

Address:	Various locations in NW3 and NW6		1
Application Number:	2014/2464/P	Officer: Seonaid Carr	
Ward:	Fortune Green Kilburn Swiss Cottage West Hampstead		
Date Received:	07/04/2014		
Proposal: Erection of pairs of poles with clear wire between the poles at 15 locations across the Borough comprising the Brondesbury 'ERUV'.			
Background Papers, Supporting Documents and Drawing Numbers			
870_001, 870-51, 870-01, 870-02A, 870-03, 870-04, 870-20A, 870-21, 870-22, 870-23, 870-24, 870-25A, 870-26A, 870-27A, 870-28A, 870-29, 870-30A and Design, Heritage and Access Statement Rev A.			
RECOMMENDATION SUMMARY: Grant planning permission subject to conditions and a Section 106 Legal Agreement			
Applicant:		Agent:	
Brondesbury Park Synagogue 143-145 Brondesbury Park London NW2 5JL		Rosenfelder Associates 10-12 Perrin's Court London NW3 1QS	

OFFICERS' REPORT

Reason for Referral to Committee: The Director of Culture and Environment has referred the application for consideration. (Clause 4)

1. SITE

- 1.1 The application relates to 15 location throughout the Borough with the NW3 and NW8 postcodes, for ease of reference the table below notes the locations, height of pole proposed and whether the site is within a conservation area of not. The pole numbers do not run concurrently as the entire Eruv spans across Barnet, Brent, Ealing and Kensington and Chelsea.

Location No.	Address	Pole height (m)	Conservation Area
1	24 Hilgrove Road and north end of bridge	5.5	N/A
2	129 Belsize Road and north end of bridge	5.5	Priory Road
3	197 Belsize Road and adj to N end of bridge	5.5	N/A
4	North end of Kilburn High Road station and 4/6 Kilburn Bridge (Shared with LB Brent)	5.6	N/A
20	26 Minster Road and Site of Nature Conservation Importance	5.5	N/A
21	Adjacent to railing south of railway bridge wall and adjacent to wire fence to left of access to zigzag ramp	5.5	N/A
22	Adjacent to angle of wall to railway embankment and corner of 148 West End Lane	5.5	N/A
23	Top of steps at Billy Fury Way	3.0	N/A
24	124 West End Lane and 4 Blackburn Road	5.5	N/A
25	2 Canfield Gardens and St John's Court, Finchley Road	5.5	South Hampstead
26	189 Finchley Road and St John's Court, Finchley Road	5.5	N/A
27	167 Finchley Road and Harben Parade	5.5	N/A
28	Adjacent to the front of the boundary wall of the flats to the left of the access ramp to 8-13 Swiss Terrace and adjacent to the right of the end brick pier opposite.	5.5	N/A
29	79 Dobson Close and railing to the left of street sign on the opposite side of the road.	5.5	N/A
30	Railings of 1-3 Hilgrove Road and boundary wall of 22-24 Hilgrove Road	5.5	N/A

2. THE PROPOSAL

Revisions

2.1 Following site visits to each location the following amendments were sought:

Location No.	Amendment
2	Plan amended to show pole adjacent to wall and not in the centre of the pavement.
20	Poles relocated from outside 13 and 14 Minster Road further to the east to the railway bridge and entrance to the Site of Nature Conservation Importance.
25	Relocate pole to the side of 2 Canfield Gardens rather than the front. Relocate the pole to lie adjacent to the entrance canopy of St John's Court canopy.
26	Relocate pole adjacent to the entrance door as lightwell where original proposed.
27	Relocate pole adjacent to the shopfront.
28	Relocate due to land ownership issues to the side of the ramp to 8-13 Swiss Terrace and to fence wall with railing at land behind Cresta House.
30	Relocate poles adjacent to the lamppost and road sign further towards roundabout.

Proposal

- 2.2 Planning permission is sought to erect 14 pairs of poles and one single pole which would be shared with Brent. The poles would be located at various points within NW3 and NW6. Full details of the locations are provided in the site description section above. The poles would form an Eruv which would span across Camden, Barnet, Brent, Ealing and Kensington and Chelsea.
- 2.3 An Eruv is a shortened form of the Hebrew term Eruv Chatzeros; this translates as unification of courtyards and it reduces some of the additional rabbinical rules relating to carrying outside the private domain on the Sabbath (sunset on Friday until nightfall on Saturday). As with all of Orthodox traditional Jewish law it is all contained in the Talmud and Code of Jewish Law. The Eruv is a symbolic boundary consisting of natural and man-made objects; within the area of an Eruv it is possible to carry and push any person or object which is not subject to restriction by one of the other Sabbath Laws. This includes prams, push-chairs, wheel-chairs, food and drink.
- 2.4 Under Jewish law the definition of an enclosure includes in addition to walls or fences at least 1m in height a structure comprising two poles connected with a thin wire to provide the continuity where the boundary of the Eruv crosses a road or footpath.
- 2.5 The area of the Eruv utilises existing walls and fences, however there remain a number of locations where no natural boundary exists, principally across roads and footpaths. The poles which are the subject of the application allow for the boundary of the Eruv to cross existing roads where there is a break in existing walls comprising of buildings and fences.

- 2.6 Two different types of poles are proposed, measuring either 3m, 5.3m or 5.5m in height. The poles would have a concrete base which would be located 1m underground, above ground the pole would be steel with a diameter of 76mm. Between the 5.5m high poles would be a clear nylon line akin to a fishing line with a 0.5mm diameter.

3. RELEVANT HISTORY

- 3.1 **2012/3240/P** - Erection of free standing, wire linked pairs of poles (4m to 6m in height) and bridge mounted panel structures in various locations within the borough to form an Eruv boundary. Application withdrawn.

- 3.2 The remaining poles which form the entire Eruv have all been approved by other Boroughs details of the applications are provided below:

LB Barnet – F/01941/14 approved 06 June 2014

LB Brent – 14/1252 approved 21 August 2014

LB Ealing – PP/2014/4946 approved 12 November 2014

LB Kensington and Chelsea – PP/14/06650 approved 10 November 2014

- 3.3 There are a number of Eruvs currently operational in London and other parts of the country and a number which have planning permission but have not yet been implemented. The first Eruv to be granted planning permission in the UK is in the London Borough of Barnet, known as the North West London Eruv covering 6.5 square miles in Finchley, Golders Green and Hendon. This Eruv became operational in 2003 following the grant of planning permission in 1997 and 1998.

- 3.4 Prior to the granting of these permissions in 1997 and 1998, there were two previous submissions to the London Borough of Barnet for two Eruvs in 1993. These were refused. In 1994 the Secretary of State for the Environment allowed the appeal. The key comments from the Inspector's report are summarised below:

- Very unusual nature of the appeal proposals;
- While the proposals would add to the street furniture, there is no location where the overall impact would seriously harm the character and appearance of that particular location;
- No evidence of adverse visual impact on the environment;
- Conservation Area – arguments finely balanced but erection of poles would leave the area substantially unharmed;
- Does not find it necessary to decide whether social harmony is capable of amounting to a material planning consideration because the arguments relating to this matter are not of sufficient weight to amount to a planning objection.

4. CONSULTATIONS

Adjoining Boroughs

4.1 **London Borough of Westminster (WCC)** have objected on the following grounds:

- WCC resist the proliferation of street clutter detrimental to the character and quality of the existing townscape.
- You are advised to consider whether the religious need of the Orthodox Jewish Community for an Eruv is a material consideration or not. Given the poles and the Eruv are said to be required for religious reasons, religious need for the proposed development, and any impact the proposed development might have on social cohesion may be capable of being material planning considerations in the assessment of a planning application of the sort proposed and would therefore need to be weighed in the balance when determining such an application.

4.2 **London Borough Barnet** raised no objection to the proposal

Local Groups

4.3 **CRASH** have objected on the following grounds:

- Concern about the size of the area to be covered by the proposal. As the Brondesbury Synagogue is not in a neighbourhood covered by Camden it is puzzling as to why it should be necessary for such an inordinately wide area.
- This application should only be considered if and when it is known if permission is granted by the other two or three boroughs.
- Additional street clutter will only further denigrate streetscapes.
- Object to the unfairness of an unelected, religious minority wishing to impose its religious beliefs on the wider community for its own convenience.
- Allowing the application will open the floodgates to other such divisive applications.

4.4 **Fordwych Residents Association** have objected on the following grounds:

- Object to one religious group seeking to impose its views across the physical landscape of a large area.
- Object to location of poles and wires.
- The proposal would cause damage to the public realm and would conflict with the efforts to remove street clutter.
- Object to poles within the South Hampstead Conservation Area which will damage the character.
- Not all Jewish people in the area support this proposal, a number of Jewish members of the FRA have indicated their objection.

4.5 **West Hampstead Local Community Group** objected on the following grounds:

- A previous application to extend the Hendon Way Eruv was rejected as there was no need for the local community to have this facility and the Brondesbury Park Synagogue is not within comfortable walking distance from West Hampstead. These piecemeal applications should be sorted by the Synagogues working together and a designated area using existing facilities

rather than confused application without proper consultation or thought to the areas covered.

- The application takes in an intensive built area that is subject to change to erect poles where construction is taking place would cause unnecessary problems, expense and time wasting for removal.
- Encourages unsightly, illegal advertising on posts which takes time to have removed.

4.6 **St John's Wood Society** have commented on the following grounds:

- Government Planning Policy on Social Cohesion requires planners to take account the needs of all the community. The specified purpose of the Eruv is to meet the religious needs of only one small minority group and as such the proposal fails to promote the well-being, inclusivity and social cohesion of the vast majority of the community.
- If granted the Council would set a precedent whereby other religious or social groups would expect planning approval to use the public realm in a similar way in order to satisfy disparate and potentially socially divisive needs.
- Camden appears to have consulted only 13 neighbours, those with poles placed directly outside their properties. Given the wider social aspect we request the Council consults the local community far more widely.

Adjoining Occupiers

<i>Number of letters sent</i>	15	
<i>Total number of responses received</i>	73	
<i>Number in support</i>	27	
<i>Number of objections</i>	40	

4.7 Site notices were displayed at each location on 04 June 2014 expiring 25 June 2014 and then on 21 January 2015 expiring 11 February 2015 at sites where amendments were made.

4.8 40 letters of objection were received, a summary of which is provided below:

- Creation of an ERUV represents a narrow religious requirement being imposed on a secular and multi-faith community. To many it stands as a regressive and sectarian concept.
- There has not been enough consultation regarding the social and religious issued behind this application.
- It will be divisive and exclusive in an area which much evolve to include all races and religions equal.
- It's existence is an imposition, it is a clear invitation to those of a particular faith to use the area.
- Could reduce house prices.
- Lead to non-integration.
- It feels like an invasion, I would always feel poisoned by this ridiculously old fashioned curse laid on our area if this is allowed to happen.

- I fear this will make our area a target for extremist and terrorist activity from opposing groups.
- Addition of more poles will be visually detrimental to the environment and create an eyesore.
- Unsightly development, because they are for only a small number of population I don't agree it should be erected.
- It would open the floodgates for anyone to erect whatever they like.
- What is stopping other religious bodies from doing this and were will the madness stop.
- The physical demarcation of an Eruv is unnecessary as anyone who is serious about their religious beliefs would surely take the trouble to acquaint themselves with the boundaries. It would detract from social cohesion.
- Creation of a designated area for part of the community to be able to come out on a holy day goes against the spirit of a society for all the people who live on the area.
- If I asked Camden to put some poles up because it helped my lifestyle, I would expect a no, even if many others said their agreed.
- The poles are unnecessary and serve no useful purpose.
- There is no objective reason to approve the application, doing so would simply inhibit the enjoyment of the environment for the vast majority of residents as a result of the personal choices of the few.
- Development would set a precedent and allow one sector permission to erect their cultural symbols set a precedent and would mean that the community may be obliged to permit other sectors the same rights.
- Presents a threat to local wild bird life who will suffer fatal injuries from flying into a hazard that they cannot see, goes against the Wildlife and Countryside Act 1981 and EC Birds Directive. We ask the construction materials be reconsidered.
- Concern about the location on Minster Road and the impact on cutting trees back, several birds nest in the trees and we don't like mesh going across Minster Road. It would make more sense to move the Eruv poles to the bridge.
- I do not wish to live in an area that has been given special treatment of any kind for any faith, what they stand for concerns me. We should be protecting our progress as a society not restricting it.
- It will significantly ruin the beautiful view from Mill Lane up the railway of the lovely sunsets.
- Pose a potential danger to passing lorries and buses as any sag in the wire could snag on a passing tall vehicle.
- I do not believe any person or organisation should have the right to place materials pertaining to their organisation on land they do not own.
- The Jewish community including those promoting the Eruv has thrived in the UK for centuries without these manifestations of assertiveness. The materials proposed were not invented when erubin temporarily became part of mainstream Jewish law. Those brutish factory-made, environmentally unfriendly materials are wholly inconsistent with what underlies the concept of erubin, natural simplicity.
- If scarcely noticeable, then it would be easily missed and perhaps not with the significant risk of provoking a hostile response.

- Concern about the size of the area to be covered by the proposal. As the Brondesbury Synagogue is not in a neighbourhood covered by Camden it is puzzling as to why it should be necessary for such an inordinately wide area.
- To my mind having an Eruv would only be divisive, intrusive and unnecessary.
- Erections on public land should be resisted unless reasons for them are very well founded.
- The applications should succeed only if all the boroughs in which the area of the proposed Eruv falls approve it at the same time.
- The area will be labelled as connected to one religion.
- I do not wish to be transferred to another territory, because that is what it will feel like.
- I seriously question whether the Council has the legal or any other authority to grant the Eruv. It is a symbolic transfer of everything in the Eruv boundary into Jewish ownership. I understand for an Eruv to be valid, a secular official must issue a ceremonial council/governmental proclamation the enclosed public and private property to the Jewish community for a small fee. In that way, the area is 'commonly owned', under the relevant religious law. Every public property and space, and every private property, is deemed to be under private Orthodox Jewish common ownership.
- Many Jews do not support this archaic concept. It shows lack of respect for us.
- South Hampstead is a conservation area, the addition of 5.5m high poles would be highly detrimental to the area.
- Religious emblems should be kept in the boundaries of synagogues, Hindu/Sikh temples, churches, mosques, graveyards and homes.
- Unless the street clutter is for the benefit of all we should not be adding to this.
- The space next to Thameslink Station on the corner of West End Lane is one residents have fought for to retain the lime trees and use for a farmers market. We don't want any more street furniture in the area, however subtle.
- The Council should investigate the legal and constitutional issues that arise, and the limits of its powers, even if no legal or constitutional barriers were to exist to granting 'lease' of an Eruv, the designation of the area for one religion is inappropriate and undesirable.
- Erections on public land should be resisted unless reasons for them are very well founded, the proposal appears to be disproportionate and I believe the legal arguments put forward, including regarding discrimination, may well not stand.
- The Eruv area is extremely large.
- The application should succeed only if all boroughs in which the area of the proposed Eruv falls approve it at the same time.

4.9 6 letters of comment were received, a summary of which is provided below:

- Concern it will add to excessive street clutter and create a ghetto mentality and could lead to anti-Semitism and racial attacks which would defeat the reason for creating these segregated areas.
- The poles will add clutter and unnecessary duty of care to avoid damaging them, simply in order to enable a small section of society to demarcate an area with the intention of avoiding their private religious duties.

- The planning applications notes pairs of poles whereas the clear intention is miles of posts supporting a continuous wire encompassing a considerable portion of north London.
- It is unclear who the owners of the posts and of the land under the wire will be.
- The wire will be a danger to birds and humans who may be operating at height.
- As it would be located along and across busy streets an unnecessary duty of care will be imposed on the public by these objects.
- Who would maintain the masts and lines to proper safety standards and who carries/guarantees that cost. Who is responsible for dismantling the masts in the future and who carries/guarantees those costs. Lack of clear legal and funding responsibility on these issues will cause potential hazards from poor maintenance and eventual dereliction of the apparatus, such costs will likely be picked up by the local authority.
- The proposal requires broad consultation within London generally to ensure the public understand the precedent that will come to be set for other groups. Such discussion should include the affect this scheme would have on conservation areas and areas of restricted size that will clearly be badly affected by the proposed apparatus.
- Is the GLA aware of the scheme and what is its policy towards such a large extension to street furniture.
- Are the local authorities that are affected by the scheme in agreement on policy and therefore able to issue a joint policy statement.
- What justification is offered by the local authority in selectively assisting a minority within on religion to by-pass their own religious laws.
- The eruv creates an ongoing engagement on the Council and the public to conform to the requirements of a particular minority within a particular religious authority, it has the potential to require Council's and the public to become involved with religious disputes.

4.10 27 letters of support were received, a summary of which is provided below:

- It will be a great benefit to the Jewish community with no real adverse effect on the rest of the Borough, the poles are discreet and won't create any additional obstacles.
- Benefits include enabling people to attend synagogue, social functions and leisure activities on the Sabbath.
- Enable disabled people in wheelchairs to leave their homes on the Sabbath.
- ERUVs have already been built throughout London and the UK without adverse effect to the local population (including Mill Hill, Woodside Park, Hampstead Garden Suburb, Edgware and Stanmore)
- When a proposal is submitted that is of benefit to one segment of the community without in any way harming (visually or otherwise) the rest of the community, there is every reason to support it.
- The poles will be hardly noticed due to their design and location.
- We are effectively confined to our homes on a Saturday due to the lack of an Eruv.
- The application would further enrich the cultural diversity of Camden and make our lives so much easier.

- The applicants have done all they can to minimise the impact on local residents, using railway lines where possible to minimise the number of boundaries.
- The majority of the area is contained using natural borders however it is necessary to close the parts of the boundary that remain 'open' using some poles joined by almost invisible lines that is very significant.

4.11 Councillor L.Russell has supported the application on the following grounds:

- The development would significantly benefit lives of Orthodox Jews in Camden and in other London Boroughs it spans.
- It would benefit families with young children and disabled people allowing them to leave their house on the Sabbath.
- I have viewed the plans and believe they would be almost invisible. They have been positioned to make the most of natural boundaries, the poles would have no impact on traffic. I don't consider it would impact negatively on the street scene.

5. **POLICIES**

5.1 **National Planning Policy Framework 2012**

5.2 **The London Plan 2015, consolidated with alterations since 2011**

5.3 **LDF Core Strategy and Development Policies**

CS1 (Distribution of growth)

CS4 (Areas of more limited change)

CS5 (Managing the impact of growth and development)

CS10 (Supporting community facilities and services)

CS14 (Promoting high quality places and conserving our heritage)

CS17 (Making Camden a safer place)

DP17 (Walking, cycling and public transport)

DP24 (Securing high quality design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the impact of development on occupiers and neighbours)

5.4 **Supplementary Planning Policies**

CPG 1 Design

CPG 6 Amenity

CPG7 Transport

CPG 8 Planning obligations

South Hampstead Conservation Area character appraisal and management strategy (2011)

Priory Road Conservation Area Statement (2000)

6. ASSESSMENT

- 6.1 Due to the nature of the application, it is important to set out how the applications sits in the context of the Equality Act 2010.
- 6.2 The Equality Act 2010 (the Act) came into force in April 2011 and requires the Council to have due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics such as race, disability and gender and foster good relations between different groups when discharging its functions. The Council's responsibilities under the Act are relevant to all planning applications but because of the special nature of these proposals they are especially relevant here.
- 6.3 The general duty on public bodies is set out in Section 149 of the Act. The duty requires the LPA to have due regard to certain categories of potential requirements –rather than ensuring e.g. a decision will not give rise to any impacts relating to the areas identified in the Act . Specifically s149 provides, attention is drawn to subsections 149 b and c which are of particular relevance for this application:

(1) A public authority must, in the exercise of its functions, have due regard to the need to-

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) 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-

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(3) 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.

(4) Having due regard to the need to foster good relations between persons who share relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-

- (a) tackle prejudice, and
- (b) promote understanding

(5) 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 by or under this Act.

- 6.4 It is considered that the following protected groups could potentially be affected by the proposal:
- The Jewish community (orthodox and non-orthodox)
 - Other faith groups (including Bahai, Buddhist, Christian, Hindu, Jain, Muslim, Sikh, Zoroastrian)
 - Secular groups (agnostic, atheist, humanist)
 - Disabled people
 - The elderly
 - Young children and parents of young children
 - Women
 - LGBT (Lesbian, Gay, Bi-Sexual and Transgender)

6.5 Equalities Impact Assessment (EQIA)

Duty on public bodies (section 149, Part 1)

- 6.6 Given the unusual and sensitive nature of the proposals a full Equalities Impact Assessment (EQIA) has been carried out, attached at Appendix 1; this was undertaken to act as a tool to assist officers in making a recommendation on the application as a decision maker in fulfilling its duties under the Act. The EQIA considers and assesses the impacts on protected groups/ communities who could be particularly affected by the proposals within Camden and the relevant wards. However it also considers the potential wider social impact of the proposals. A summary of the possible negative and positive impacts that have been identified for each protected group in relation to the proposals forms part of the assessment within the EQIA.

- 6.7 It should be acknowledged that monitoring and assessing religious equality or equality between different people with different beliefs can make the assessment difficult. Varying levels of commitment to particular religious beliefs can make it difficult to interpret information gathered. For example, in this case there may be significant differences between someone who loosely identifies themselves as culturally Jewish but does not practice the Jewish faith and people within certain Jewish communities who refrains from 'carrying' on the Sabbath except within an Eruv.

Advancing equality of opportunity (section 149, Part 2)

- 6.8 The EQIA identifies that the installation of an Eruv would have a number of direct and positive benefits for members of the Orthodox Jewish community on the Sabbath, particularly for women, young children, older people and people with disabilities.

- 6.9 The EQIA identifies (3.10) that 'the Eruv is intended to provide positive impacts for a faith community, that it has a religious purpose and there is no intention to constrain or limit the actions of people of other denominations and faiths, or the wider community. It does not prevent other communities from practising their faith'.

It goes on to state that no single group would be disadvantaged by the Eruv, however those members of the Jewish community who observe the Jewish Law against carrying on the Sabbath would benefit. There would be benefits to groups with protected characteristics, including parent and grandparents of young children, the disabled and their families and the elderly. A possible effect is that the implementation of the Eruv strengthens community cohesion by acting as an expression of mutual tolerance and recognition of the needs of a faith community (and the difficulties they can sometimes experience through observing tradition).

- 6.10 There are a number of existing Eruvim in the country and several that have received planning permission and are yet to be erected. They are generally aimed at supporting existing communities within walking distance of the local synagogues. There is no evidence to suggest that their presence has resulted in harm to members of other protected groups outside the Jewish community or adversely affected social cohesion. However, the limitations of being able to tangibly measure this are acknowledged given the range of complex factors that may affect the potential or perceived impacts.
- 6.11 The EQIA has identified areas where improvements can be made to advance equality and mitigate or minimise any negative impacts that have been identified (stage 4) as part of the general duties under the Act to 'tackle prejudice' and 'promote understanding'. Recommendations include a robust programme of publicity, engagement and education by the applicant to explain the Eruv's function to the wider community, this could be secured by way of a Section 106 legal agreement. This could minimise community tensions borne out of misunderstanding of the Eruv's function and the implications for public and private land that would be enclosed as part of the Eruv's boundary.
- 6.12 Other measures identified in this section of the EQIA include careful design and siting to ensure there are no adverse impacts on the street scene, the character or appearance of the Conservation Area, inclusive access, pedestrian and community safety and highway safety. These detailed matters are fully considered in the design section below.

Planning Context and balance of considerations

- 6.13 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework 2012 (NPPF) provides guidance for local planning authorities as a material consideration in determining applications. At the heart of the NPPF is a presumption in favour of sustainable development which for decision-takers means approving development proposals that accord with the development plan without delay. Paragraph 7 of the NPPF notes the social role of sustainable development which requires the planning system to support strong, vibrant and healthy communities with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
- 6.14 The NPPF also states that where the development plan is absent, silent or relevant policies are out-of-date, decision-takers should grant permission unless: any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

- 6.15 Paragraph 69 of the NPPF, notes that planning can play an important role in facilitating social interaction and creating healthy, inclusive communities. Policies should aim to achieve places which promote opportunities for meeting between members of the community who might not otherwise come into contact with each other, safe and accessible environments and safe and accessible developments.
- 6.16 Policy 7.2 of the London Plan notes that development is required to achieve the highest standards of accessible and inclusive design and seeks to ensure development can be used safely, easily and with dignity by all regardless of disability, age, gender, ethnicity or economic circumstances.
- 6.17 In considering the impacts of the proposed development officers have had regard to the policies and guidance contained within the National Planning Policy Framework, the London Plan and Camden's Local Plan policies contained within the Local Development Framework. The relevant policies in the consideration of the Eruv are referred to above.
- 6.18 The key planning issues for consideration are as follows:
- Land Use
 - Impact on Built and Natural Environment
 - Transport Impact and Highway Safety
 - Neighbour Amenity
 - Community Safety
 - Inclusivity

Land Use

- 6.19 The proposed development would not change the use of the area which would be defined by the Eruv. The area would remain as a mixed use area comprised of residential and commercial uses. Under planning legislation there is no material change in use.
- 6.20 A number of objectors have raised concern that the Eruv would create an area with a distinctive religious link. The Eruv does not section off part of the borough for only members of the Orthodox Jewish community, all residents and visitors to the area will be able to continue to use the area as they do at present. The purpose of the Eruv is to allow some members of the Orthodox Jewish community the ability to carry personal effects such as keys and spectacles, it would also enable wheelchair users and prams/buggies to be pushed in the street within the Eruv area, it is not to create a defined area solely for one religion.
- 6.21 The poles would not have any obvious visual association with a particular group, they comprise two poles with a wire along the top. The area would retain its public and private domains. The Eruv area is vast, spanning across five London Boroughs. Officers consider it highly unlikely that its construction would define

such a large area for one single religion; people of many religions currently live within the area and they will be able to continue to do so as a result of the proposal.

- 6.22 The proposal would not prevent integration of various ethnic groups or communities; it would not prevent certain people from being within the Eruv area. Everyone will be able to move freely around the area. It would encourage social cohesion and social integration as it would allow a certain element of the community who had not previously been able to use the area on the Sabbath the ability to do so.
- 6.23 In light of the above, it is considered there is no reason to object to the application on grounds of land use.

Impact on built and natural environment

- 6.24 The overarching aim of Policies CS5, CS14 and DP24 are to secure high quality design that considers the character, setting, context and form of neighbouring buildings. DP25 seeks to ensure development preserves and enhances the character and appearance of conservation areas. CPG1 also provides detailed advice on acceptable forms of development.
- 6.25 When viewing the poles in their proposed locations it is considered they would not appear overly dominant in the street scene. Similar to telecommunications equipment the poles would be located to the rear of the pavement up against a wall or fence. They have been sited so as not to obstruct the pavement for pedestrians, people with buggies or wheelchair users.
- 6.26 There are two locations of poles that would be within conservation areas; Location No. 2 which is within the Priory Road Conservation Area adjacent to 129 Belsize Road on one side and a railway bridge on the other. Location No.25, within the South Hampstead conservation area is adjacent to 2 Canfield Gardens and St John's Course. These poles were relocated during the course of the application to site the pole to the flank elevation of 2 Canfield Gardens and on the opposite side of the road would be adjacent to the canopy of St John's Court. It is considered the siting of the poles would not cause harm to the character and appearance of the conservation area.
- 6.27 The poles would be constructed in metal steel. The applicant has agreed to paint the poles any colour the Council wishes. The Council's design guidance in terms of painting of equipment requires it to be painted green or black depending on the context. However given the various contexts of the poles, officers would recommend a condition which secures details of colours of each pole relevant to their context, in some instances it may be more appropriate for the pole to remain without paint, in some it may be better painted black.
- 6.28 In light of the above it is considered that given the scale and siting of the proposed poles they would not impact on the surrounding street scene or where relevant conservation areas. As such no objection is raised on grounds of design.

Transport Impact

Street clutter

- 6.29 All of the proposed poles would be situated adjacent to existing walls or buildings and at the rear of the footway reducing the visual impact and they would have less of an effect compared with posts located towards the front of the public highway, where their narrowing effect on the highway is greater because they are situated generally 0.5 metres back from the kerb. The effect is also minimised as the posts are distributed in different streets as opposed to 30 new posts or bollards in a single street. When reviewing each of the individual sites, it is considered the proposed poles would not create an overly cluttered street.
- 6.30 It is noted that a number of objectors have raised concern in regard to the additional street clutter, however the poles would all be located to the back of the pavement area, where possible located adjacent to existing lampposts, shop fronts, railway bridges or buildings to ensure their impact is minimised. Furthermore the poles would only measure 75mm in diameter as such they would not be wide additions to the street and would take up very little of the pavement area.
- 6.31 It is therefore considered that the proposed development would not add visual clutter that would be detrimental to the surrounding street scene or conservation area where applicable.

Highway Safety

- 6.32 The posts are proposed in locations where there would be no highway safety implications and no objection is raised in this regard. Objection has been received with regard to lorries and buses snagging the wire, however the wire would be 5.5m in height with the aim of being higher than buses and lorries. Buses are generally 4.4m high and lorries 4.9m in height.

Private Equipment on Public Highway and Maintenance

- 6.33 Most private equipment in the public highway belongs to public utilities that have a right to access their plant. The posts and wires should be installed by the Highway Authority on behalf of the Eruv Company/Synagogue to ensure that the posts and the footpath surrounding it are installed to the correct Council specification. The initial installation should be undertaken with a joint rabbinical inspection to ensure that it is installed to the correct specification according to Jewish Law as well as to the Highway Authority's specification.
- 6.34 The Posts and wires will be owned by the Eruv Company/Synagogue. The Eruv Company/Synagogue will be responsible for inspecting the posts and wires on a weekly basis. In addition to the regular checks, the posts should be checked for structural stability annually, from the date the last post is installed and the report submitted to the Highway Authority. The posts should be maintained by the Highway Authority on behalf of the Eruv Company/ Synagogue who should pay the Authority based on the rates charged to it by its contractor plus an officers time charged at 11%. The Eruv Company/Synagogue is to employ an approved contractor to undertake this work to a method of working approved by the Highway

Authority. The Eruv Company/Synagogue needs to provide conformation to the highway authority that it has public liability insurance of 5 million pounds. The applicant should permit the highway authority to use the posts for the erection of signs should an existing sign be obscured by the erection of a new Eruv post.

- 6.35 To ensure all of the above issues are secured, it is recommended that a management plan is secured via a Section 106 legal agreement.

Highways Contribution

- 6.36 Given the development would involve works on the highway to install the poles, it is likely there would be some damage to the surrounding highway. As such a financial contribution would be secured via a Section 106 legal agreement for any repair works that may be required as a result of the development.

Neighbour Amenity

- 6.37 Policy CS5 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Furthermore, Policy DP26 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight.
- 6.38 When considering each individual pole, given their diameter no pole would impact on the daylight and sunlight enjoyed by residents neighbouring the poles. Nor would the proposal impact on the privacy enjoyed by neighbouring residents.
- 6.39 With regard to outlook, when initially proposed location No.20 and 30 were located directly to the front of residential properties, this was not considered acceptable in terms of outlook, and a revision was sought to move the poles further down to the road to an area where they would not be directly in front of a property.
- 6.40 In conclusion the proposed development would not impact on the amenity enjoyed by neighbouring residents.

Community Safety

- 6.41 Policy CS17 seeks to make Camden a safer place promoting safer streets and public areas.
- 6.42 Some objectors have raised concern that the Eruv would result in more racial attacks on Jewish people and anti-Semitic behaviour.
- 6.43 Officers do not consider the development would lead to an increase in racial attacks or anti-Semitic behaviour. As noted above the Eruv would be defined by a series of poles with wires between the pair of poles, it would not define the area as having a particularly Jewish function.
- 6.44 Furthermore, it is important to note that there are five existing Eruvs which have been in existence for some years. The effect of these Eruvs has been analysed in

the EQIA and that analysis demonstrates they do not affect the composition of the local population and have not increased racial attacks within the Eruv area. It is important to remember that the Eruv would not be advertised as an Eruv so its appearance would be subtle.

Inclusivity

- 6.45 The application raises considerations of equality, inclusion, diversity and community cohesion. Camden is experiencing increased diversity as the population increases and the demographics of the population changes, for example as households get smaller and people live longer. These changes increase the challenges to securing mixed, balanced areas with a sense of community, to reducing polarisation and to promoting equality of opportunity, all of which are Core Strategy strategic objectives.
- 6.46 As set out in the EQIA consideration of diversity and cohesion are not necessarily complementary and a balance needs to be reached, as part of any planning decision on the application, between the wider social benefits and harm arising from the ERUV.
- 6.47 Policy CS5 of the Local Development Framework states that the Council will provide the infrastructure and facilities needed to support Camden's population and protect and enhance the amenity and quality of life of local communities (part (d)) and will seek to ensure that development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities (part (f)). London Plan Policy 7.3 (Designing out crime) states 'Boroughs and others should seek to create safe, secure and appropriately accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion' and (d) that 'places should be designed to promote an appropriate sense of ownership over communal space'.
- 6.48 The EQIA is thorough in its consideration of the possible impacts on the wider community. These are largely centred (para 3.12) around the perception of a demarcated or zoned territory in which public space assumes a new identity and becomes associated with a distinct set of values and practices. The EQIA reflects (3.13) on the fact that "representations to the planning application demonstrate the concern of some residents that the eruv symbolically confers ownership of the public realm to one community". Related to this, many of the objections raised in response to the public consultation on the planning application are concerned with the potentially socially divisive nature of the proposals arising from the imposition of ownership on the space. Common themes running through the responses received related to the perception that the land contained within the Eruv would belong (or be designated) to a particular community rather than to be used freely by all. Concerns stated that it would represent a clear invitation for one community or religious group to use the land or move to the area at the expense of other groups outside this community or religious group.

- 6.49 At its most extreme it was stated in consultation responses that the clear association with one religious group could make the area contained within the Eruv a target for extremist and terrorist activity.
- 6.50 Planning permission for the Eruv would not alter the definition or the use of land within its boundary nor would it directly impose a requirement for changes to the behaviour of people within the Eruv who do not observe the Sabbath. A comment raised in response to the application stated that for an eruv to be valid (in the eyes of Jewish Law) a secular official must issue a ceremonial/ governmental proclamation leasing the enclosed public and private property to the Jewish community. It is possible that the granting of planning permission would infer notional agreement of this rental of the enclosed space and that no other formalities are required. However, further clarification on this point is being sought and will be provided in due course. Notwithstanding any notional agreement, the land currently in the public domain would remain in public use with unrestricted access for all. As discussed above the proposed poles and connecting wires would not impede movement or act as physical barriers to movement.
- 6.51 The perception that public land would belong to one group and would incentivise members of a particular community to move to the area is not something that is anticipated or observed in existing eruvs, as demonstrated in the analysis in the EQIA (page 11). There is likely to be a balance of factors which influence the extent to which members of the Orthodox community decide to move to a newly created eruv, which in this case would spread across parts of 4 neighbouring London boroughs, including such factors as house prices, proximity to synagogues etc. However the EQIA sets out (3.20) that a comparison of Census data for Barnet from 2001 and 2011 suggests that there is no clear data to support the view that the Orthodox Jewish community increase their local proportion of the community through moving into areas denominated as Eruvs.
- 6.52 The EQIA identifies (3.18) that “the Eruv has the potential to alter the way other faith communities or people with no belief perceive public space, in particular the universal values it embodies. This could affect public attachment and commitment to the space, potentially undermining its future potential. This impact would arise where people perceive that an open space as being closely associated with an individual group or community.”
- 6.53 It identified above that the physical indicators of the Eruv through the poles and wires would be low key. Consultation responses identify that the new street furniture would highlight the presence of the Eruv to the wider community and would identify its function. It may pass unnoticed to the un-informed resident or visitor, especially on days other than the Sabbath. However on the Sabbath the presence of a greater proportion of the Orthodox community on the streets would increase the opportunity for changing perceptions about the role of the Eruv in enabling their increased visibility.
- 6.54 Policy at all levels requires consideration of social cohesion and the implications of crime or perception of crime to feature in such decisions. There is evidence from the consultation responses that there is local concern about the principle of the Eruv and indications that it would be perceived as an erosion of the plurality of the

public realm. However the EQIA identifies (4.7j) that there is no specific evidence to indicate a direct link between eruvim and an increase in anti-Semitic behaviour or violence.

Other considerations

- 6.55 Objection has been raised on grounds of the impact on local wildlife, as bird life may fly into a hazard they can't see. There is no evidence to support this objection.
- 6.56 Concern has been raised by some residents that this would set a precedent for other religious groups to apply for similar developments. Should any other religious groups require a similar structure as that which forms this application these would likely be subject to planning permission and would be assessed on its own merits.
- 6.57 Some objectors have raised concern with regard to the impact on house prices within the area that would be included within the Eruv. House price is not a material planning consideration and as such has no impact on the determination of the application.
- 6.58 Objections have also been received with regard to whether the Council has the legal or any other authority to grant the Eruv. In planning terms the Council has the authority to grant planning permission for the structures of the poles and the wire. The highways department would have the authority to grant licences for the applicant to construct the poles on the public highway which is subject to a separate process.

7. Conclusion

- 7.1 Due to the nature of the proposed development and the public sector equality duty as set out at section 149 of the Equality Act, an Equalities Impact Assessment (EQIA) has been undertaken which is appended to this report. The EQIA considers the impact on protected groups and recommends measures to minimise the likelihood of community tensions and misunderstanding of the religious context and the applicant should be encouraged to undertake a robust programme of publicity, engagement to explain the Eruv's function to the wider community. To ensure this happens a Community Engagement Plan is to be secured via the Section 106 legal agreement. In doing the EQIA it has been identified that the material planning considerations are that of land use, design, transport impact, neighbour amenity, community safety and inclusivity.
- 7.2 In land use terms the proposed development would not materially change the use of the land, there would continue to be public and privately owned land accommodating a mixture of uses.
- 7.3 All poles have been sited in manner to minimise the impact on the surrounding street scene and would not cause harm to Conservation Areas, nor would the development impact on the highway network. With poles located to the rear of the pavement and of an appropriate height they would not interrupt pedestrian or traffic flow. To ensure the works in the highway are suitably maintained without cost to

the Council a Section 106 legal agreement is sought to secure a highways contribution for any damage incurred to the pavement area and a management plan for long term maintenance.

- 7.4 Following revisions to some locations, there would be no impact on neighbour amenity and, given the physical nature of the proposed poles/wires, the development would not harm levels of light, outlook or privacy enjoyed by existing residents.
- 7.5 In respect of community safety and inclusivity, officers consider there is no evidence to suggest that Eruvs result in a rise in racial attacks or anti-Semitic behaviour. There is also no evidence to suggest that they would alter the balance of the community by attracting or alienating a particular racial or religious group.
- 7.6 To ensure the works in the highway are suitably maintained without cost to the Council Overall, the development has minimal impact in planning terms in accordance with relevant policy and guidance and, on balance, satisfies the public sector equality duty as set out at section 149 of the Equality Act. It is accordingly recommended that planning permission be granted subject to conditions and a S106 Legal Agreement covering the following Heads of Terms:-
- Highways contribution
 - Management Plan
 - Community Engagement Plan

8. LEGAL COMMENTS

- 8.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:
- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 Members are also referred to the note from the Legal Division at the start of the Agenda .

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: 870_001, 870-51, 870-01, 870-02A, 870-03, 870-04, 870-20A, 870-21, 870-22, 870-23, 870-24, 870-25A, 870-26A, 870-27A, 870-28A, 870-29, 870-30A and Design, Heritage and Access Statement Rev A.

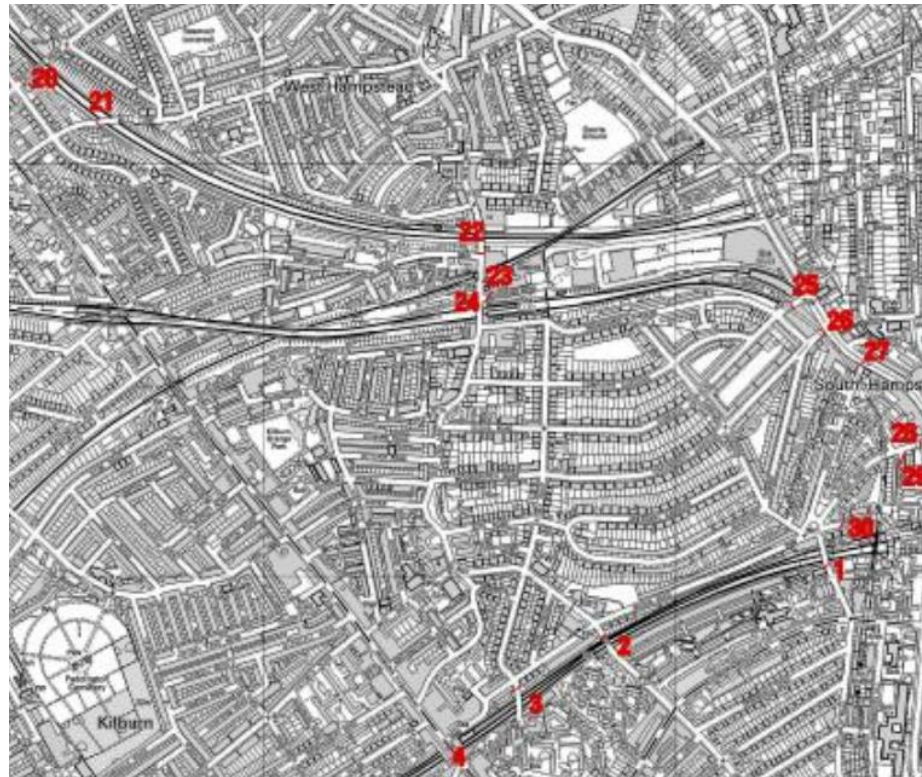
Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 Prior to the commencement of any development, details of the colour of each pole shall be submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

2014/2464/P

Various locations NW3 and NW6

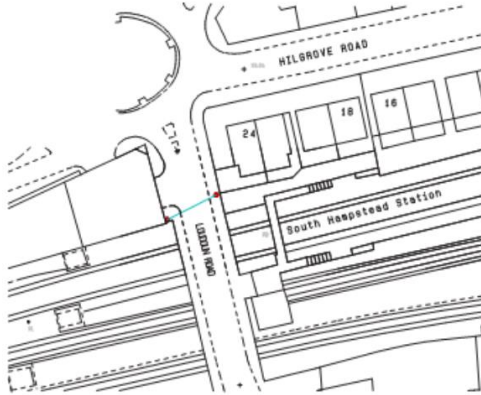


Entire Eruv area, box shows area in Camden

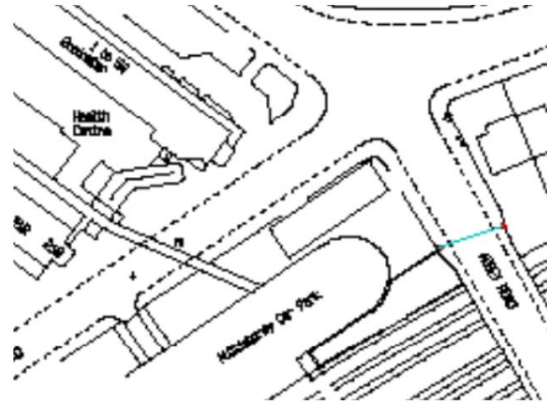


OS maps for each location

Location 1



Location 2

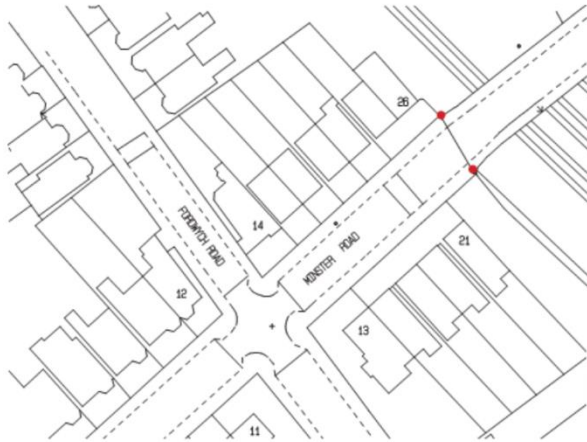


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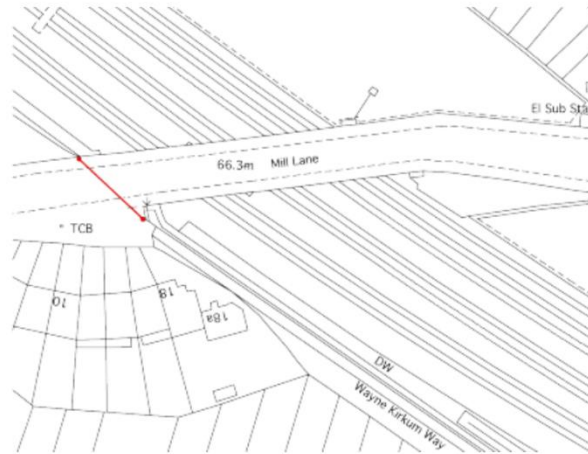


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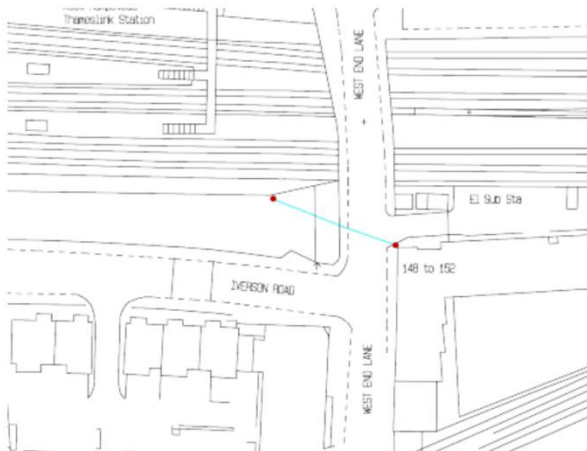
Location 20



Location 21



Location 22

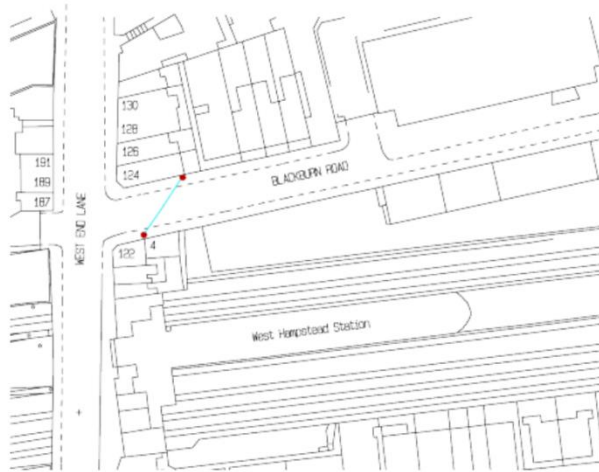


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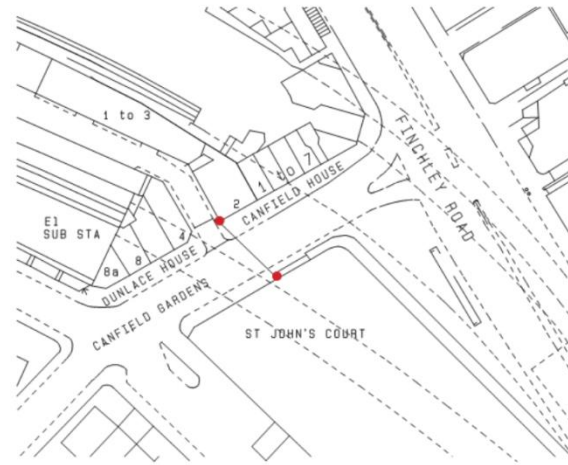


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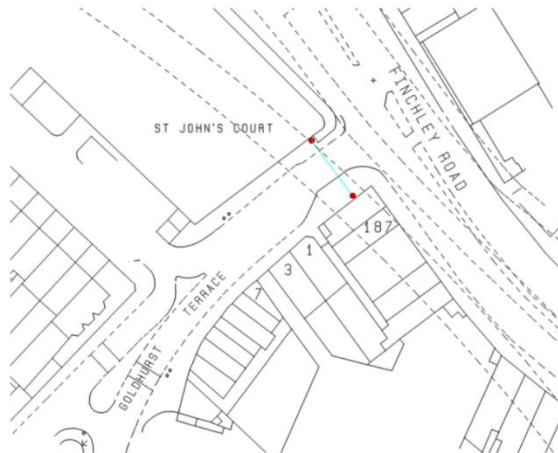
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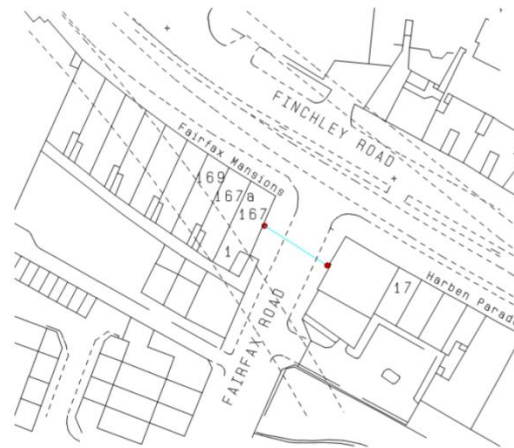
Location 25



Location 26

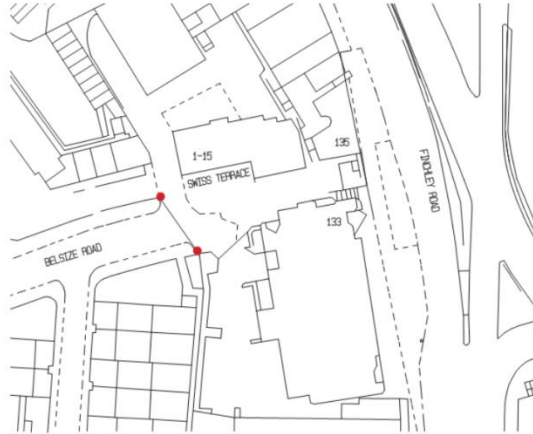


Location 27

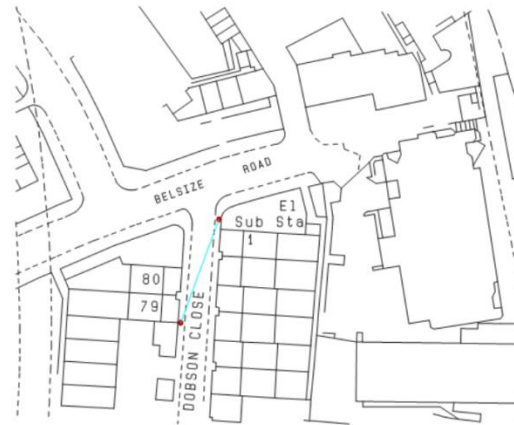


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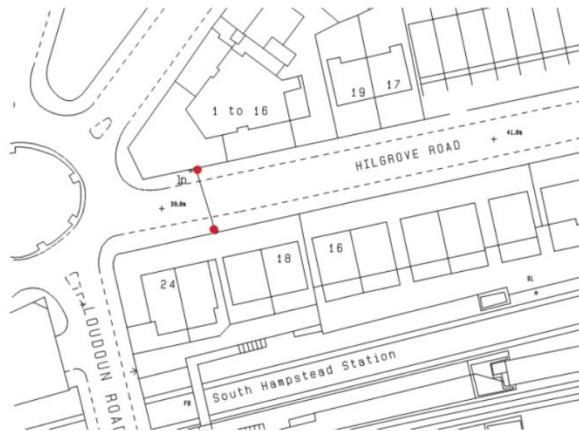
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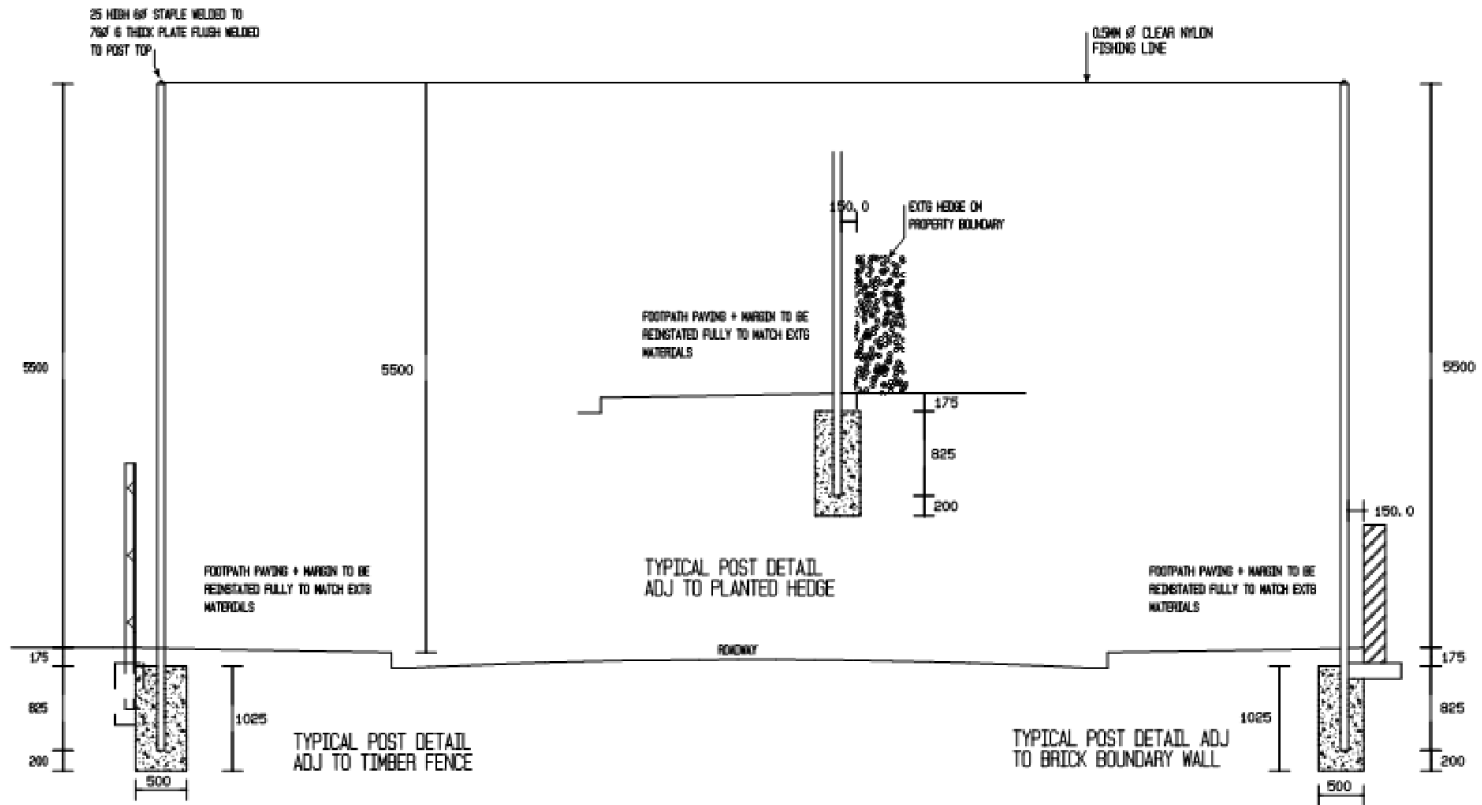
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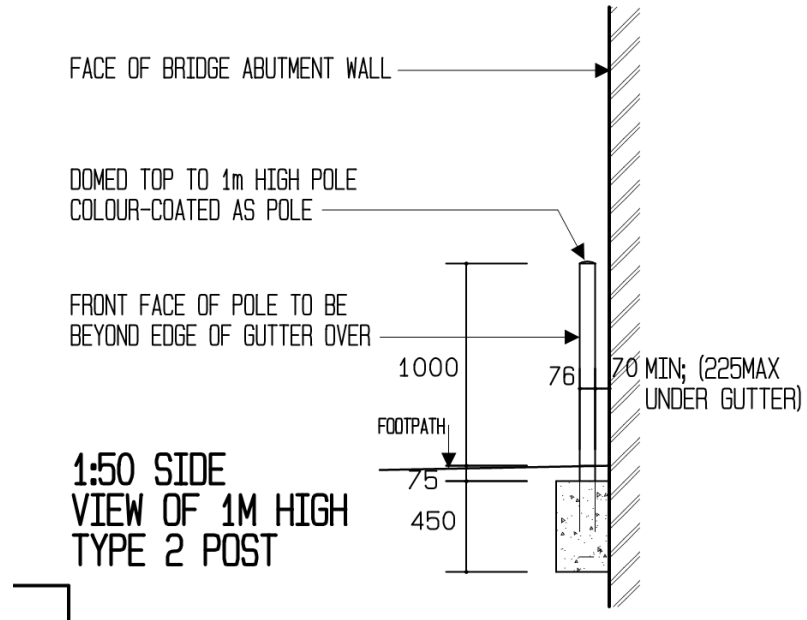
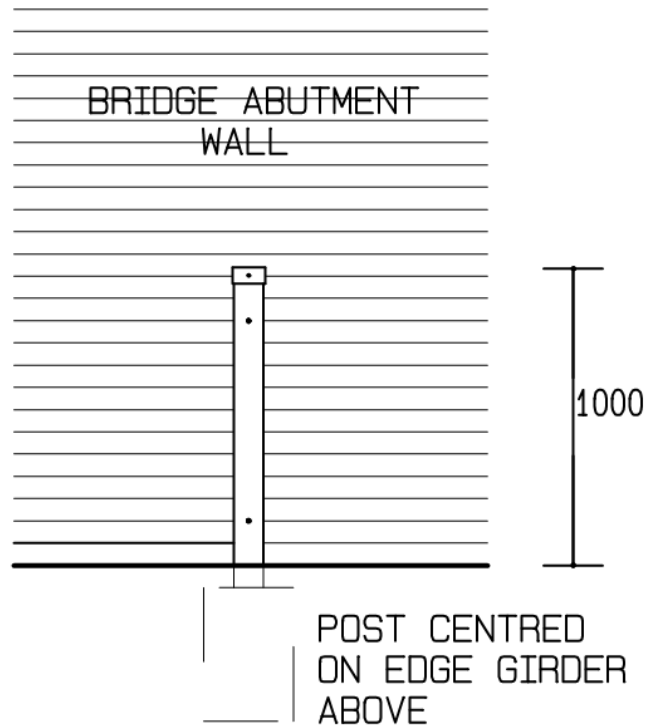
Location 30



Example of pair of 5.5m high poles



Example of 1m high poles which lie adjacent to existing wall



Existing and Proposed Location 1



Existing and Proposed Location 2



Existing and Proposed Location 3



Existing and proposed Location 4



Existing and Proposed Location 20



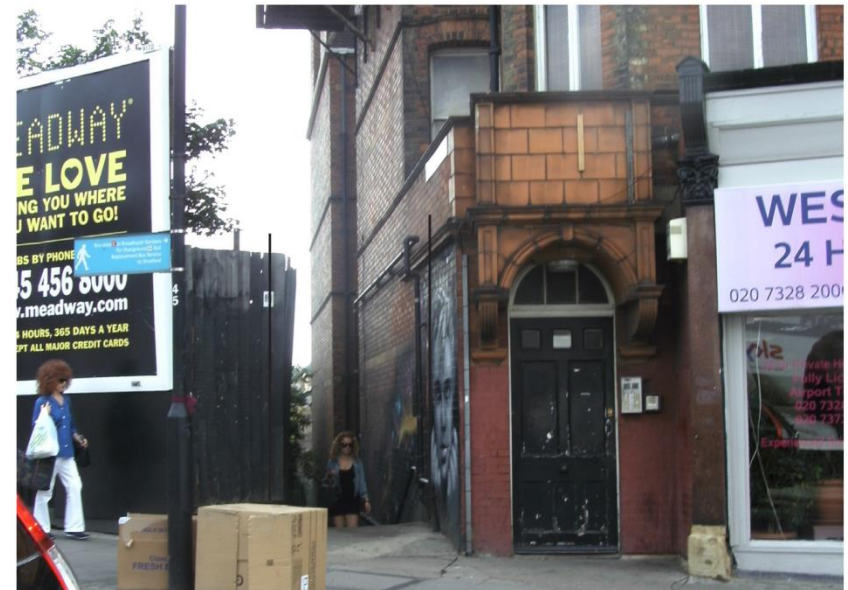
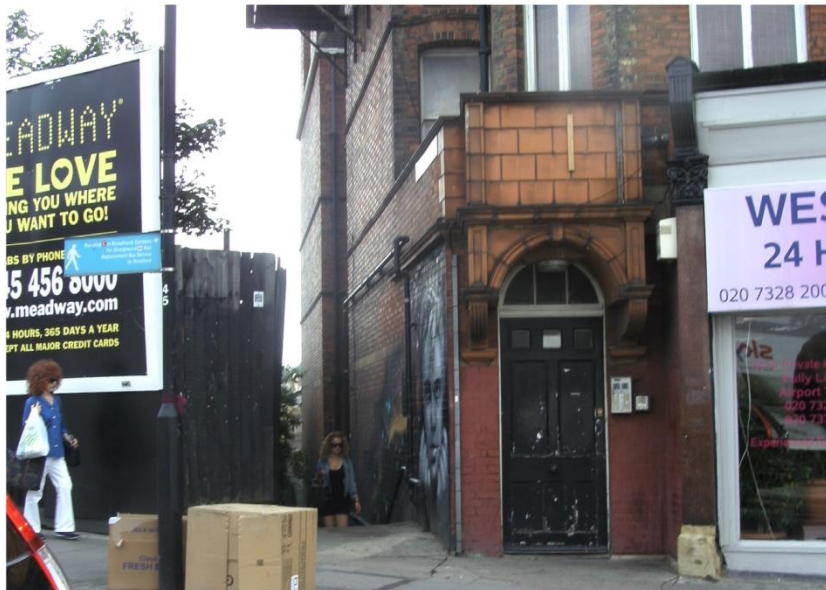
Existing and Proposed Location 21



Existing and Proposed Location 22



Existing and Proposed Location 23



Existing and Proposed Location 24



Existing and Proposed Location 25



Existing and Proposed Location 26



Existing and Proposed Location 27



Existing and Proposed Location 28



Existing and Proposed Location 29



Existing and Proposed Location 30

