

Birmingham City Council

Report to Cabinet

23rd June 2020



Subject: E-Scooter Trial

Report of: Interim Director, Inclusive Growth

Relevant Cabinet Members: Councillor Ian Ward - Leader
Councillor Waseem Zaffar - Transport and Environment
Councillor Tristan Chatfield – Finance and Resources

Relevant O &S Chairs: Councillor Liz Clements – Sustainability and Transport
Councillor Sir Albert Bore - Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007731/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential: Not applicable		

1 Executive Summary

- 1.1 On the 9th May, the Department for Transport (DfT) announced that e-Scooter trials originally planned for 4 areas of the country as part of Future Transport Zones were to commence early and be extended to include more areas than initially planned. This initiative forms part of a £2.000 billion package to support cycling and walking in response to the COVID-19 pandemic. Trials are planned by local authorities across the country and can potentially commence in June to help encourage more people to use alternatives to the private car. The DfT has stated that all trials should start during the summer period. The trials will only lift legal restrictions on the use of rental e-Scooters (provided by companies licensed by the DfT) and not privately-owned e-Scooters.

- 1.2 It is proposed to take forward an e-Scooter trial on a West Midlands basis, with Transport for West Midlands (TfWM) supported by the Council taking a lead role in formulating the trial alongside the other 6 metropolitan district councils. Each local authority will be responsible for defining its own trial area(s) and requirements to feed into a regionally led procurement process. This report does however provide a secondary procurement option for the Council to lead activities should the regional approach encounter difficulties or a more expedient route to market become available or be required to meet the trial timescales.
- 1.3 This report seeks approval for the Council to participate in and implement a trial for a period of 12 months. Due to the rapid pace required to deliver the trial and regular publication of additional guidance by the DfT, it should be noted that the procurement approach and necessary agreements with e-Scooter operators, TfWM and potentially the DfT will evolve over the coming weeks, hence the delegations included within this report. Without such an approach, delivery of a trial will not be possible within the timescales set out by government, and other regions will gain the benefits of the transport innovation opportunities available.

2 Recommendations

- 2.1 Approves participation and subsequent implementation of a trial for the use of e-Scooters in the city commencing Summer 2020, for a period of 12 months, noting that costs to the Council will be limited to officer time in preparing and monitoring the trial.
- 2.2 Delegates approval of the details of the trial to the Assistant Director Transport and Connectivity, in consultation with the Leader and relevant portfolio holders.
- 2.3 Delegates the approval of the procurement strategy and award of the contract for the e-Scooter rental scheme to the Interim Director, Inclusive Growth in conjunction with the Assistant Director, Development and Commercial (or their delegate), the Interim Chief Finance Officer (or their delegate) and the Interim City Solicitor (or their delegate).
- 2.4 Approves entry into any agreements and authorities required with operators, DfT and the West Midlands Combined Authority (WMCA) to allow the trial to take place, and delegates authority to finalise the terms of these agreements to the Assistant Director Transport and Connectivity in conjunction with the Interim Chief Finance Officer, in consultation with the Leader and relevant portfolio holders.
- 2.5 Authorises the Interim City Solicitor to negotiate, execute, seal and complete all necessary documentation and legal agreements to give effect to the above recommendations.

3 Background

- 3.1 On the 9th May the DfT announced that e-Scooter trials (electric scooters for use by one person with a provisional or full driving licence) would be brought forward from 2021 to start no earlier than June 2020 for a period of 12 months, to help

encourage more people to use alternatives to the private car. The DfT plans to enable trials of rental e-Scooters in several areas around the country. E-Scooter companies, working with local authorities, will provide e-Scooters on the street for hire under a variety of rental models (for example, short-term or long-term). Short-term hires (usually lasting a few minutes) allow people to unlock the e-Scooter using a smartphone app, ride to their destination, park the e-Scooter there, and pay through the app, usually priced by the length or duration of the journey.

3.2 The DfT is moving rapidly to enable trials to take place, in direct response to COVID-19 and the need to support depleted local public transport capacity and the clean air and low carbon recovery. In the longer term, the DfT intends to build a robust evidence base around the safety and wider impacts of e-Scooter use, and these findings will inform the longer-term policy position of government. The trial will allow government to assess the benefits of e-Scooters as well as their impact on public space. DfT propose to allow e-Scooters to use the same road space as pedal cycles i.e. roads, cycle lanes and cycle tracks including shared pedestrian/cycle space. E-Scooters will not be allowed to use footways.

3.3 The trial would aim to find out more about the following impacts of e-Scooters:

- How safe are e-Scooters for their users and other road users?
- Who uses e-Scooters and why?
- What mode shift do they cause?
- What other impacts have they had in the local area?
- What aspects of the policy work or don't work, and why?
- What local lessons are there for further roll out/legal change?
- What other lessons can be learned?

3.4 Although e-Scooters have been deployed in other global cities, this will be the first large-scale deployment exercise in the United Kingdom. There are some critical success factors that must be considered:

- Vehicle numbers are sufficient to allow for adequate user access but not so high that are to the detriment of pedestrians and other road users.
- E-scooters use is limited to cycle lanes and to spaces designated by the DfT guidance and local rules.
- Geofencing can be used to prevent E-scooters from being used in certain areas where they pose a considerable threat to pedestrians and vulnerable users.
- Operators maintaining clean vehicles and good hygiene standards.
- Terms and Conditions of use are clear on the mobile application and signage near parking locations clearly outlines the local rules (e.g. parked devices should not obstruct pedestrian movements).

- 3.5 The DfT will centrally monitor and evaluate the trials across the country. In addition, TfWM working closely with the metropolitan district councils will coordinate local monitoring and evaluation processes in order to collect further data to develop local insight into the trial results. The monitoring and evaluation will align with the start of the trial.
- 3.6 An indicative timeline is included below:
- June 2020: Supplier engagement events;
 - June/July 2020: Trial proposal finalised and submitted to DfT;
 - June/July 2020: Local authority approvals;
 - July 2020: DfT Trial approval;
 - July/August 2020: Procurement and necessary agreements completed;
 - July/August 2020: Remaining local approvals completed;
 - August/September 2020: Anticipated start date for trial; and
 - September/October 2021: Full scheme evaluation and review.
- 3.7 The DfT is managing the trial at national level and will bring forward the necessary regulatory changes to start the trial. TfWM will act as the coordinating authority across the 7 metropolitan districts in the region and the key point of contact with DfT. It is proposed that the Council and TfWM develop and deliver a procurement strategy and process which will include determination of the local operating requirements for Birmingham. The current assumption is that local operating requirements will include operators being responsible for all costs related to the provision, installation and maintenance of all vehicles and potential docking and/or charging infrastructure. These are yet to be finalised and will be determined during the procurement process and agreed as per the delegation in paragraph 2.3.
- 3.8 This report seeks approval to work with DfT, TfWM and prospective operators to deliver a 12-month trial of the use of e-Scooters in the city commencing Summer 2020.

4 Options considered and Recommended Proposal

- 4.1 **Option 1 – Do Nothing:** The alternative option to implementing recommendation 2.1 would be not to participate in the DfT's e-Scooter trial, however this is not recommended as the trial is a relatively low-cost and low-risk method of trialling a new alternative to private cars which has the potential to assist in the city's recovery from COVID-19 and contribute to the Big Moves within the Emergency Birmingham Transport Plan (EBTP) and draft Birmingham Transport Plan (BTP).
- 4.2 **Option 2 – Implementing the e-Scooter Trial:** The trial is a relatively low-cost and low-risk method of trialling a new alternative to private cars which has the potential to assist in the city's recovery from COVID-19 and contribute to the Big Moves within the EBTP and draft BTP. It is therefore recommended to proceed with recommendation 2.1 and deliver the e-Scooter trial in Birmingham.

5 Consultation

- 5.1 As part of its Future of Transport regulatory review, the DfT is undertaking a Call for Evidence with local authorities and prospective e-Scooter operators, which started in March 2020 and is due to end on 3rd July 2020. The Council will submit a response by the end of June 2020, which demonstrates a positive position towards innovative solutions in transport, but also outlines the potential issues with new services such as e-Scooters and the resources needed to address them. In addition, DfT launched a further consultation on legalising rental e-Scooter trials and defining e-Scooters and rules for their use, which started on 18 May 2020 and closed on 2 June 2020. TfWM has submitted a response on behalf of all local authorities, highlighting some potential issues, but supporting the trials.
- 5.2 Consultation and engagement will be undertaken with key stakeholders (including cycling, walking and disability groups), businesses, the police, ward members, MPs and the public in advance of the e-Scooter trial, and communications and engagement plans are being developed to facilitate this. TfWM will lead on the engagement with the public ahead of the trial, supported by Council officers. Engagement with the public will be mainly conducted through a survey that links to TfWM's existing COVID-19 public engagement programme. This ongoing dialogue with stakeholders and communities will help to inform future trial development and whether it should become permanent. If the trial were to be made permanent, further approvals will be sought through a future Cabinet report and will be dependent on permanent changes to national legislation.
- 5.3 Due to the rapid announcement of e-Scooter trials by government, this report was added to the Cabinet forward plan at short notice. This was cleared by the Chair of the Sustainability & Transport Overview and Scrutiny Committee on 4th June 2020. An overview was also provided to the Sustainability and Transport Overview and Scrutiny Committee in respect of e-Scooters on the 27th May.

6 Risk Management

- 6.1 Key risks include safety issues that may arise from the operation of e-Scooters. Discussions with TfWM and DfT are strongly focusing on managing this risk alongside the scooter providers. Engagement with key stakeholders ahead of the trial will also capture safety considerations.
- 6.2 A summary risk register is provided as Appendix A to this report.

7 Compliance Issues:

- 7.1 **How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**
- 7.1.1 The proposals align with policy objectives in the Council Plan 2018-2022 (as updated in 2019), the Birmingham Development Plan, the Draft Birmingham Transport Plan, the Emergency Birmingham Transport Plan, Birmingham Connected, the Health and Wellbeing Strategy, the West

Midlands Strategic Transport Plan “Movement for Growth” and Clean Air/Climate Change Emergency agenda.

7.1.2 The proposal set out in this report will support the Council’s actions to improve air quality, by encouraging greater use of sustainable travel modes.

7.1.3 The proposal supports the Additional Climate Change Commitments agreed by Cabinet on 30th July 2019 following the motion on Climate Emergency passed at the full City Council meeting of 11th June 2019, including the aspiration for Birmingham to be net zero-carbon by 2030.

7.2 Legal Implications

7.2.1 In the United Kingdom, e-Scooters are currently only permitted by the Road Traffic Act 1988 to be used on private land and not on public highways. However, it is now proposed to allow e-Scooters to use the same road space as cycles and electrically assisted pedal cycles, meaning that e-Scooters would be allowed on the road (except motorways) and in cycle lanes and tracks, where possible. Trial e-Scooters will not be permitted on pavements. This will be achieved through amendments to the Traffic Signs Regulations and General Directions 2016. E-scooters will continue to be classed as motor vehicles, meaning requirements to have insurance and the correct type of driving licence will continue to apply. The changes proposed will apply only to e-Scooters legally used as part of trials, for the duration of the trials. E-scooters not used as part of the trials will remain illegal on the road, in cycle lanes and tracks, and on pavements. However, a key aim of the DfT’s e-Scooter trial is to establish whether the Road Traffic Act 1988 legislative position on these matters should be reviewed.

7.3 Financial Implications

7.3.1 Development of the trial, procurement, scheme monitoring and pilot decommissioning costs (i.e. removal of any signs and markings) will be covered by TfWM as part of Future Transport Zone funding from DfT.

7.3.2 Based on the current understanding/proposals for the scheme operation, it is anticipated that there will be no financial implications for the Council other than staff time, which will be funded from existing Inclusive Growth Directorate budgets.

7.3.3 Through necessary agreements the Council will seek to transfer to the provider/s of the service/s responsibility for and the costs of:

- All direct running and infrastructure costs of the e-Scooters as required in the operating model. This will include elements such as docking and charging infrastructure, recharging the devices and associated energy consumption, maintenance; and
- All potential incidental implications, for example costs of recovering vandalised and abandoned devices from locations across the city.

7.3.4 In the unlikely event that cost implications are identified for the Council during the development of the operating model and/or through the procurement process, a suitable funding source will need to be identified and approved through the delegations sought in this report, in order for the scheme to progress. It is noted that the DfT has confirmed that part of the second tranche of the Emergency Active Travel Fund can be used to support the trials. Should the scheme be successful, any permanent scheme will be subject to future decision reports in line with the Council's Gateway and Financial Approvals Framework.

7.4 Procurement Implications

7.4.1 The e-Scooter trial will require either the Council or WMCA to undertake a procurement process for the e-scooter rental scheme. The procurement exercise will result in agreements between the Council/WMCA, operator/s and potentially the DfT. Given the regional nature of the trial and a joined-up approach already presented to the DfT, the preferred option is for the WMCA to lead all procurement and legal activity, with the exception of matters pertinent to individual local authorities.

7.4.2 Discussions are ongoing to formulate the procurement strategy. This will be approved as per the delegation in paragraph 2.3 of this report as required

7.5 Human Resources Implications (if required)

7.5.1 The Council's input will be undertaken using existing Inclusive Growth Directorate resources supported by finance, legal and procurement officers as required.

7.6 Public Sector Equality Duty

7.6.1 It is acknowledged that there are potentially adverse impacts on the protected groups and characteristics under the Equality Act 2010 (in particular people with disabilities), but that these will be addressed with the relevant stakeholders as part of the further development of the e-Scooter trial and consultation and engagement processes proposed.

7.6.2 An Equality Impact Assessment report is attached as Appendix B.

8 Appendices

8.1 List of Appendices accompanying this report:

- Appendix A – Risk Assessment
- Appendix B – Birmingham City Council Equality Impact Assessment

9 Background Documents

- 'Birmingham Mobility Action Plan White Paper; Birmingham Connected': approved by Cabinet on 17th November 2014.

- 'Draft Birmingham Transport Plan': approved for public consultation by Cabinet on 21st January 2020.
- 'Emergency Birmingham Transport Plan': published on 14 May 2020
- 'E-scooter Trials: Guidance for local areas and e-scooter rental operators': circulated by the DfT on 9 June 2020 (**currently draft and confidential**)
- Emergency Birmingham Transport Plan Cabinet Member report, 10th June 2020.