sustainable development' and approved without delay.