

Committee(s): Barbican Residents Consultation Committee Barbican Residential Committee	Dated: 20 September 2022 30 September 2022
Subject: Wayleave Agreements – Barbican Residential Estate	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	1, 2, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain’s Department?	N/A
Report of: Director of Community and Children’s Services	For Decision
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Summary

The purpose of this report is to seek Member approval to proposed Wayleave Agreements between the City of London Corporation (the Corporation) and British Telecommunications PLC (referred to going forward as Openreach, a wholly owned subsidiary of British Telecommunications PLC), the Corporation and Virgin Media, the Corporation and Hyperoptic and Community Fibre respectively, in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation’s Barbican Residential Estate.

Recommendations

Members are asked to:

1. Agree that the Corporation enters into separate ‘Wayleave Agreements’ with Openreach, Virgin Media, Hyperoptic and Community Fibre in respect of the installation of electronic communication apparatus on various defined buildings across the Barbican Residential Estate.
2. Approve and agree the specific Wayleave Agreement between the Corporation and Openreach (attached as Appendix ‘A’ to this report), in respect of the installation of electronic communication apparatus on various defined buildings across the Barbican Residential Estate.

3. Approve the use of the same Wayleave Agreement between the Corporation and Virgin Media, in respect of the installation of electronic communication apparatus on various defined buildings across the Barbican Residential Estate.
4. Delegate authority to the Director of Community & Children's Services to approve and agree further 'Wayleave Agreements' with Hyperoptic and Community Fibre in the agreed format, as appropriate, in accordance with relevant legislation and, in the best interests of the Corporation.

Main Report

Background

1. The Government has set a target for at least 85% of UK premises to have access to gigabit-broadband by 2026 and has stated that it will "seek to accelerate roll-out further to get as close to 100% as possible". The Government's policy is that gigabit-broadband infrastructure will be mostly built using private investment. Private companies decide when and where to build infrastructure, based on commercial factors such as supply and demand.
2. The two biggest industry leaders, Openreach and Virgin Media, provide regular public reports on their rollout plans and, are key players in the delivery of this target. As a result, Openreach and Virgin Media will contribute significantly to helping deliver the switch from the current copper network to gigabit-capable services. The retirement of the copper network is scheduled for 2025 and both Openreach and Virgin Media will be fundamental in enabling this across the UK.
3. Openreach, Virgin Media Hyperoptic and Community Fibre have approached the Corporation with a request for a wayleave agreement, to enable them to install their equipment on various defined buildings across the Barbican Residential Estate.

Considerations

Electronic Communications Code

4. The Electronic Communications Code, known within the industry as 'The Code', is set out in Schedule 3A of the Communications Act 2003. It is essentially, a set of rights that are designed to facilitate the installation and maintenance of electronic communications networks. The Code confers rights on providers of such networks and, on providers of systems of infrastructure, to install and maintain apparatus on, under and over land and results in considerably simplified planning procedures.
5. Wayleaves are the most common form of access agreement for telecoms infrastructure and, are usually entered into consensually between the parties. If an agreement cannot be reached consensually, the telecoms operator may apply to the court to seek an imposed agreement through powers contained in the Electronic Communications Code (Schedule 3A to the Communications Act 2003, as amended).
6. It is considered best practice to have multiple wayleave agreements with different providers to ensure competition and a reasonable choice for residents, as well as,

safeguarding the network provision for the future, in the event of any commercial changes.

Current Position

7. The Corporation currently, has wayleave agreements with all four providers: Openreach, Virgin Media, Community Fibre and Hyperoptic for all the Corporation's Housing Estates except for the Barbican Estate. There is a further fifth wayleave agreement with Vision Fibre however, this company has since been sold. Vision Fibre only installed its equipment on one of the Corporation's housing estates (Golden Lane Estate).
8. The fibre roll-out programme that is currently being carried out, is managed by an independent consultant, who is funded directly by the respective providers but works on behalf of the Corporation to reduce resource requirements. The independent consultant oversees the installation process, as well as liaising with residents and the Corporation's own staff.

Proposal for new wayleave agreements

9. Openreach, Virgin Media, Hyperoptic and Community Fibre have approached the Corporation with a request for a wayleave to enable them to install their equipment on various identified buildings across the Barbican Residential Estate.
10. The scope, type, and content of the standard Wayleave Agreement has been agreed and approved by the Comptroller and City Solicitor. The proposed Wayleave Agreement between the Corporation and Openreach is attached at Appendix 'A' to this report for members consideration and approval.
11. It is also proposed that members approve the use of the same standard Wayleave Agreement between the Corporation and Virgin Media, in respect of the installation of electronic communication apparatus on various defined buildings across the Barbican Residential Estate.
12. It is hoped, subject to the formal approval of this Committee, that the roll-out of the new fibre installations will commence within the next three to six months.

Benefits and Value for the Corporation and its Residents

Virgin Media

13. Virgin Media offers three potential alternative methods of installation to suit the various buildings and situations. This means that those buildings with only one or, no current fibre providers, should be able to achieve full fibre to all the homes. This also means that for the majority of buildings, where a suitable Integrated Reception Service (IRS) is in place, there will be no need for additional cabling on buildings and minimal associated external civils/ground works.
14. Virgin Media adheres to the social value commitment of offering discounted and accessible packages to all social housing residents on low income or as determined by the Corporation. For example, for those residents in receipt of Universal Credit, "Virgin Media Essential Broadband", with a speed of 15Mbps, is available for a fixed price of £15 per month, with no fixed-term contract and, no price changes whilst the benefit payments are being received. Since 2015, Virgin

Media has been a partner with the national disability charity, Scope, supporting disabled people with digital skills and the confidence to get in and stay in work.

15. As well as covering the relevant external consultancy fees, Virgin Media will contribute £15 per premise connected under this programme towards a digital fund that can be used on local social value projects.

Openreach

16. Openreach is a wholesale provider and, an open network, which means that it will install the necessary infrastructure and then, make it available to a substantial number of Internet Service Providers. This will offer residents a much wider personal choice.
17. Openreach has a clear delivery plan for the next 5 years which, is published on its website. Currently, subject to formal approval, the Corporation's properties that are scheduled for fibre installation are set out in Schedule 1 of the Wayleave Agreement attached at Appendix A to this report. It should be noted however, that the Barbican Estate is referred to generically and not on a block-by-block basis.

Community Fibre and Hyperoptic

18. Although not yet on the same scale as Openreach and Virgin Media, Community Fibre and Hyperoptic do offer benefits and value for the Corporation and its residents, most notably through the provision of free WiFi hotspots, accessible to all, in a designated communal area at each estate where they are authorised to connect in to.

Additional Benefits

19. These proposed wayleaves are cost neutral to the Corporation and its residents, including the cost of ongoing future maintenance. Both Openreach and Virgin Media are updating their existing equipment, which means that the need for additional cabling and infrastructure is limited and, will result in an improvement to any existing services that residents currently purchase from them.
20. The Project Management resource will continue to be paid for by the providers, which will ensure a seamless and continuous link for both staff and residents before, during and after the installation work takes place. This will also help the providers to prioritise their installations, limiting the disruption to residents, and ensuring all installation packs are checked and are compliant prior to installation.

Appendices

Appendix A: Wayleave Agreement between the Corporation and British Telecommunications PLC (Openreach)

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