

REPORT TO: CHIEF EXECUTIVE

DATE: 30 MARCH 2020

TITLE: FUTURE BUS SHELTER PROVISION

PORTFOLIO HOLDER: COUNCILLOR DANNY PURTON, PORTFOLIO HOLDER FOR ENVIRONMENT

LEAD OFFICER: SIMON FREEMAN, HEAD OF FINANCE AND DEPUTY TO THE CHIEF EXECUTIVE (01279) 446228

CONTRIBUTING OFFICER: DEAN JAMES, OPERATIONS MANAGER (01279) 446687

This is a Key Decision
It is on the Forward Plan as Decision Number I010350
Call-in Procedures may apply
This decision will affect no ward specifically.

RECOMMENDED that:

- A** Subject to formal contract, Harlow Council enters into a partnership agreement with all Essex local authorities and Essex County Council to provide a countywide bus shelter advertising contract.
- B** Subject to formal contract, Harlow Council transfers ownership of all Council owned bus shelter assets to Essex County Council as part of the partnership agreement.
- C** Authority be delegated to the Head of Finance and Deputy to the Chief Executive, in consultation with the Portfolio Holder for Environment, to negotiate and legally complete the necessary documents.

REASON FOR DECISION

- A** To enable an enhanced bus stop experience to be provided for all bus users of Harlow.
- B** To ensure that any income generated through the contract for Harlow is invested into the Harlow bus infrastructure network.

BACKGROUND

1. The bus network plays an integral part in making people's lives better and in supporting the local economy. In 2010, there were over five billion bus trips in the UK and in 2012, Essex residents made 45 million trips on local bus routes.
2. In the 'Autumn 2018 Bus Passenger Survey', Essex County Council (the County Council) scored an overall satisfaction rating of 80 per cent (very/fairly satisfied), ranking as one of the worst performers in the country (ranked 25 of 26 of county councils surveyed). From this ECC identified that bus shelter provisions made up an integral part of the bus journey.
3. Bus shelter provisions are fragmented across Essex with the majority of shelters falling within the ownership of parish/town councils, district/borough councils, the County Council and private providers Clear Channel/JC Decaux. Local residents perceive this fragmentation as showing clear lack of accountability and blurs lines on how residents can report issues about their local bus shelter. This can lead to bus shelters falling into disrepair and further decreasing overall satisfaction for bus journeys.
4. Harlow contains eight per cent of the total number of bus shelters (ranked joint sixth of 12 districts) and 14 per cent of all advertising bus shelters (ranked joint second of 12) across Essex. The ownership of all shelters within Harlow falls under the responsibility of Harlow Council (69 shelters), the County Council (10 shelters) and Clear Channel (78 shelters). Clear Channel bus shelters are the only bus shelters that contain advertising.
5. The advertising bus shelter market is usually dominated between two suppliers, Clear Channel and JC Decaux. Both organisations own a majority of large urban city and town contracts for the provision of advertising shelters. These contracts are usually heavily weighted in favour of the supplier with little or no benefit to the local authority, yet the supplier makes a substantial return from advertising revenues.
6. Harlow Council (the Council) has been in contract with Clear Channel for the provision of advertising bus shelters since March 2001 with the contract due to expire in March 2020.

ISSUES/PROPOSALS

7. In late 2018, the County Council recognised that to increase customer satisfaction across the county, bus shelter provisions would need to improve. To do so, it is proposed that the County Council enter into a partnership agreement with all 12 district/borough/city councils that will clearly set out all responsibilities, shared objectives and the decision-making process throughout the life of the venture.
8. The current fragmented perception of ownership will be resolved under the proposed agreement as the County Council will become the single point of

contact for all bus shelter related matters, providing confidence to residents as this provides clear accountability.

9. The agreement will allow the County Council to implement a long-term Essex-wide contract (of a minimum 10 years) that incorporates all maintenance, replacement and supply of all bus shelters and the generation of advertising income.
10. By aggregating all bus shelters countywide under one contract, the County Council will have the purchasing power to work with advertising suppliers that will:
 - a) Provide a significantly enhanced bus stop experience for users which improves the visual quality of residents environment;
 - b) Ensure that all income generated from the contract would be ring-fenced to invest and maintain the upkeep of the bus infrastructure network;
 - c) Provide a rolling replacement and upgrade programme throughout the contract life to a set and consistent standard, with a view to increasing shelter provision countywide;
 - d) At minimum be cost neutral, but aspiring to deliver savings to existing budgets.
11. The County Council's vision for an enhanced future bus shelter estate is that new bus shelters will be "digital by default" where economically viable to do so. Any new shelters, including old shelters identified as part of a County Council led £3 million countywide capital programme of replacement, will be financially benchmarked against a number of criteria, such as, number of services, expected passenger numbers, potential advertising income and cost of installation of utilities. Benchmarking criteria is to be agreed by all stakeholders prior to being implemented. Digital shelters will include digital advertising and real time passenger updates.
12. Advertising under the contract will adhere to the County Council advertising policy which will follow rules as set by the Advertising Standards Authority (ASA). There are some restrictions on adverts that will not be accepted and these include:
 - a) Political organisations and messaging, including any adverts related to elections, referendums or similar;
 - b) Payday lenders;
 - c) Tobacco products, including Vaping;
 - d) Alcoholic beverages;

- e) Pornography;
 - f) Any advert that is likely to damage the reputation of the County Council.
13. The ASA also requires that any products High in Fat, Sugar and Salt (HFSS) cannot be advertised within 100 metres of a school; with the specific aim to limit exposure of these to young people.
 14. Any spare/unsold advertising capacity will be offered to the County Council and all districts free of charge. This could be utilised to promote Harlow events and initiatives or provide general information to the public.
 15. All future advertising bus shelters are expected to deliver an annual minimum income guarantee. Income received will then be ring-fenced to invest and maintain the bus infrastructure network, including a requirement for a rolling replacement and upgrade throughout the life of the contract.
 16. There are 1279 shelters across Essex that would be in scope of the contract and it is intended that a replacement and upgrade programme should deliver 100 new shelters per year.
 17. All new/upgraded shelters will be to a set specification designed by the County Council that will provide a consistent look and feel across the estate. Flexibility will also be built into the specification when providing shelters in different areas. For example, shelters located in the urban environment will be different in design to those set in more rural environs.
 18. New/upgraded shelters will include, as minimum standards:
 - a) A light/s;
 - b) Accommodation of a bus stop flag pole and timetable case;
 - c) Seating;
 - d) Requirements to adhere to all accessibility and equality legislation;
 - e) Delivering social value; and
 - f) Supplier to obtain all necessary planning permission from the local authority.
 19. ECC will also consider, in partnership with the district/borough/city councils, local requirements for new/upgraded shelters. For example, Wi-Fi, solar power, USB charging points.
 20. All shelters covered by the contract will be subject to set repairs and maintenance arrangements such as fortnightly cleaning (plus deep clean every

six months), making shelters safe to industry standards following road traffic collisions and vandalism.

21. Ad-hoc requests for new/upgraded shelters under a new contract can be made by all local authorities. Provision for this process to submit requests will be made using the Local Highways Panel, subject to a formal process being devised.
22. It is expected that local authorities will also have the ability to request for bus shelters to be moved should local bus routes change during the life of the contract.
23. The County Council have been made aware of the future opportunities the Harlow and Gilston Garden Town (HGGT) development will have on Harlow in terms of the creation of new transportation corridors. The County Council have committed to including this within the current scope of the Partnership Agreement. Whilst HGGT will not be legally bound by the Agreement between the Council and the County Council, it was noted at a Board meeting of 10 February 2020 that “the Garden Town is collaborating with the County Council on the roll out of bus shelter improvements across the County to develop a Garden Town specific shelter design.”
24. A County Council led procurement exercise is expected to commence by March 2020. Should there be a positive outcome, the new countywide contract would commence from October 2020.

Asset Transfer

25. In order for the future advertising contract to be managed successfully, the County Council have proposed to enter into an asset transfer agreement with individual districts that will transfer all district owned bus shelters into the County Council’s ownership. This would affect 69 bus shelters owned by the Council.
26. The Council does not hold any asset valuation information concerning bus shelters in their current condition and so accounts for them as “nil value.”
27. By transferring all of the Council’s shelters to the County Council, this would reduce the Council’s financial expenditure by up to £10,000 per annum.
28. 78 Clear Channel owned shelters located in Harlow are currently under contract with the Council. This contract would have to be terminated prior to a County Council countywide contract being completed so that the existing shelters can remain in situ. The Council receives no advertising revenue from Clear Channel from the current contract. Similarly, Clear Channel pays no rents to the Council for the siting of shelters.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

As outlined in the report.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

Implications are set out within the report along with the potential revenue savings.

Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive

Housing

As outlined in the report.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

None specific

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

The intention of the proposed contractual arrangement is that Harlow Council retains the freehold of the bus stop sites and that all structures and equipment currently situated on the land will be transferred to ECC. Consistent with that intention, all structures and equipment to be placed on these sites in the future are intended to be owned by ECC.

However, whilst in accountancy terms, land can be separated from buildings and other features affixed to it, the general rule in terms of land law is that whatever building, structure or other fixture is attached to land becomes part of the land.

Therefore, on the basis of the information contained in this report, the shelters and any other permanent structures and equipment would form part of the freehold.

On the basis outlined above, the preliminary legal view is that the proposed contractual arrangement would, in legal terms, constitute a lease of each site by virtue of ECC having control of each site (including exclusive possession and control of electrical boxes, USB charging points and wi fi connections) for a specified period (10 years). Such leases would also involve statutory continuation beyond the specified period unless the required statutory formalities to exclude security of tenure are also agreed and undertaken.

Any contractual arrangement should include the right of Harlow Council to require the re-location of sites where access to any adjoining land may become desirable or necessary for development purposes.

Analysis should be undertaken to identify which sites:

- (1) are general fund land
- (2) are housing land
- (3) are adopted public highway
- (4) are dedicated public highway
- (5) may require planning consent (e.g. for advertising).

Statutory Best Value due diligence and any consultation requirements will require to be undertaken.

Author: Simon Hill, Head of Governance

Appendices

None.

Background Papers

Autumn 2018 Bus Passenger Survey

<https://d3cez36w5wymxj.cloudfront.net/wp-content/uploads/2019/03/13201611/Bus-Passenger-Survey-Autumn-2018-overall-report.pdf>

Glossary of terms/abbreviations used

ASA – Advertising Standards Authority

HFSS – High in Fat, Sugar and Salt

HGGT – Harlow and Gilston Garden Town