

## Notice of Non-Key Executive Decision

<b>Subject Heading:</b>	Granting of Lease to Connected Kerb Ltd
<b>Decision Maker:</b>	Imran Kazalbash – Director of Environment
<b>Cabinet Member:</b>	Councillor Barry Mugglestone Cabinet Member for Environment
<b>SLT Lead:</b>	Neil Stubbings – Strategic Director Place
<b>Report Author and contact details:</b>	Daniel Douglas Team Leader Transport Planning <a href="mailto:daniel.douglas@havering.gov.uk">daniel.douglas@havering.gov.uk</a> 01708 433220
<b>Policy context:</b>	Mayor’s Transport Strategy 2018 Local Implementation Plan 2019 (LIP3) Havering Local Plan 2021
<b>Financial summary:</b>	This Project is being funded through an external (OZEV) grant and match funding from the Appointed Charge Point Operator.
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	Places Overview & Scrutiny Sub Committee
<b>Is this decision exempt from being called-in?</b>	The decision will be exempt from call in as it is a Non key Decision

### The subject matter of this report deals with the following Council Objectives

X People - Things that matter for residents

X Place - A great place to live, work and enjoy

X Resources - A well run Council that delivers for People and Place.

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the granting of a lease to Connected Kerb Ltd to install and operate Electric Vehicle Charging Points in Council operated car parks across the borough.

### AUTHORITY UNDER WHICH DECISION IS MADE

#### Part 3 of the Council's Constitution

#### 3.3.3

##### General powers

1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

##### Contract Powers

4.2 To award all contracts with a total contract value of below £1,000,000 other than contracts covered by Contract Procedure Rule 16.3.

### STATEMENT OF THE REASONS FOR THE DECISION

#### Background

1. The Government has previously allocated £20m to support the installation of electric vehicle charge points, through the Office of Zero Emission Vehicles (OZEV).
2. Councils were able to bid for funding through the On-Street Residential Charge Scheme (ORCS) for charge points that will allow those who cannot charge at home and visitors to the Borough to charge an electric vehicle. The ORCS scheme is the most appropriate opportunity to deliver charge points in those settings using central Government funds.
3. Delivery of Electric Vehicle Charging Point Infrastructure is a priority for the Council and is identified in the Havering Local Plan, Air Quality Acton Plan and Adopted Climate Change Action Plan. The Council is currently developing an Electric Vehicle Charging Point Strategy and Implementation Plan.

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4. Through the ORCS funding mechanism, the Council has received two funding allocations to deliver Electric Vehicle Charging Point Infrastructure across the borough. Specifically, this is:
  - £176,390 for 68 Electric Vehicle Charging Points (34 double socket chargers) to be installed in a number of Council owned car parks across the borough
  - £170,100 to deliver up to 80 on street charging points to be connected to lamp columns across the borough.
5. The funding the Council has received from OZEV accounts for a portion of the total value of the two projects. For both the car park and on street projects the appointed Charge Point Operator (CPO) will be required to provide the remaining costs.
6. The Council has received up to 75% of the funding allocated by OZEV to date, with the remaining funding to be received once the project has been delivered.

### **Procurement Process**

7. Following award of funding, the next stage in the project was to undertake a procurement process to appoint a charge point operator. The contract would cover the supply, delivery and installation of the charging points and for the operation and maintenance of the charging infrastructure for an initial 15 to 20 year period.
8. Following two unsuccessful attempts at appointing a Charge Point Operator via a mini- tender competition, the decision was taken to appoint a CPO through a Direct Award through the Kent County Council Framework.
9. In September 2023, Connected Kerb Ltd were formally awarded the EV Charging Point infrastructure contract. This decision was recorded through as a Key Executive Decision that was signed by the Director of Place.

### **Granting of a Lease**

10. Since the formal award, Officers have been negotiating the “small print” details of the contract. One issue that has arisen during these discussions, is the arrangements that will need to be in place, to enable Connected Kerb Ltd to operate and maintain their EV Charging Point infrastructure within the Council owned car parks.
11. Connected Kerb Ltd have indicated to Havering that given they will maintain ownership of the charging infrastructure for the lifetime of the Contract, they will require a leasing arrangement for the car parks that the equipment will be installed in.
12. Charging Points will be installed in the following Council Owned car parks:

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Balgores Square	1 charger (2 points)
Billet Lane	3 chargers (6 points)
Cherry Tree Lane	3 chargers (6 points)
Fentimen Way	6 chargers (12 points)
Hilldene Avenue	6 chargers (12 points)
Main Road	6 chargers (12 points)
Oldchurch Rise	3 chargers (6 points)
Station & Tadworth Parade	4 chargers (8 points)
Woodhall Crescent	2 chargers (4 points)

13. Officers have sought advice from Havering Council property Lawyers on this matter. They have advised that the granting of a lease or leases would be the most appropriate mechanism to proceed with.

14. The granting of a lease to Connected Kerb Ltd for the car park chargers is seen as the most beneficial to the Council for the following reasons:

- The length of the concession agreement
- When the infrastructure concerned involves underground cabling/connections.
- It would be better to have a single lease with nine schedules as opposed to nine separate lease agreements for each car park.

15. The Council has agreed a form of wording with Connected Kerb for the Clause to be contained within the Contract pertaining to the leasing matter which is set out below.

*“The Customer grants the Supplier a licence to access and undertake its obligations under this Agreement on the Sites.*

*The Customer shall grant a lease in a form agreed between the Parties in respect of any Equipment located on Customer land (as opposed to public highway) prior to commencement of Installation Works and will provide details of the Customer’s registered title to such Site. Such leases to be at a peppercorn rent for a minimum of 15 years from and including the date of issue of the final Certificate of Completion pursuant to clause 2 such that all leases granted pursuant to this Agreement will be co-terminus. If, and on each occasion, this Agreement is extended then the leases shall be renewed for the same period.”*

### Next Steps

16. Following sign off of this Executive Decision, the Council’s legal team will progress with resolving the remaining outstanding matters contained within the Contract. In addition, the Council’s legal team will prepare a Heads of Terms Lease Agreement to be signed by both parties.

17. The Contract itself will then move to be formally signed and sealed by both parties.

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**OTHER OPTIONS CONSIDERED AND REJECTED**

18. The option of not granting a lease to Connected Kerb was rejected following advice from the Councils Property Lawyers.
19. The issuing of a license to Connected Kerb was considered and rejected because this approach would only be appropriate for agreements of up to a year in respect of disposing of an estate.

**PRE-DECISION CONSULTATION**

20. The Council's property lawyers and legal services department were consulted prior to this decision being made. In addition the matter was discussed at the Environment Procurement Board.

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Daniel Douglas

Designation: Team Leader Transport Planning

*D. Douglas*

Signature:

Date: 24<sup>th</sup> May 2024

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**Part B - Assessment of implications and risks**

**LEGAL IMPLICATIONS AND RISKS**

21. The granting of a lease to Connected Kerb Ltd is considered the most appropriate approach to take by the Council's Property Lawyers and legal services department.
22. Following sign off of this Executive Decision, a Heads of Terms agreement will be completed for the Leasing of EV Charge Point Infrastructure in Council owned car parks.
23. The Council has several legal powers to dispose of property by way of a lease. The general power of disposal is found at section 123 of the Local Government Act 1972, which gives a local authority the power to dispose of land in any manner it wishes provided the land is disposed of for the best consideration that can reasonably be obtained.
24. In deciding whether a disposal meets the requirements of Section 123 of the Local Government Act 1972 and that the best consideration reasonably obtainable is being achieved, it is generally accepted that disposal by way of an open market process or on the basis of an open market valuation will satisfy the best consideration test.
25. Property Services and Highways have both reviewed the proposed heads of terms and confirmed they represent the best terms reasonably available on the open market. Legal Services will review the title to each of the proposed sites to confirm there are no impediments to granting a lease."

**FINANCIAL IMPLICATIONS AND RISKS**

26. ORCS funding mechanism has allocated the Council two funding allocations, £176,390 for 68 Electric Vehicle charging points, £170,100 to deliver up to 80 on-street charging point infrastructure across the Borough.
27. Previous analysis evidenced the selected carparks were experiencing low usage and therefore would result in minimal loss of car parking income.
28. There will be no additional costs incurred as a result of granting of a Lease to Connected Kerb.

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

29. There are no Human Resource implications as a result of this decision.

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**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

30. The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

31. The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce.

32. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

33. Delivery of Electric Vehicle Charging Points across the borough will support residents who have purchased Electric or Hybrid vehicles and encourage those residents wishing to switch to electric vehicles from Petrol or Diesel cars to do so.

34. An equalities assessment has not been carried out as there are no implications at this time

**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

35. Encouraging the use of Electric Vehicles through delivery of Charging Points will support the Council's ambition to improve air quality. Improving the air that Havering residents' breath has associated health benefits.

**BACKGROUND PAPERS**

None

**APPENDICES**

None

**Non-key Executive Decision**

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed



Name: Imran Kazalbash – Director of Environment

Date: 24<sup>th</sup> May 2024

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_