

<b>Delegated Report</b>
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<b>Reference:</b>	19/00978/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Chalkwell	
<b>Proposal:</b>	Erect street furniture comprising of an ornamental metal arch to designate the perimeter of a nominated Eruv (An Eruv is a continuous boundary designated in accordance with Jewish Law) at location 18A -Footpath between 38/46 Bridgwater Drive and location 21A - Footpath between 157/159 Carlingford Drive	
<b>Address:</b>	Westcliff Eruv, Finchley Road, Westcliff-On-Sea	
<b>Applicant:</b>	Westcliff Jewish Association	
<b>Agent:</b>	Mr Daniel Rosenfelder of Rosenfelder Associates	
<b>Consultation Expiry:</b>	24 <sup>th</sup> October 2019	
<b>Expiry Date:</b>	8 <sup>th</sup> November 2019	
<b>Case Officer:</b>	Janine Rowley	
<b>Plan Nos:</b>	911.002 Revision F; 911.18A; 911.21A	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



WESTCLIFF ERUV - LOCATIONS SITE PLAN (NTS)

XX INDICATES NEW LOCATIONS  
APPLICATION REF 19/00978/FUL REFERS

DRAWING REF: 911.002 Rev'n F

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## 1 Site and Surroundings

- 1.1 The application relates to two new specific locations described below, which would form part of the succession of individual placements of street furniture granted planning permission in October 2018 (17/01263/FUL) in association with designation of a nominated Eruv which is a continuous boundary designated in accordance with Jewish law. That succession of street furniture placements to support the perimeter of a continuous Eruv boundary is predominantly focused on Westcliff but extends beyond into parts of Chalkwell, Leigh and Southend.
- 1.2 Location 18a is to the flank fence elevations of nos. 36 and 48 Bridgewater Drive in close proximity to the rear boundary of those dwellings. The surrounding area is characterised by two storey properties and is residential in character.
- 1.3 Location 21a is to the flank fence elevations of nos. 157 and 159 Carlingford Drive, in close proximity to the front building line of those bungalows. The surrounding area is residential in character to the east, west and north and Southend Hospital is to the south of the site.
- 1.4 There are no heritage or other such designations on or in the vicinity of these sites.

## 2 The Proposal

- 2.1 Planning permission is sought to erect street furniture at the two locations in the form of an ornamental arch 2.4m high and 50mm diameter to designate the perimeter of a nominated Eruv.

- 2.2 Street furniture associated with designation of the Eruv perimeter boundary was granted planning permission at 40 locations under 17/01263/FUL. Those locations are listed in appendix 1 to the separate report on this committee agenda for 19/00729/FUL. It is only this physical street furniture that required planning permission (as opposed to for example the concept and purpose of the Eruv). No markings or religious iconography are proposed to be fixed to the street furniture in association with the Eruv. This planning application solely relates to the two new locations described in paragraphs 1.2 and 1.3 above. Planning permission is only sought for structures where existing features such as walls and buildings do not provide the necessary enclosure. The majority of the Eruv would be made up of existing structures of that nature.
- 2.3 The applicant is seeking other changes to some detailed locations of the approved street furniture for the Eruv under a separate planning application 19/00729/FUL.

### **3 Relevant Planning History**

- 3.1 19/00729/FUL- Erect street furniture comprising of groups of poles (usually two) between which is suspended, at high level, a wire to designate the perimeter of a nominated Eruv (An Eruv is a continuous boundary designated in accordance with Jewish Law) minor re-routing and re-positioning to the following previous locations 4A, 4B, 4C, 4D, 15-18 and 31 approved under planning permission 17/01263/FUL dated 03.10.2018– Pending consideration
- 3.2 17/01263/FUL- Erect street furniture comprising groups of poles (usually two) between which is suspended, at high level, a wire to designate the perimeter of a nominated Eruv (An Eruv is a continuous boundary designated in accordance with Jewish Law) at various locations around the borough- Planning Permission Granted (03.10.2018)

### **4 Representation Summary**

#### **4.1 Public Consultation**

Site notices were posted at the two locations subject of this application.

One letter of representation has been received from the Milton Society objecting to the siting of the ornamental steel archways for the following reasons:

- No reasonable justification for the installation of the structures in terms of the local plan;
- The structures maybe forerunners of wider roll out of these structures and should be refused;

Officer comment: The concerns raised are noted and they have been taken into account in the assessment of the proposal. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

#### **4.2 Highways Team**

There are no highway objections to this proposal.

### **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2019)

- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and Greenspace)
- 5.3 Development Management Document (2015) Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 The Community Infrastructure Levy Charging Schedule (2015)

## **6 Planning Considerations**

- 6.1 The principle of supporting the installation of a succession of street furniture for the associated purpose of designating an Eruv perimeter and the equalities and diversity considerations related to this were agreed under planning permission 17/01263/FUL. The National Planning Policy Framework has been revised since determination of the above application but the relevant policy considerations have not changed in any material regard.
- 6.2 The main considerations in the determination of this application are design and impact on the character of the area, access, traffic and highways, impact on residential amenity and the relevant equalities and diversity considerations.

## **7 Appraisal**

### **Design and Impact on the Character of the Area**

- 7.1 The National Planning Policy Framework requires new development to reinforce local distinctiveness. Policy KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 and the Design and Townscape Guide advocate the need for any new development to respect the character of the area and complement the local character.
- 7.2 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities *“having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”*
- 7.3 Policy DM3 of the Development Management Document states:  
  
*“The Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity”.*
- 7.4 A 2.4m high black colour-coated ornamental arch with 50mm diameter posts and wrought iron scrollwork above is proposed to the flank fence elevations of numbers 36 and 48 Bridgewater Drive and numbers 157 and 159 Carlingford Drive.

7.5 The ornamental arch is modest in form and design and in each case is located within access routes set back from the main streetscene. The arches would therefore have a discreet and acceptable impact on the streetscene and character of the wider surroundings.

7.6 The proposal is therefore acceptable and policy compliant in this regard.

### **Amenity**

7.7 At 2.4m in height to the main frame, above which is a centrally positioned scroll feature, the arch structures would be broadly comparable in scale with features found in a rear garden setting. In the case of the Bridgewater Drive arch it would be positioned between tall fencing either side and alongside the gable of a shed in the adjacent rear garden. It would not appear overly prominent and not result in material harm to the light, outlook, privacy or sense of enclosure of the neighbouring properties.

7.8 The Carlingford Drive arch is similarly positioned within a fenced corridor alongside the flank boundary treatment of neighbouring properties. That fencing is lower but still provides a context for the arch and its relationship is such that it would not result in material harm to the light, outlook, privacy or sense of enclosure of the neighbouring properties.

7.9 Due to the location of both arches no other residential occupiers' amenity would be materially affected in any regard.

7.10 The development is therefore acceptable and policy compliant in the above regard.

### **Highways**

7.11 The siting of the ornamental arches between 38 and 46 Bridgewater Drive and 157 and 159 Carlingford Drive would not have any harmful impact on highway safety. The highways officer raises no objection.

7.12 The proposal is therefore acceptable and policy compliant in the above regard.

### **Equalities and Diversity**

7.13 The report to this Committee for the installation of Eruv related street furniture, approved in October 2018, contained a full analysis of the proposals in the context of the Equality Act 2010 which sets out a general duty on public bodies. This duty 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, including gender reassignment, religion or belief, sex, pregnancy or maternity, and to foster good relations between different groups when discharging its functions.

7.14 This planning application falls to be considered on its planning merits but, given the nature of the application, in reaching its decision the Local Planning Authority must have regard to those provisions of the Equality Act 2010. The Act requires the Local Planning Authority to demonstrate that any decision it makes is reached in a fair, transparent or accountable way considering the needs and rights of different members of the community.

- 7.15 Like the main street furniture proposals approved in October 2018 this proposal has the potential to generate some negative and positive impacts on groups with the protected characteristics of age, disability, sex, religion or belief. The potential impacts, both positive and negative, of the street furniture proposals on the different groups were identified in the appended report and weighed against each other.
- 7.16 The street furniture proposed would not prevent walking along the pavement, driving or change the behaviour of any groups who do not currently observe the Sabbath. The development would not change the use of the land nor impose any changes in behaviour on others.
- 7.17 There would be benefits from the proposals to groups with protected characteristics, including parents and grandparents of young children, the disabled and their families, and the elderly. Officers consider that the benefits to these protected groups would outweigh the potential harm to members of other protected groups.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, street scene and the locality more widely. The proposal would result in no harm to highway safety and supports equalities and diversity objectives. This application is therefore recommended for approval.

## **9 Recommendation**

### **9.1 GRANT PLANNING PERMISSION subject to the following conditions:**

- 01 This development must be begun within three years from the date of this permission.**

**Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.**

- 02 The development hereby permitted shall be carried out in accordance with the following approved plans: 911.002 Revision F; 911.18A; 911.21A.**

**Reason: To ensure that the development is carried out in accordance with the policies in the Development Plan.**

- 03 In respect of sites 18a and 21a hereby approved, details of the design and colour of the external surfaces of the associated structures, shall be submitted to the Local Planning Authority and approved in writing prior to the commencement of the development at a particular site. Each individual pole, post or structure hereby approved shall be completed in full accordance with the details approved under this condition within 6 months of the implementation of the erection of that particular pole, post or structure.**

**Reason: To safeguard character and appearance of surrounding area in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management (2015) and the advice contained within the Design and Townscape Guide (2009).**

- 04 A Construction and Maintenance Strategy, for all works hereby approved on or adjacent to the public highway, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Local Highway Authority, prior to the commencement of the development. The Construction and Maintenance Strategy submitted shall include details on how the Eruv structure (poles, posts, associated structures and wire) would be constructed and maintained in a manner that would not compromise highway and pedestrian safety or unacceptably impact on movements on the public highway. The development shall be implemented and in full accordance with the approved Construction and Maintenance Strategy and maintained in accordance with this Strategy in perpetuity.**

**Reason: In the interests of highway and pedestrian safety and to ensure that disruption to pedestrians and traffic on the road network arising from the development would be kept to a minimum in accordance with the National Planning Policy Framework (2019), Policies KP2, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM15 of the Development Management (2015) and the advice contained within the Design and Townscape Guide (2009).**

**Informatives:**

- 1 The erection of the Eruv structures (poles, wires and any other associated works) on the highway would require a Highways Licence under the Highways Act 1980. This Licence would be subject to a number of conditions such as design, use of an approved contractor, indemnity insurance and a bond. If there are problems with any of these matters the licence would not be granted. The Highway Licence covers the proposal in terms of the positions of each pole and will check for any potential concerns, including impacts on clutter, sight lines, obstruction (this would be assessed in relation to all including the needs of disabled people), security and technical specification (including colour of poles and type of wire). The terms of the Licence require weekly inspections for the lifetime of the Eruv and the applicant must submit reports on the outcome of the inspection, any defects identified and actions taken to resolve. The Highways Group also charge an annual fee via the licence to carry out ad hoc inspections to ensure maintenance is being carried out.**
- 2 Structures located on a footway or a footpath must allow for a minimum clearance of 1.5 metres for pedestrians. Location of any existing furniture in the vicinity must be taken into consideration to ensure that the minimum clearance required for pedestrians is not compromised.**

- 3 The applicant is advised that any structures to be sited within or project over adopted highway will require Licences under the Highways Act 1980 in addition to planning permission. The exact location and details of these structures will be agreed as part of the licensing process. Please note that Licences under the Highways Act 1980 will be issued for structures located on areas under the Local Authority's responsibility. For structures located in other areas, the applicant should seek an agreement with the land owner. For structures impacting on adjacent boroughs, agreement must be sought from the relevant authorities.**
- 4 The applicant is advised that on sites located on traffic sensitive routes, deliveries during the construction period should not take place during restricted hours.**
- 5 Any and all works carried out in pursuance of this grant of planning permission will be subject to the duties, obligations and criminal offences contained in the Wildlife and Countryside Act 1981 (as amended). Failure to comply with the provisions of the Wildlife and Countryside Act 1981 (as amended) may result in a criminal prosecution.**
- 6 The applicant is advised that they would be fully responsible for the maintenance of the proposed Eruv poles, wire and leci to be placed on the public highway at all times.**
- 7 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**