



City of Westminster Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Environment and City Management
Date:	14 th December 2018
Classification:	Open
Title:	London Local Authority and Transport for London Act 2013 – Part 2 Section 4 Lighting Attachments and Street Signs.
Wards Affected:	All
City for All:	This decision enables progress towards the City for All commitment to offer excellent public services.
Key Decision:	Yes
Financial Summary:	The proposed use of the legislation would generate a small legal cost reduction (£20 p.a. and reduce project delays.)
Report of:	Richard Barker, Executive Director for City Management and the Communities

1. Executive Summary

- 1.1 This report asks the Cabinet Member to recommend the adoption of London Local Authority and Transport for London Act 2013 – Part 2 Section 4 Lighting Attachments and Street Signs to Full Council on the 23rd January 2019.
- 1.2 At present 85% of wayleave attachment requests fail to achieve the successful installation of traffic signs and lighting attachments. The proposed legislation recognises the weaknesses in the wayleave process and has amended the requirements for affixing traffic signs and street lighting to buildings in London so that London authorities (including Westminster) must follow a notice procedure rather than obtain consent from the building owner.

2. Recommendations

That the Cabinet Member for Environment and City Management resolves:

- 2.1 To recommend the adoption of the London Local Authority and Transport for London Act 2013 – Part 2 Section 4 Lighting Attachments and Street Signs (a copy of which is appended at appendix 1) to Full Council on 23rd January 2019.
- 2.2 To delegate to the Executive Director of City Management and Communities, the authority to exercise the functions bestowed by the legislation referred to in paragraph 2.1 above.

3. Reasons for Decision

- 3.1 To enable the good management of the city's highways.
- 3.2 Gaining Wayleaves for the attachment of street signs and lights is too often very difficult to obtain, costly to administer, and takes a considerable amount of time to implement and the use of the Act addresses these concerns.

4. Background, including Policy Context

- 4.1 At present the City Council is reliant on legal Wayleave Agreements to permit the attachment of street signs (including street nameplates) and street lights to buildings. The process of preparing and agreeing these legal agreements (between the WCC and the property owner) has to date often been difficult to obtain, costly to administer, and took a considerable amount of time to implement. The average length of time to agree a wayleave is 24 months with average legal costs of £2K per attachment. 85% of street nameplate and street lighting attachment projects fail to achieve the necessary wayleave agreements leaving areas without light or appropriate signage.
- 4.2 Number of wayleaves sought for lighting attachments in the last two years was 200 with 30 being successfully agreed.
- 4.3 In using the notice procedure the Council must be satisfied in each case that the public interest justifies the interference with the property owner's rights to enjoyment of their property ahead of proceeding with the notice procedure.
- 4.4 Since the commencement of a trial in May 2018 and the agreement of the process with the bi-borough legal team the Highways Team have managed to agree six schemes, with no legal costs in significantly reduced timescales. 14 schemes have to date been part of the trial (four lighting attachments and 10 street nameplates). To date, agreement has been reached on six schemes, with three being refused and no response concerning five.

- 4.5 The Council is continually searching for ways to improve the urban landscape by reducing street clutter and removing unnecessary street furniture. Whilst it is important for the council to install street signs to provide highway users with essential traffic management and safety information, the posts to which they are attached can be unsightly and a hindrance to pedestrians particularly those with visual impairments and highway users with wheelchairs or prams. Similarly whilst street lighting improves safety on London's streets, the required lamp columns can also have a detrimental effect on the streetscape. Growth projections indicate that there will be increasing demand for space as the numbers of highway users grow and use intensifies. One of the ways that the Council can achieve their objectives is by utilising existing building infrastructure to attach street lighting and signs.
- 4.6 The London Local Authorities and Transport for London Act 2013 has amended the requirements for affixing traffic signs and street lighting to buildings in London so that London authorities must follow a notice procedure rather than obtain consent from the building owner. This gives London authorities powers more in line with those currently enjoyed by the City of London Corporation.
- 4.7 Since the active commencement of the trial in May 2018 the Highways Team have managed to agree 6 schemes, with no legal costs in significantly reduced timescales. It is not untypical to take 2 years for wayleave agreements to be signed and in 85% of projects agreements aren't reached because either the building owner cannot be identified or not response to council communication is received and under current practices we are unable to apply the attachment without agreement with the building owner being reached. 14 schemes have to date been part of the trial (four lighting attachments and 10 street nameplates). To date, agreement has been reached on six schemes, with three being refused and no response concerning five.
- 4.8 In the last 2 years 200 wayleave agreements have been sought for lighting attachments. To date only 30 of these wayleave agreements have been agreed. It is expected that adoption of the Act would save the council up to £20K per annum in wasted legal costs trying to develop wayleave agreements. 80% of lighting schemes seeking wayleaves are third party funded and therefore any of these legal cost savings would be returned to the scheme funder.
- 4.9 The council currently has 117 street nameplate sites that require wayleave permission to be granted to allow adequate street signage.
- 4.10 The council currently has 10 active schemes that require wall mounted lighting agreements to successfully implement them.

5. The Code of Practice

- 5.1 London Councils have established a code of practice (Background Paper) that explains the legislation and outlines good practice procedures that London

authorities can follow to ensure that they fully comply with the legislation. The code of practice has been carefully followed throughout the trial phase.

- 5.2 The legislation allows the Council to affix traffic signs and street lighting to a building provided they have complied with the notice requirements set out in the Act.
- 5.3 If a building forms part of the operational land of a statutory undertaker or is a listed building or structure different and more stringent requirements apply.
- 5.4 The council must be satisfied in each case that the public interest justifies the interference with the property owner's rights to enjoyment of their property.
- 5.5 The legislation necessitates that not less than 56 days before the council proposes to commence works to affix street lighting or a traffic sign to a building, the London authority must serve notice in writing on the relevant owner of the building of their proposal (the Notice).
- 5.6 The Notice must:
 - a. state that the council proposes to affix street lighting or a traffic sign to the building;
 - b. describe the street lighting or traffic sign, giving its approximate dimensions;
 - c. specify where on the building the council proposes to affix it and the means by which it is to be fixed;
 - d. specify the date, or the earliest date, on which the London authority proposes to begin the work;
 - e. specify a period of not less than 42 days from the date of service of the Notice during which the relevant owner may make representations to the council about the proposal;
 - f. inform the relevant owner of his rights to compensation for damage which might be suffered by or in consequence of the affixing of the street lighting or traffic sign;
 - g. inform the relevant owner that if no representations are made within the period specified in the Notice for doing so the council may proceed with their proposal without further notice.
- 5.7 The purpose of the Notice is to provide the owner of the building with sufficient information about the proposed affixing of the street light or traffic sign to the building. It is recommended that the Notice also:
 - a. state that the council will have regard to any representations made by the relevant owner within the period specified;
 - b. make reference to a plan or drawing for the purposes of explaining where the council proposes to affix the street light or traffic sign;
 - c. state the materials the council proposes to use to affix the street light or traffic sign;

d. state that the owner of a building may be entitled to compensation if he suffers damage by, or in consequence of, the affixing of a street light or traffic sign to the building, or by, or in consequence of, the council altering, removing, repairing or maintaining any street light or traffic sign which the council has affixed to the building;

e. level of compensation will be determined, where there is a dispute, by the Upper Tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the building, Rules 2 to 4 of the Rules set out in section 5 of the Land Compensation Act 1961 will apply.

5.8 Serving the Notice

If the council specifies the earliest date on which the London authority proposes to begin the work in the Notice, the council may not begin work after the expiry of four months beginning with that date. This however does not prevent the council from serving a fresh notice.

5.9 Considering Representations

Having considered any representations made by the relevant owner within the specified period, the council shall then decide whether to:

(i) proceed with their proposal;

(ii) proceed with their proposal modified to take account of the representations made;

(iii) not proceed with the proposal.

If the relevant owner has made representations, the council shall serve notice of the decision on the relevant owner. It is proposed not to continue with the installation of the sign or lighting attachment if a negative representation is made, unless it is very clear that the public interest justifies the interference with the property owner's rights to enjoyment of their property ahead of proceeding with the notice procedure.

The notice of the decision would normally be in the form of a letter to the relevant owner. The notice will respond to the negative representations made and where in the event the council decides to proceed with the proposal, it will outline the date of commencement of the works.

5.10 Exceptions

a. If a building forms part of the operational land of a statutory undertaker, the council must obtain the statutory undertaker's written consent before anything can be affixed to the building. Where the London authority is of the opinion that that the consent required is being unreasonably withheld or subject to unreasonable conditions, the London authority may apply to the magistrates' court

b. No street light or traffic sign will be attached to a building which is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 without the council first having obtained listed building consent from the council's planning department or Secretary of State.

c. To fix a street light or traffic sign to a theatre building, agreement with the relevant owner must be sought

5.11 Timetable

Should permission to use the legislation on a permanent basis be granted the City Highways Team would start using the Act immediately.

6. Financial Implications

6.1 It is calculated that should the proposed use of the legislation be agreed it would reduce the legal costs associated with wayleave agreement by approximately £20K per annum.

7. Legal Implications

7.1 The use of the London Local Authority and Transport for London Act 2013 – Part 2 Section 4 Attachment of street lamps and signs to buildings requires a full council resolution for the legislation to be adopted.

7.2 In the event of an owner of a building being entitled to compensation, due to damage caused in the installation of the attachment, the level of compensation will be determined, where there is a dispute, by the Upper Tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the building, Rules 2 to 4 of the Rules set out in section 5 of the Land Compensation Act 1961 will apply.

8. Communications Implications

8.1 Any decision (Full Council Resolution) to use the legislation will be published in the London Gazette.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

Phil Robson – Head of Operations (City Highways) x7026

APPENDIXES

APPENDIX 1

London Local Authority and Transport for London Act 2013 – Part 2 Section 4
Attachment of street lamps and signs to buildings
<http://www.legislation.gov.uk/ukla/2013/5/enacted>

APPENDIX 2

Other Implications

BACKGROUND PAPERS:

London Councils - Code of Practice for Affixing Traffic Signs and Street Lighting to Buildings in London (June 2015)
<https://www.londoncouncils.gov.uk/download/file/fid/16272>

- *NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member for Environment and City Management**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: **Councillor Tim Mitchell** _____

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled London Local Authority and Transport for London Act 2013 – Part 2 Section 4 Lighting Attachments and Street Signs.

Signed

Cabinet Member for Environment and City Management

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
.....
.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are staffing implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2)

your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix 2

Other Implications

1. Resources Implications

- There are no resources implications.

2. Business Plan Implications

- Better signing and lighting of the highway support key elements of the City Management and Communities Business Plan

3. Risk Management Implications

- There are no risk management implications.

4. Health and Wellbeing Impact Assessment including Health and Safety Implications

- The use of the legislation will support better signing of the city and facilitate better wayfinding by pedestrians, cyclists and other road users.

5. Crime and Disorder Implications

- Some of the lighting attachments installed as a consequence of the approval being granted will improve local lighting levels and determine crime and anti-social behaviour.

6. Impact on the Environment

- There are no environment implications

7. Equalities Implications

- There are no implications.

8. Staffing Implications

- There are no staffing implications.

9. Human Rights Implications

- There are no implications

10. Energy Measure Implications

- There are no implications