

Report for: Full Council 26 November 2019

Title: Dockless Bicycles – Pan London Bylaw

Report authorised by: Dan Hawthorn, Director of Housing, Regeneration & Planning

Lead Officer: Emma Williamson, Assistant Director for Planning, Building Standards & Sustainability
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Ward(s) affected: All

Report for Key/

Non Key Decision: N/A

1. Describe the issue under consideration

- 1.1. Dockless bicycles are a new way to share bicycles without the docking station infrastructure required by bike share schemes such as Santander Cycle Hire. Customers can pick up and drop off bicycles anywhere at the start and end of their journeys, paying a fee per minute. Customers hire and unlock Dockless Bikes using a mobile phone app and use the same app to end the hire and lock the bike as the bike has its own self-contained locking mechanism. This means that local authorities currently have very little control of the parking of dockless bicycles.
- 1.2. Local authorities currently have no powers to regulate the distribution and operation of Dockless Bikes. Powers are currently limited to impounding bikes that are parked in such a way as to create a highway obstruction or are considered a danger. No formal agreement currently exists stopping Dockless Bike operators operating in the borough. Currently, Dockless Bike operators in neighbouring boroughs do not place the bikes in Haringey but may allow their bikes to end their journey in the borough, however, if they are not rehired within 12 hours the operator must collect the bike.
- 1.3. This report sets out a pan London approach to regulating the use of Dockless Bikes. The new approach, agreed in principle between Transport for London and the Boroughs, is to create a new pan London bylaw. For the bylaw to be created, each borough needs to delegate authority to the London Councils Transport and Environment Committee (TEC) to make the bylaw.
- 1.4. Getting more residents and businesses in Haringey making journeys by bicycle is a key priority of the 2018 Haringey Transport Strategy. A well regulated Dockless Bike operation in Haringey would help deliver the ambitious Transport Strategy. This pan London Bylaw is considered to be the most appropriate approach to achieving this.

- 1.5. This report recommends Full Council to agree in principle to the making of a pan-London Bylaw that will regulate the use of Dockless Bicycles and to delegate the function of making the Bylaw to London Councils TEC.
- 1.6. TfL have asked the boroughs to delegate authority by the 5th December 2019 to ensure a swift process making the bylaw.
- 1.7. Once established, the bylaw provides a framework for boroughs to opt into at a later date. Consultations and decisions on where dockless parking spaces may be (or may not be allowed) would be subject to future borough decisions.

2. Cabinet Member Introduction

- 2.1. There are currently several Dockless Bike operators working in London, or about to launch, as the Dockless Bike market continues to evolve at a rapid pace:
 - Mobike continues to provide pedal bikes, mostly in Central and Inner London
 - Lime provides electrically assisted 'e-bikes' through agreements with several London Boroughs and at selected Thameslink rail stations
 - JUMP launched its first e-bikes in May in Islington and is expanding into Hackney later this year
 - Freebike and Beryl were chosen by the City for a 6-month trial last July; and
 - Youon have yet to launch but have been in contact with boroughs with regard to launching a fleet of pedal bikes.
- 2.2. Haringey has not yet launched with any Dockless Bike operators. Officers have met with most of the operators and have asked the operators not to deploy (or place) bikes in the borough but users from other boroughs can terminate hires in Haringey. These bikes need to be re-hired within an agreed timeframe or removed by the operators themselves.
- 2.3. Councils have no legal power to force the operators to do this. For most part, the operators have abided by this instruction which most boroughs without launches have adopted.
- 2.4. In the absence of legislation to regulate the bikes, Transport for London (TfL) and the boroughs have produced a Code of Practice (<http://content.tfl.gov.uk/dockless-bike-share-code-of-practice.pdf>) which the operators have agreed to follow. This is often supplemented with individual borough Memoranda of Understanding (MoUs) which set out expectations on both sides. These are not legally binding. The MoUs and the Code of Practice cover issues such as parking, maintenance, management and the redistribution of bikes to avoid overconcentration.
- 2.5. Although the Council hasn't launched with an operator, any bikes operating in Haringey will need to meet the TfL code of practice.

2.6. This approach however is not sustainable. Haringey has an aspiration to launch with an operation in the future. This could be through an MoU but to ensure the operations meet the expectations of residents and ensure a consistent experience across borough boundaries, the pan London bylaw is considered to be the best solution.

2.7. TfL have indicated that a full Equality Impact Assessment will be carried out on the Bylaw ahead of it being made. This will include engagement with disability groups. Haringey's Equalities Officer has also assessed the Equality impacts of the bylaw and a summary is provided in section 8 of this report. The Council is aware of the 'Inclusion London' campaign regarding bikes being obstacles to the highway, particularly for disabled people and the draft bylaw will help address the group's concerns by bringing in a formal mechanism for control.

3. Recommendations

3.1. It is recommended that Full Council agrees:

- i) in principle to the making of a pan-London bylaw to regulate dockless vehicles on the highway and/or public places (including making it an offence for a dockless vehicle operator to cause or permit their dockless vehicle to be left on the highway or public place other than in an approved location in the Borough);
- ii) to delegate the Council's functions (as referred to in paragraph 8.3.5 below) to the London Councils TEC to make a bylaw to regulate dockless vehicles in the Borough; and
- iii) to authorise the Assistant Director of Corporate Governance to sign any necessary documents to give effect to the above recommendations, including authorising changes to the London Councils TEC Governing Agreement dated 13 December 2001 (as amended).

4. Reasons for decision

4.1. To deliver the Haringey Transport Strategy objective of enabling more journeys in Haringey to be made by cycling and in the absence of an alternative approach to regulating Dockless Bike sharing, this is considered to be the most appropriate and effective approach.

5. Alternative options considered

5.1. The alternative option considered is to continue with boroughs entering into individual non-binding (MoU) agreements. However, to ensure the operators manage their operations to the benefit of Haringey businesses and residents, and have a legal framework to fine the operators, a bylaw is necessary. Different operators in each borough with different operations can be complicated for the users and might prohibit them from making journeys by bicycle.

5.2. The second alternative option is to do nothing. This option will not help getting residents and businesses in Haringey using bicycles and will not assist in achieving the aims of the Haringey Transport Strategy.

6. Background Information

The London Councils' Transport and Environment Committee (TEC)

6.1. London Councils holds a number of committees of which the TEC is one. Under their powers of delegation from the boroughs and the City of London, TEC performs a number of road and traffic functions on behalf of all 33 authorities. It is now proposed that the TEC has the power to make bylaws across London in respect of dockless vehicles but in order to do so all London boroughs and the City of London must agree to delegate the making of a bylaw. A number of other London boroughs have already agreed to delegate the making of a bylaw to the TEC.

6.2. Within the Haringey Constitution, the decision to make a bylaw is reserved for Full Council. Article 10.5 allows the Council to delegate non-executive functions to other organisations or boards where legislation allows. The legislative authority to delegate the making of a bylaw on to London Councils TEC is contained in section 101(5) of the Local Government Act 1972 Act which provides that two or more local authorities may discharge any of their functions by a joint committee. The London Councils TEC is such a joint committee that has been appointed by the 33 London local authorities.

The Greater London Dockless Vehicle Hire Bylaw

6.3. TEC has agreed that the correct future approach for Dockless Bike sharing is to move away from the current approach where boroughs reach individual agreements with specific operators and move to a borderless operation throughout London which would be regulated and controlled by a pan London bylaw. This would allow users to take full advantage of the benefits of Dockless Bicycle schemes for journeys across borough boundaries, and also secure more control for local authorities over the operation of these schemes.

6.4. Controlling Dockless Bikes can be achieved by adopting a pan-London bylaw on behalf of all boroughs that prohibits Dockless Bike operators and their customers from parking Dockless Bikes other than at designated dockless parking spaces.

6.5. "Dockless parking space" is defined in the proposed bylaw as meaning a parking place for dockless vehicles designated by a Local Authority or Transport for London under section 45 of the Road Traffic Regulation Act 1984 or any Public Place where a parking area for Dockless Vehicles has been approved in writing by the Local Authority as an area where dockless Vehicles may be placed and made available for hire. Designation of spaces does not necessarily mean signs and markings on the footway and the Council would have absolute discretion as to whether or not it will designate Dockless Bike parking spaces, either by identifying specific places or by allowing a larger area

to be used with “no parking” places identified. The Council could also decide not to designate any parking places at all.

6.6. TEC has asked boroughs to agree the following:

- that it wishes to make the Bylaw in principle (to compel dockless operators to use designated parking spaces, and prohibit bikes being left anywhere not agreed by boroughs); and
- that the actual making of the Bylaw is delegated to the TEC so as to ensure that an appropriate Pan London Bylaw can be made in accordance with the advice received by London Councils.

6.7. Each individual Council will then be able to use existing powers to designate parking spaces for Dockless Bikes. It is up to the boroughs to decide how to designate parking spaces. This will need to be considered alongside any operational requirements for community safety and enforcement.

6.8. The final wording of the bylaw has not yet been determined by TEC. Ministerial approval still has to be sought thereafter and there will be a formal consultation exercise undertaken with stakeholders.

6.9. It is anticipated that the Bylaw will place responsibility on dockless operators to ensure that the terms of hire for dockless vehicles prohibit hirers from leaving a dockless vehicle on any highway or public place other than a dockless parking space. The Bylaw may also require that the hire period may not be terminated unless the dockless vehicle is located at a dockless parking space. This prevention can be via a device fitted to the bicycle, or a technological solution via the app e.g. if the bike is deposited at a place other than a dockless parking space, the user will be unable to end the hire and so keep paying the hire charge.

6.10. If the Bylaw is approved, each participating Council will be able to decide whether to ensure that appropriate parking spaces are designated, or opt to provide no parking provision at all. TfL will be providing guidance documentation for helping the boroughs and operators implement and abide by the bylaw. This includes a draft Order that can be made pursuant to section 45 of the Road Traffic Regulation Act 1984. However, there may be other means by which parking spaces can be designated.

6.11. Once the Bylaw is enacted it will become an offence for dockless operators to place or allow their bikes to be parked anywhere other than at a location agreed by the local authority. It is anticipated that the penalty for breaching the Byelaw will be a fine not exceeding level 2 on the standard scale (currently £500).

6.12. The draft text of the Bylaw has not been agreed with boroughs by TEC yet so this report can only set out the headline terms of the draft bylaw:

- Defines several terms used in the draft Bylaw currently undefined in legislation (e.g. a dockless operator);
 - States that the Bylaw applies throughout Greater London;
 - Sets out minimum safety standards for Dockless Bikes;
 - Requires all Dockless Bikes to be chipped to ensure their whereabouts can always be tracked;
 - Requires all Dockless Bikes to be parked (whether by dockless operators or their customers) only in places agreed by the relevant local authority, and makes it an offence for dockless operators to place or allow their bikes to be parked anywhere other than at a location agreed by the local authority; and sets a penalty for a dockless operator committing the offence.
- 6.13. Local issues, such as how many or how few parking places to approve and where they should be located, are all left for individual authorities to decide, depending on their local circumstances. It is envisaged that designated dockless parking spaces would not be exclusive to specific operators, but would be open to all dockless companies, to facilitate journeys across borough boundaries.
- 6.14. The additional work, which is to be developed in partnership with borough officers, will cover:
- Preparation of guidance on how enforcement will be undertaken and managed.
 - The collection, management and provision of data that informs dockless bike customers and other highway users where dockless bicycles may and may not be parked.
 - Proposed procedures for designating or approving dockless parking spaces.
 - How boroughs may charge operators for the use of the parking spaces they make available.
- 6.15. The draft wording covers Dockless Bikes and Dockless E-bikes and is also worded to apply to electric kick scooters or other micromobility vehicles, in the event that these become legalised for use on roads in the UK.

7. Contribution to strategic outcomes

- 7.1. Place Priority Outcome 9 (Healthier, active and greener place),
- Objective b to Increase the levels of physical activity across the borough, to support people to be active by cycling, walking, playing, and participating in sport and to bring about a shift from car use to walking and cycling by promoting the concept of 'active travel'.
 - Objective c to encourage residents to make choices that minimise air pollution such as travelling by walking, cycling and using public transport.
- 7.2. Place Priority Outcome 11 (A culturally engaged place)
- Objective b to improve connectivity around the borough especially for pedestrians and cyclists and to improve walking and cycling and bus networks as well as public transport interchanges, enabling people to move easily around the borough and through the borough.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1. Finance

- 8.1.1 The recommendation in this report is for Cabinet to agree in principle to the making of the bylaw and delegates the function of making the bylaw to the London Councils TEC.
- 8.1.2 There are no immediate financial implications in terms of delegating the Byelaw making powers. There may be financial implications in due course if there are costs associated with providing dockless parking spaces, but there is potential to charge operators for the use of those spaces.
- 8.1.3 Once the Byelaw is enacted it will become an offence for dockless operators to place or allow their bikes to be parked anywhere other than at a location agreed by the local authority.
- 8.1.4 It is anticipated that the penalty for breaching the Byelaw will be a fine not exceeding level 2 on the standard scale (currently £500).

8.2. Procurement

- 8.2.1 There is an intention in the future for Haringey Council to engage with a suitable supplier (via a competitive process) to provide a dockless bike service, once the issue of the Pan London Bylaw is resolved. There are discussions taking place to run a potential trial with a preferred supplier to ascertain whether such a scheme in the Council will be a viable proposition. However, for the purposes of this Decision Report, as there is no actual procurement activity involved, procurement comments are not applicable (SS)

8.3. Legal

- 8.3.1 The Assistant Director of Corporate Governance has reviewed and noted this report.
- 8.3.2 The Council has the power to make a bylaw in respect of dockless bikes under section 235 of the Local Government Act 1972 (the power to make bylaws for Good Rule and Government and Suppression of Nuisances). The procedure for doing so is set out in section 236 of the 1972 Act.
- 8.3.3 Within the Council's Constitution, the decision to make a bylaw is reserved for Full Council. Article 10.5 allows the Council to delegate non-executive functions to other organisations or boards where legislation allows. The legislative authority to delegate the making of a bylaw on to London Councils TEC is contained in section 101(5) of the Local Government Act 1972 Act which provides that two or more local authorities may discharge any of their functions by a joint committee. The

London Councils TEC is such a joint committee that has been appointed by the 33 London local authorities.

8.3.4 All London local authorities have asked to determine if: (i) it wishes to make such a bylaw in principle to regulate dockless vehicles on the highway and/or public places (including by making it an offence for a dockless vehicle operator to cause or permit their dockless vehicle to be left on the highway or public place other than in an approved location in the Borough); and (ii) if it agrees to delegate the functions of making any such bylaw to the London Councils TEC so as to ensure that appropriate Pan London Bylaws can be made in accordance with the advice received by London Councils.

8.3.5 If Full Council and the other London local authorities agree to delegate the function in respect of the bylaw, then it is proposed that Schedule 2 of the London Councils TEC Governing Agreement shall be amended as follows:

“2(c)(i) the making of byelaws under section 235 of the Local Government Act 1972 (and, in respect of the City of London Corporation, under section 39 of the City of London (Various Powers) Act 1961) for the purpose of regulating dockless vehicles on the highway and/or public places (including by making it an offence for a dockless vehicle operator to cause or permit their dockless vehicle to be left on the highway or public place other than in an approved location), including taking all related steps to promote, make, amend and revoke any such byelaw.

2(c)(ii) The exercise of powers under Section 1 of the Localism Act 2011 for the purposes of giving effect to (i) above, including but not limited to oversight and management of the arrangements (but excluding prosecution or other enforcement).”

8.4 Equalities

8.4.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

8.4.2 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

8.4.3 The proposal is to agree to the making of a pan-London bylaw on dockless bicycles and delegate the function of making the bylaw to the

London Councils TEC. The making of the bylaw is likely to have several impacts on Haringey residents, assessed below.

- 8.4.4 Firstly, the bylaw's provision of designated parking spaces for dockless bicycles is likely to prevent dockless bicycles becoming obstructions on pavements. This is likely to have a positive impact for individuals with disabilities, and particularly those with visual impairments, as well as parents of young children who use pushchairs.
- 8.4.5 Secondly, to the extent that the bylaw enables Haringey residents to take up cycling where they would not otherwise have done so, it is likely to enable positive impacts in terms of air quality and physical health. The impacts for both are detailed in the equalities impact assessments for the draft Haringey Air Quality Action Plan, and the Haringey Transport Strategy.
- 8.4.6 In summary, increased cycling is likely to have a positive impact on air quality, which is in turn likely to have a positive impact on young people, those with disabilities and/or long-term health conditions, and BAME communities. Increased cycling is also likely to have a positive impact on physical health among groups who are underrepresented among current cyclists, including women and BAME communities.

9. Use of Appendices

None

10. Local Government (Access to Information) Act 1985

Haringey Borough Plan 2019