



Cabinet
7 March 2022

**Report from the Strategic Director
Regeneration and Environment**

Authority to enter into a Partnership and Funding Agreement with Uber to expand the Brent Electric Vehicle Charging Point (EVCP) Network and to appointment a Charging Point Operator to install and maintain the EVCPs on behalf of Brent

Wards Affected:	All wards
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt- Appendix A is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	Four Appendix A (exempt) Draft Infrastructure Funding Agreement Appendix B Draft EVCP Locations Appendix C Finance Director Approval of Infrastructure Funding Agreement with Uber Appendix D Equality Analysis
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Annekatrien Dennemann, Principal Transport Planner Spatial Planning 020 8937 3553 Annekatrien.dennemann@brent.gov.uk

1 Purpose of the Report

- 1.1 This report provides an update on the work to expand electric vehicle charging provision in Brent. It asks Cabinet to approve the Council entering into a partnership and funding agreement with the mobility provider, Uber, to further expand the charge point network in the borough.

- 1.2 This report also requests approval to invite tenders in respect of supplying, fitting and maintaining vehicle electric charge points as required by Contract Standing Orders 88 and 89.

2. Recommendations for Cabinet

For Cabinet to approve:

- (i) Brent Council entering into an Infrastructure Funding Agreement with Uber to receive grant funding for the procurement, installation, operation and maintenance of additional on-street electric vehicle charging points in various locations within Brent.
- (ii) Inviting tenders for the supply, installation, operation and maintenance of charge points on the basis of the pre-tender considerations set out in paragraph 8.2 of the report and as required by Contract Standing Orders 88 and 89.
- (iii) To delegate authority to the Strategic Director Regeneration and Environment, in consultation with the Lead Member for Environment and the Lead Member for Regeneration, Highways and Planning, to award a contract(s) to the successful bidder(s) of the project to provide on-street electric vehicle charge points in residential locations for the term of ten years, as specified in the IFA.

3. Background

- 3.1 The borough experiences a range of transport and related challenges, including long-standing issues around congestion, air quality and road safety, as well as growing problems around public health inequalities and climate change. A key priority for the council is to enable greener and more active and sustainable travel choices, with a particular emphasis on enabling an increase in journeys by walking, cycling and public transport whilst reducing the number of journeys made by private vehicles – particularly the most polluting ones. Facilitating the take-up of zero/low-emission vehicles through expanding the infrastructure for electric vehicles to provide more charging points and address concerns about range, is central to achieving this.
- 3.2 At the same time, the move to electric vehicles by car hire drivers resident in the Borough requires the availability of more charging infrastructure to enable drivers to continue in their work.
- 3.3 In partnership with TfL, London Councils, charge point manufacturers/operators and developers, the council has been working to implement an electric vehicle charge point (EVCP) infrastructure across the borough in recent years. However, as the number of residents using/purchasing electric vehicles increases, there is a growing need to provide more charge points and supporting infrastructure, at the same time as minimising the impact on the ever-increasing pressure for parking in the borough.

- 3.4. This report provides details of a funding offer from the mobility as a service/ride hailing company, Uber, for providing new EVCP infrastructure in the borough. It recommends that the council enters into a partnership and funding agreement with Uber for the procurement, installation, operation and maintenance of additional on-street electric vehicle charging points in various locations within Brent, to support residents overall, but in particular those employed in this sector.

4. Overview of Proposal

- 4.1 The Mayor's Transport Strategy set aims to reduce the impact that travel has on London's air pollution levels. As part of this agenda Transport for London aim that all taxis and private hire vehicles (PHVs) will be zero emission-capable by 2033. In 2019, partly in response to tightened environmental and vehicle emissions standards, Uber launched a Clean Air Plan. As part of the plan, Uber is aiming to transition 45,000 vehicles in its UK fleet to fully electric by 2025, including every vehicle operating in London on the Uber App.
- 4.2 In early 2021, the council, along with the London Boroughs of Newham, Redbridge and Tower Hamlets, was approached by Uber, with a view to the company providing funding towards the installation of new on-street electric vehicle charging points across the four boroughs where the most Uber drivers live.
- 4.3 There is a growing need for additional charging facilities, particularly for residents who do not have access to private, off-street parking. There is also a growing demand for new on-street charging infrastructure for the many people who are employed in the taxi and private hire trades and who currently use, or are planning to transition to, an electric vehicle, but have no convenient place to charge it.
- 4.4 Following the completion of a survey among its drivers to understand their current driving habits and ascertain their future EV needs, Uber is prepared to invest circa £5m to fund upwards of 300 new on-street charging points across Brent, Newham and Redbridge – principally for use by its drivers, but also accessible to the wider public. A requirement for up to 280 new on-street charge points has been identified at around 140 locations in Brent, with funding of up to circa £900,000 or a maximum of £1.8m being made available towards the cost of their purchase, installation, operation and maintenance. Further details are set out in the following sections of the report.
- 4.5 Uber's data has confirmed that registered Brent drivers operating via the Uber App, and those working for the numerous independent mini cab firms based in Brent, represent a significant number of workers employed in the PHV sector. Supporting this sector in its transition to EVs through the supply of conveniently located charging facilities links directly to the council's economic objectives to support local employment opportunities. Assisting Uber's drivers to transition to EV's will help to address their low incomes to some extent by reducing their overheads, and thus help to increase their net incomes. Whilst we can't

influence the terms of Uber's employment we hope there will be similar improvements to the terms of their employment contracts with their drivers to follow.

- 4.6 Two important court rulings significantly strengthened the rights of Uber drivers and passengers. In February 2021 the Supreme Court ruled that its drivers should be classed as workers from the time they log on to the app, until they log off, with access to the minimum wage, a workplace pension, an entitlement to breaks and paid holidays. In December 2021 the High Court instructed private hire operators in London, including Uber, to change their business model to contract directly with passengers who book making Uber responsible once bookings are accepted. The judges ruled that the law required a contractual obligation between operators and passengers once a booking is made giving effect to the statutory purpose of ensuring public safety.
- 4.7 Uber states that they are now treating all 70,000 drivers operating on the Uber app in the UK as workers. They further state that since March 2021 all Uber drivers have received holiday pay, automatic enrolment into a pension plan for eligible drivers and at least the National Minimum Wage after accepting a trip request and after expenses. Uber also reached a trade union recognition agreement with GMB in May 2021 ensuring all of its drivers have full union representation. The Mayor has expressed his support for the agreement.
- 4.8 In addition, Uber's current licence to operate in London is subject to strict conditions and requirements and is being closely monitored by TfL.

5. Infrastructure Funding Agreement

- 5.1 The award of funding for new on-street electric vehicle charge point infrastructure is subject to the council entering into an Infrastructure Funding Agreement (IFA) with Uber.
- 5.2 The IFA sets out the various terms and conditions by which the funding will be made available to the council and covers details of the level of funding on offer; specifications and timescales regarding the procurement, installation, operation and maintenance of charge points; and advertising and data sharing arrangements. Further details on the specifics of the IFA are set out in Appendix A to this report (part exempt). The London Boroughs of Newham and Redbridge have confirmed that they will be entering in to very similar IFAs with Uber.

6. Procurement of Charge Points and Operator(s)

- 6.1 On entering the IFA, the council will then undertake a public procurement exercise to appoint a charge point operator(s) (CPO) to install, operate and maintain up to 280 new on-street charge points at various locations across Brent. It is proposed to run a further competition using a suitable framework.
- 6.2 Work on developing the various tender documents is ongoing, but will closely align with the requirements of the IFA as well as similar existing contracts for the installation, operation and maintenance of charge point infrastructure in

Brent. As a minimum, the tender documents will set out these main requirements:

- The number/type of charge points to be installed at each location, with the expectation that the majority will be fast chargers capable of a minimum charge speed of 7kWh;
- Charging costs, including details of tariffs/PAYG prices and payment options available to customers;
- Source of energy to be used to power charge points, with an expectation that only renewable energy sources should be used;
- Arrangements for ongoing maintenance and replacement/upgrade of charge points, including the software behind the charge points;
- Employment and, in support of the green skills agenda, training of available Brent based contractors and staff, to undertake installation and maintenance of charge points;
- Ownership arrangements for charge points at the end of the contract period.

6.3 Following the appointment of an operator(s), further technical work will be undertaken to confirm suitable charge point locations, which will then be consulted upon as part of the required Traffic Management Order (TMO) process. Following installation of a charge point, the CPO will become responsible for its continued operation and maintenance for the duration of the contract. They will also be required to pay the council an annual rent for each site and a share of revenue once the site is operational.

7. Charge Point Locations

7.1 Following consultation with its drivers, Uber has provisionally identified around 140 locations in Brent where there is a requirement for further on-street electric vehicle charging infrastructure – either to support those employees currently with an EV, or to assist those seeking to transition to one.

7.2 Sites are currently being assessed to ascertain whether it is feasible to install charge points at these locations, the type and number of charge points that could be supported, and whether any potential mitigation measures might be required or alternative locations need to be considered. More detailed site assessments will be undertaken following the appointment of a CPO(s) and a final list of locations drawn up.

7.3 When determining appropriate locations for new charging infrastructure, the council will take into consideration a range of factors, including existing/potential parking pressures; road safety considerations; access issues; potential harm to the streetscape; heritage considerations and access to appropriate power networks. Charge points would be installed under Permitted Development rights.

7.4 It is anticipated that almost all charge points will be installed on the public highway and will require the provision of designated parking bays, enforceable via a Traffic Management Order (TMO). Preliminary assessment of potential locations has taken great care to ensure that any loss of existing resident or

pay and display parking bays is avoided wherever possible. Any loss will be kept to an absolute minimum.

8. Delivery Programme and Pre-Tender Considerations

8.1 The table below summarises the proposed next steps and delivery programme for expanding the Brent electric vehicle charging point network in partnership with Uber.

Proposed Next Steps for Expanding the Brent Electric Vehicle Charging Point Network in Partnership with Uber	
January/February 2022	<ul style="list-style-type: none"> – Develop CPO Tender Documents
March/April 2022	<ul style="list-style-type: none"> – Sign Infrastructure Funding Agreement with Uber – Further Competition with a suitable framework provider – Confirm charge point locations and numbers and divide into three batches
May 2022	<ul style="list-style-type: none"> – Appoint CPO(s) – Finalise charge point locations for batch 1 in liaison with CPO
May/June 2022	<ul style="list-style-type: none"> – Prepare technical drawings and consultation documents for batch 1 – Member and Public consultation for batch 1 – Finalise charge point locations for batch 2 in liaison with CPO – Prepare technical drawings and consultation documents for batch 2
June/July 2022	<ul style="list-style-type: none"> – Evaluation of consultation results for batch 1 – Consultation Report for batch 1 – Member and Public consultation for batch 2 – Finalise charge point locations for batch 3 in liaison with CPO (non CPZ Locations)
August 2022	<ul style="list-style-type: none"> – Making of TMO for batch 1 (August – November) – Evaluation of consultation results for batch 2 – Consultation Report for batch 2 – Prepare technical drawings and consultation documents for batch 3
September/October 2022	<ul style="list-style-type: none"> – Member and Public consultation for batch 3 – Making of TMO for batch 2 (September – December)
October/November 2022	<ul style="list-style-type: none"> – Evaluation of consultation results for batch 3 – Consultation Report for batch 3
December/January	<ul style="list-style-type: none"> – Installation of charge points batch 1 – Making of TMO for batch 3 (December – March)
February/ March 2023	<ul style="list-style-type: none"> – Installation of charge points batch 2
March 2023	<ul style="list-style-type: none"> – Installation of charge points batch 3

8.2 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet.

Ref.	Requirement	Response	
(i)	The nature of the works.	In addition to those requirements set out in the IFA, as a minimum the council will require the CPO to undertake the following services: <ul style="list-style-type: none"> • assess and confirm suitability of pre-selected locations for charge points, • assess and confirm suitability of alternative locations for charge points as necessary, • propose suitable charge point models for individual sites as necessary, • prepare technical drawings, • arrange for procurement, delivery, storage, pre-installation site preparations, installation, connection of charge points and making good of site post installation as necessary and • operate and maintain charge points, 	
(ii)	The estimated value.	The total value of the contract with the CPO will be determined by the number and type of charge points to be implemented, but is anticipated to be upwards of £900,000 and up to a maximum of £1.800,000 (excluding any contract extension where agreed closer towards the end of the original contract term).	
(iii)	The contract term.	The charge points are to be installed by 31 st March 2023 and remain operational for a minimum of 10 years with the option to extend the contract as to be confirmed closer to the time.	
(iv)	The tender procedure to be adopted.	Further competition from a legal admissible framework	
(v)	The procurement timetable.	Indicative dates are:	
		Invite to tender	March 2022
		Deadline for tender submissions	April 2022
		Panel evaluation and shortlist for interview	April 2022
		Report recommending Contract award circulated internally for comment	April 2022

Ref.	Requirement	Response											
		Delegated Cabinet approval to Strategic Director	April 2022										
		Voluntary 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers including 5 day call in period	May 2022										
		Contract Mobilisation	w/c 16 th May										
		Contract start date	w/c 23rd May										
(vi)	The evaluation criteria and process.	<p>1. At tender evaluation stage, the panel will evaluate the tenders against the following criteria:</p> <table border="1"> <thead> <tr> <th>Award criteria</th> <th>Weighting (%)</th> </tr> </thead> <tbody> <tr> <td>Quality</td> <td>25%</td> </tr> <tr> <td>Social Value</td> <td>10%</td> </tr> <tr> <td>Price</td> <td>65%</td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table>		Award criteria	Weighting (%)	Quality	25%	Social Value	10%	Price	65%		
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(vii)	Any business risks associated with entering the contract.	<p>The following business risks are considered to be associated with entering into the proposed contract:</p> <ul style="list-style-type: none"> • Difficulties of CPO to source and supply sufficient numbers of specified charge point models within the required timeframe to allow for timely completion of installation period. This risk can be mitigated by identifying suitable alternative charge point models. As set out in the IFA timely communication to Uber of any CPO procurement or delivery delays and proposed action on how delays can be minimised should mitigate against any potential action by Uber against Brent Council in connection with any identified infringement of contractual obligations. • It is possible that general cost inflation could result in a rise in costs of charging devices and their installation. Suitable phrasing of clauses in the contract with the CPO as well as communication with Uber can mitigate against the risk negative implications for Brent Council. • Financial Services and Legal Services have been consulted concerning this contract [and have identified 											

Ref.	Requirement	Response
		the risks associated with entering into this contract set out sections 9 and 10 of the report.
(viii)	The Council's Best Value duties.	Uber's funding offer and the procurement of a charge point operator that will supply, install and maintain the charge points allows Brent Council to expand its network of electric vehicle charging points at no cost to the council represents very good value to the council and Brent residents. The contract delivers on key council aims and objectives with only very minimal impact on its budget.
(ix)	Consideration of Public Services (Social Value) Act 2012	Social Value weighting of 10% will be included in this contract.
(x)	Any staffing implications, including TUPE and pensions.	Existing council staff can deliver project tasks that fall outside those that the CPO will be contracted to perform. There are not expected to be any other staffing implications. See section 9.4 below.
(xi)	The relevant financial, legal and other considerations.	See sections 9.0 and 10.0 below.

8.3 Cabinet is asked to give its approval to these proposals as set out in the recommendations above and in accordance with Standing Order 89.

9.0 Alternative Options Considered

9.1 No alternative options have been considered. The expansion of EVCP provision in the borough forms a key component of the council's current and emerging policies around mitigating climate change, improving air quality and 'greening' transport, but is largely dependent on the provision of third party funding to progress.

10.0 Financial Implications

10.1 There are no significant financial implications for the council arising from these proposals. Up to 50% of the cost of the charging infrastructure, to a maximum of £6,500 per charge point, will be provided by Uber via the IFA, with the charge point operator(s) required to fund the remaining costs. The CPO(s) will also be liable for all operational and maintenance costs over the duration of the concession contract, which is expected to be in place for 10 years.

10.2 There are detailed site assessments to take place, which would determine whether any additional public realm/highways works would be required prior to the charge point installation. Beyond the funding from Uber and that to be provided by any appointed CPO for charging infrastructure costs specifically, there is no additional budget available to fund public realm/highways works prior to installation. Therefore, in the event of the council being unable to find a

suitable location nearby without the associated additional public realm/highways costs, it is recommended not to proceed with the installation in that area.

- 10.3 The total amount of funding being made available to the council will be determined by the number and type of charge points to be implemented, but is anticipated to be upwards of £1.8m and up to a maximum of £3.6m.
- 10.4 Costs associated with the ongoing development of proposals, as well as for undertaking the procurement exercise to appoint a CPO(s) and for planned consultation as part of the TMO process, will be met through existing staff budgets
- 10.5 The council will receive a license fee and a share of the revenue from the CPO for operating charge points in the public highway, details will have to be explored more in detail.

11. Legal Implications

Infrastructure Funding Agreement

- 11.1 The proposal for the council to establish a partnership with Uber by entering into an IFA is permitted by the general power of competence given to local authorities by section 1(1) of The Localism Act 2011, which empowers the council to do anything an individual can do unless prohibited by law and subject to public law principles. Further, section 111 of The Local Government Act 1972 sets out subsidiary powers of local authorities which allow the council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 11.2 Legal Services have reviewed the IFA and confirm that the terms of the funding agreement are acceptable from a legal perspective.
- 11.3 In accordance with Financial Regulation 9.1.1 of Part 2 of the Constitution approval will be required from the Finance Director. A draft, unsigned copy of the aforementioned approval report has been enclosed at Appendix C of this report prepared for signature following Cabinet approval.

Agreement with CPO

- 11.4 On entering the IFA, Officers recommend the use of a framework to procure the supply, installation, operation and maintenance of the electric charge points on behalf of the Council. The PCR 2015 allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the framework need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework and utilising the terms and conditions set out in the framework.
- 11.5 The council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement

established by another contracting authority, where call off under the framework agreement is approved by the relevant Chief Officer to include confirmation that there is adequate budgetary provision, and provided that the Director of Legal, HR, Audit and Investigations has advised that participation in the framework is legally permissible.

- 11.6 The proposed procurement for the appointment of the CPO is subject to the council's own Standing Orders in respect of Medium Value Contracts and Financial Regulations given the procurement is valued at less than £2.4 million. The Director of Finance has authority to approve the procurement of the contract using a framework.
- 11.7 As the proposed procurement of the appointment of the CPO is from a framework, there is no strict requirement for the council to observe a 10 day standstill period under the PCR 2015 although the award of the contract will be subject to the council's usual call-in process.

12. Equality Implications

- 12.1 The public sector duty set out in Section 149 of the Equality Act 2010 requires the council, when exercising its public functions, to have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 12.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. PCG is referred to the contents of this report for information, in particular paragraphs 12.4 – 12.5 of this report.
- 12.4 Road transport is the main source of nitrogen dioxide (NO_x) and a significant contributor to particulate matter (PMs) in Brent, two of the most dangerous pollutants, which contribute to the premature death of nearly 10,000 people a year in London. Motor vehicles are currently responsible for 49% of NO_x emissions and 30% of PM₁₀ emissions in the borough. Facilitating the uptake of low/zero emission vehicles through increased provision of electric vehicle charging facilities provides significant opportunities to improve air quality in parts of the borough and will benefit the health of everyone who lives or works in or visits Brent.

12.5 As charge points are to be located on the public highway, they will be consulted on. Any aspects of individual charge point locations that might have the potential to disproportionately or negatively impact on individuals or group of protected characteristic will be addressed at this stage.

13. Consultation with Ward Members and Stakeholders

13.1 The project will require statutory consultation to be undertaken for the making of Traffic Management Orders at all locations where charge points and associated infrastructure is to be installed. Where designated parking bays are required, or proposals result in the removal or relocation of residents parking, consultation with local residents and businesses will be undertaken. All final charge point locations are to be agreed with the Lead Member for Environment prior to the commencement of installation works.

14. Human Resources/Property Implications (if appropriate)

14.1 There are no implications for council staff arising from entering into the IFA or tendering the CPO contract.

15. Public Services (Social Value) Act 2012

15.1 The council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

15.2 A weighting of 10% is allocated for Social Value and will be included within the final tender documents. This will be assessed and scored as part of the evaluation. The commitments are contractually required to be delivered and therefore have a monetary value against each element. Commitments will be monitored by the contract manager and in circumstances where the Social Value falls below commitment the council can call upon the monetary values in which case the funds will be diverted to the LBB Social Value pot, which is dedicated to supporting local businesses within the borough.

Report sign off:

Alan Lunt

Strategic Director of Regeneration & Environment