

Committee: Council

Date: 18th September 2019

Agenda item:

Wards: Borough wide

Subject: Dock-less Bikes Bye-Law

Lead officer: Chris Lee Director of Environment and Regeneration

Lead member: Martin Whelton Cabinet Member for Regeneration, Housing and Transport

Contact officer: Chris Chowns

Recommendations:

That the Council considers the issues in this report and

- A. Supports the making of a Greater London Dockless Vehicle Hire Byelaws.
- B. Grants authority to the London Councils' Transport and Environment Committee to exercise certain functions in connection with the making of byelaws under section 235 of the Local Government Act 1972 for the purpose of regulating dockless vehicles on the highway and/or public places as set out in the Appendix 1.
- C. Authorises the Director of Environment and Regeneration to sign the form of *Delegation* set out in Appendix 1, on behalf of the Council.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report details the concept of the dockless cycle schemes and seeks support for a pan London byelaw for dockless bikes.
- 1.2 It seeks authority to delegate to London Councils' Transport and Environment Committee the exercise certain functions of the Council in connection with the making of byelaws under section 235 of the Local Government Act 1972 for the purpose of regulating dockless vehicles on the highway and/or public places. It further seeks authority for the Director of Environment and Regeneration to sign an authority, in the form set out in Appendix 1, on behalf of the Council, to evidence the delegation.

2. DETAILS

- 2.1 The operation of dockless cycle schemes is essentially unregulated. The early experience of schemes in London highlighted the limitations of existing borough powers to effectively manage operators.
- 2.2 Following all borough discussions with TfL and London Councils it was felt that the direction of dockless bike schemes should shift away from a disconnected approach of individually negotiated agreements and trials with specific operators and move toward a borderless (in terms of borough boundaries) operation. This approach would better accommodate cross borough journeys and hence provide a consistent approach making the facility effective and attractive.

- 2.3 The most effective means of delivering suitable controls for London is considered to be via a London-wide byelaw rather than each borough pursuing their own borough byelaw.
- 2.4 To evidence the delegation from the Council it is proposed that the Director of Environment and Regeneration be authorised to sign the form of authority set out in Appendix 1 allowing the TEC (Transport and Environment Committee) Agreement to be amended to empower the TEC to make the pan-London byelaws.

3. BACKGROUND

- 3.1 In recent years there have been a number of dockless cycle schemes launched in London with mixed results. Although boroughs were supportive of the idea and noted the potential for modal shift towards cycling, it quickly became clear that boroughs had limited regulatory means available to them to manage schemes effectively.
- 3.2 Although many of the early operators have since withdrawn, new operators have started up or are planning to launch. These include:
- Mobike (grey/orange) continue to provide pedal bikes predominately in Inner and Central London
 - Lime (Green) operate electrically assisted bikes. They have launched via agreements with a number of boroughs including Croydon and are looking to launch in Merton.
 - Jump (Red) launched ebikes in Islington and are expected to expand in the coming months and have already contacted Merton.
 - Freebike (neon yellow) recently launched in Richmond.
 - Youon – Yet to launch, but are in contact with a number of boroughs.
- 3.3 Given previous issues concerning inconsiderate and obstructive parking and renewed interest in dockless bike schemes, plus new operators to the market, it is likely that an ongoing need to manage dockless bike scheme will continue and boroughs would require the legal power to effectively manage the scheme.
- 3.4 All borough discussions with TfL and London Councils concluded that the future of dockless bike schemes should move away from the current ad hoc practice where boroughs negotiate individual agreements with operators in a piecemeal fashion, in favour of a more joined up borderless approach, which would allow operators to operate freely across London.
- 3.5 Bike fleets would be controlled by boroughs using existing powers to designate dockless parking places but would require a pan London byelaw to prohibit bike operators from parking dockless bikes in locations other than approved parking places.

- 3.6 The draft byelaws have been discussed in detail with borough officers and are set out in full in Appendix 2. The headline terms contained in the draft text include:
- Definitions of certain several terms used in the draft Byelaws currently undefined in the legislation (e.g. a dockless operator);
 - States that the byelaw applies throughout Greater London;
 - Sets out minimum safety standards for bikes;
 - Requires all bikes to be chipped to ensure their whereabouts can always be tracked;
 - Requires all bikes to be left (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;
 - Sets a penalty for a dockless operator committing the above offence.
- 3.7 The definition of “Dockless Vehicle” includes a dockless pedal cycle, an electrically assisted pedal cycle or and similar class of transport device which may lawfully be used on the highway. It could also therefore include electric kick scooters or other micromobility vehicles, should the government legalise their use on the public highway. Local issues, such as the location and number of designated dockless parking places would be for individual councils to determine.
- 3.8 It is envisaged that approved spaces would not be exclusive to any specific operators, but would be open to any dockless company. The final wording of the byelaws and several additional areas of work are being developed by TfL/London Councils, with input from the Boroughs. The byelaws will provide a viable operational framework for dockless bike sharing in London.

4 CONSULTATION

- 4.1 The proposals have been discussed with London Boroughs and dockless bike operators. Stakeholder engagement will follow once the draft byelaw and other relevant pieces of work have been concluded.

5. ALTERNATIVE OPTIONS

- 5.1 Do-nothing - London Council’s TEC requires all of 33 London Boroughs to resolve to delegate the powers set out in Appendix 1 in order to make the byelaw. Should the Council resolve not to authorise the delegation the proposed byelaws cannot be made.

6. TIMETABLE

- 6.1 London Council’s TEC are asking all London authorities resolve to delegate the necessary authority to the TEC and to evidence this by completing and signing the form of authority in Appendix 1 by 5 December 2019.
- 6.2 It is understood that the LC TEC Committee will be asked to approve the wording of the byelaws at its meeting on 10/10/19. This will enable other essential procedural parts of the process for making the byelaws to be taken

forward while the process of securing delegated powers from each London local authority continues in parallel.

7. Financial, resource and property implications

7.1 None for the purpose of this report.

8. LEGAL AND STATUTORY IMPLICATIONS

8.1 The proposal is to delegate the Council's functions relating to making and promoting the pan-London dockless vehicles byelaws to the London Councils' Transport and Environment Committee (LC TEC), by way of an amendment to LC TEC Agreement (the Agreement). The Agreement requires amendment since none of the Council's functions relating to the making of such byelaws are currently delegated to the TEC under the Agreement. As a result, LC TEC does not currently have any authority to undertake this function on behalf of the London local authorities.

The proposed delegation very specific and does not constitute a transfer of the Council's powers in respect of dockless vehicle parking to LC TEC. It allows for LC TEC to make and establish pan-London byelaws. This power was not included when the Agreement was created.

8.2 The extent of any dockless vehicle parking and the enforcement of the byelaws would be a matter for each borough's decision-making process and control i.e. at the discretion of the Council.

8.2 Section 235 of the Local Government Act 1972 (1972 Act) enables local authorities to make byelaws for the good rule and government of the whole, or any part of the borough, as the case may be, and for the prevention and suppression of nuisances in it. Before coming into force the procedural requirements set out in Section 236 of the 1972 Act must be satisfied, including publicity, depositing copies for inspection etc. and giving notice of intention to apply to the Secretary of State to confirm the byelaws. Unless and until confirmed the byelaws cannot take effect.

8.3 Under Section 149 of the Equality Act 2010 (the 2010 Act) the Council must, when exercising its functions, have due regard to the need to eliminate discrimination, harassment and victimisation and other prohibited conduct and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' under the 2010 Act and those who do not share a protected characteristic. A 'protected characteristic' is defined as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are also protected characteristics for the purposes of the duty to eliminate discrimination.

9. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

9.1 A London-wide dockless vehicle scheme would facilitate improved access to a bikes through a mix of cycle hire facilities.

- 9.2 By reducing the inconvenience or disruption to highway users posed by unregulated cycle parking, it would help meet the needs of all highway users, particularly those who are blind or partially sighted and those who require wider available footways such as wheelchair users and those with buggies.

10. CRIME AND DISORDER IMPLICATIONS

- 10.1 A number of dockless cycle schemes in other cities have previously closed in part due to sustained high levels of vandalism and bike theft making schemes unviable. This behaviour has also affected operators in London to some degree. Designating parking places for dockless bikes will enable better management of the facility and will improve security and access to bikes.

11. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 11.1 The adoption of the draft Greater London Dockless Vehicle Hire Byelaws will enable the Council to take the appropriate action to limit cycles being abandoned on the highway or public place in an un-safe manner likely to cause obstruction to pedestrians and other road users. Moreover, it will ensure dockless vehicles are not offered for hire unless they are safe
- 11.2 Dockless cycle schemes and other emerging vehicle hire operating models are currently un-regulated. Experience from early operators has demonstrated a need to bring operations under an appropriate and legal operating framework. This will safeguard the Council and road users by reducing the risk of obstruction and potential dangers.

APPENDICES –

Appendix 1 – Form of Authority to London Council’s Transport and Environment Committee

Appendix 2 - Draft - Greater London Dockless Vehicle Hire Byelaws.

BACKGROUND PAPERS

None for the purpose of this report.

FAO: xxxxxxxxxxxx

I[name and position of authorised person]

on behalf of [name of authority]

hereby confirm that my authority has resolved to delegate authority to London Councils' Transport and Environment Committee to exercise the following functions by way of an addition to the Part 3(D) Functions, inserting a new paragraph 2(c) as follows:

“(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.

(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)

Signed

The Greater London Dockless Vehicle Hire Byelaws
Draft Bye Law - 29 July 2019

1. General Interpretation

In these byelaws:

“Docking Station” shall exclude any Sheffield Stand unless it has been designated or approved as a Dockless Parking Space

“Dockless Parking Space” shall mean a parking place for Dockless Vehicles designated by a Local Authority or Transport for London or any Public Place where a parking area for Dockless Vehicles has been approved in writing by the Local Authority or Transport for London as an area where Dockless Vehicles may be placed and made available for hire.

“Dockless Vehicle” means any transport device (whether mechanically propelled or not) which is made available to hire through a Dockless Hire Scheme and which is a pedal cycle, electrically assisted pedal cycle, or any similar class of transport device which may be lawfully used on the highway.

“Dockless Hire Scheme” means a scheme offering Dockless Vehicles for hire from a highway or other Public Place (other than a scheme offering Dockless Vehicles wholly or partly from a Docking Station constructed and installed for their use) where the contract for hire is entered into without the simultaneous physical presence of the Dockless Operator and the hirer. “Dockless Operator” means any person offering Dockless Vehicles for hire through a Dockless Hire Scheme.

“Public Place” means an area of highway or other open land (whether or not it is fenced) under the ownership or control of a Local Authority or Transport for London.

“Local Authority” means a London Borough Council or the Common Council of the City of London.

(2) A reference to:

- (a) legislation (whether primary or secondary) includes a reference to the legislation as amended, consolidated or re-enacted from time to time and, in the case of regulations, includes a reference to any regulations which replace the regulations referred to;
- (b) a “person” includes a natural person and a corporate or unincorporated body;
- (c) words in the singular include the plural and vice versa.

2. Application

These byelaws apply throughout Greater London.

3. Safe condition of Dockless Vehicles.

- (1) No Dockless Operator shall offer for hire a Dockless Vehicle unless it is safe.
- (2) In determining whether a Dockless Vehicle is safe regard shall be had to whether the Dockless Vehicle complies with, or the Dockless Operator has complied with, applicable provisions of:
 - (a) in the case of a pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983 and the Road Vehicles Lighting Regulations 1989;
 - (b) in the case of an electrically assisted pedal cycle, the Pedal Cycles (Construction and Use) Regulations 1983, the Road Vehicles Lighting Regulations 1989 and the Electrically Assisted Pedal Cycle Regulations 2015; or
 - (c) in all cases, any statutory requirements applicable to a Dockless Vehicle of that class.

4. Identification and management of Dockless Vehicles

- (1) No Dockless Operator shall offer a Dockless Vehicle for hire unless:
 - (a) it has an individually identifiable asset number visibly displayed;
 - (b) it is fitted with a device which ensures the location of the Dockless Vehicle can be identified at all times by the Dockless Operator, the local authority in whose area the Dockless vehicle is situated and Transport for London and the device is retained in operation.
- (2) No Dockless Operator shall offer a Dockless Vehicle for hire unless the hirer is prohibited from leaving the Dockless Vehicle on any highway or other Public Place other than at a Dockless Parking Space.
- (3) For the purposes of complying with paragraph 4(1)(b) and 4(2), the Dockless Operator shall make available real time location data via a publicly available application programming interface for each Dockless Vehicle that is available for hire or has been hired through its Dockless Hire Scheme.

5. Parking of Dockless Vehicles

No Dockless Operator shall cause or permit a Dockless Vehicle to be placed on any highway or Public Place other than at a Dockless Parking Space where the Dockless Operator is permitted to park or to cause or permit a Dockless Vehicle to be parked.

6. Penalty

Any person offending against these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Date

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