

	Environment Committee 27 January 2015
Title	Provision for an effective appeals service to London motorists in relation to parking on private land
Report of	Commissioning Director - Environment
Wards	All
Status	Public
Enclosures	Appendix A – List of Town Centres
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Summary

This report seeks the agreement of the Environment Committee to formally delegate the exercise of section 1 of the Localism Act 2011 to London Councils' Transport and Environment joint Committee (LCTEC) and to agree a variation of the TEC Governing Agreement, for the sole purpose of providing the Parking on Private Land Appeals Service (POPLA).

Recommendations

1. It is recommended that the Committee review the detailed report attached and agree to:
 - (a) formally confirm that the exercise of functions delegated to TEC to enter into the arrangement with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011;
 - (b) formally resolve to expressly delegate the exercise of section 1 of the 2011 Act to the TEC joint committee for the sole purpose of providing

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| <p>an appeals service for parking on private land for the British Parking Association under contract; and</p> <p>(c) take all relevant steps to give effect to the matters set out in (a) and (b) above through a formal variation to the TEC Governing Agreement</p> |
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1. WHY THIS REPORT IS NEEDED

- 1.1 This report has been necessitated by a request from LCTEC in regards to further delegated Local Authority function. This report seeks the agreement of the Environment Committee to formally delegate the exercise of section 1 of the Localism Act 2011 to London Councils Transport and Environment joint Committee and also a variation of the TEC Governing Agreement, for the sole purpose of providing the Parking on Private Land Appeals Service (POPLA). This is a complementary service to that which is provided by PATAS which deals with appeals made against parking enforcement on the highway.
- 1.2 The existing POPLA service is being delivered under a three year contract between London Councils and the British Parking Association which commenced on 01 October 2012. The service has been provided on a cost recovery basis by LCTEC since the implementation of the Protection of Freedoms Act in October 2012. It is proposed that this service continues in the current format until the expiry of the contract in 2015.
- 1.3 It was considered at the time that providing the service on a cost-recovery basis would be in the public interest as restrictions on parking within London on private land would have a direct impact upon London local authorities, their resources and residents. It was also anticipated that a significant proportion of the public affected and inclined to avail themselves of the POPLA service were likely to come from the Greater London area.
- 1.4 However, an objection has since been raised on the London Councils 2012/13 consolidated accounts in regards to whether the TEC currently hold the appropriate level of authority to enter into the aforementioned contract for the provision of the POPLA service. This was investigated by the Auditing firm Price Waterhouse Coopers (PWC) whose report concluded that the objection was valid.
- 1.5 As such London Councils have sought subsequent legal advice and have requested that each London Borough make this specific delegation, in order that it would put the question of legality of the existing arrangements beyond argument in the future. It has been confirmed that providing such a delegation is without prejudice to the question of whether the contract is extended beyond the end of its current life in autumn 2015. The Transport and Environment Committee will consider that issue in 2015, as, of course, will the BPA.
- 1.6 Attached as Appendix 1 is the report on this matter London Councils' TEC Executive Sub Committee

2. REASONS FOR RECOMMENDATIONS

- 2.1 The POPLA service provides significant benefit for motorists and London Local Authorities alike. The existing arrangements eliminate the potential financial and administrative burdens which might otherwise have been placed on Local Authority resources as they would invariably be compelled to implement such a system, or similar, in order to appease land owners who require a recourse from trespass and also motorists who feel aggrieved by any subsequent penalties.
- 2.2 Furthermore, in view of the level of expertise required for the administration of such matters, it would appear that LCTEC are best placed to coordinate and facilitate such arrangements.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 No alternative was offered by London Councils so if their proposal is not supported the appeals service is likely to cease.

4. POST DECISION IMPLEMENTATION

- 4.1 The implementation will be the responsibility of London Councils with no further action required by the Council.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan 2013/16 defines the Council's vision (under the priority to promote responsible growth, development and success across the borough) in delivering sustainable growth to ensure Barnet continues to be successful and prosperous place where people want to live and work

An appropriate and effective appeals service will positively contribute to ensuring that these aims and objectives are met by assisting the operators of retail parks and other commercial facilities in the operation of their car parks

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 None

5.3 Legal and Constitutional References

- 5.3.1 Section 1 of the Localism Act 2011 empowers Local Authorities to directly provide the service and also crucially allows for the exercise of these functions to be delegated to the TEC. Local Authorities are therefore permitted to make arrangements as they consider appropriate for the provision of such a service.

5.4 Risk Management

- 5.4.1 It is considered that a failure to support the proposals outlined within the attached TEC report could give rise to future policy considerations in relation to the administration of parking on private land within the borough. This could have an adverse impact upon the social and economic wellbeing of the borough as a whole.

5.5 Equalities and Diversity

- 5.5.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

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- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services

There are no adverse equalities implications arising from this report.

5.6 Consultation and Engagement

- 5.6.1 Not applicable.

6. BACKGROUND PAPERS

- 6.1 NONE

APPENDIX A - LIST OF TOWN CENTRES

Edgware	Friern Barnet
Brent Street	East Barnet Village
Chipping Barnet	Market Place
Church End, Finchley	Childs Hill
East Finchley	West Hendon
Golders Green	Golders Green Road
Hendon central	Hampden Square
Mill Hill	Holders Hill Circus
New Barnet	Great North Road
North Finchley	Colney Hatch Lane
Temple Fortune	Apex Corner
Whetstone	Hale Lane
Colindale/The Hyde (Barnet / Brent)	Deansbrook Road
Cricklewood (Barnet / Brent / Camden)	New Southgate
Burnt Oak (Barnet / Brent Harrow)	Grahame Park