

# Brighton & Hove City Council

## Policy & Resources Committee

## Agenda Item 81

**Subject:** Bus & Taxi Shelters Concession Agreement

**Date of meeting:** 1<sup>st</sup> December 2022

**Report of:** Executive Director Economy, Environment & Culture

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**Ward(s) affected:** All

### For general release

#### 1. Purpose of the report and policy context

- 1.1 A procurement process is required for the Bus & Taxi Shelter advertising concession.
- 1.2 The current contract with the incumbent, Clear Channel UK has expired, and tender specifications are being drawn up to tender a new long-term contract. It is proposed to modernise the contract to reflect recent technology and opportunities, sustainability, and social value, and to request an increase in concession income.
- 1.3 There are 478 bus shelters in the city portfolio, excluding 8 Heritage style shelters which are cleaned & maintained by “in house”
- 1.4 The shelter advertising portfolio consists of 358 6 sheet paper bus shelter panels & 50 Digital bus shelter panels.
- 1.5 While the procurement process takes place a further temporary extension of the contract is required for up to 18 months. Draft terms are being agreed with the current provider.

#### 2. Recommendations

- 2.1 That Committee delegates authority to the Executive Director Economy , Environment & Culture to tender for a new Bus & Taxi Shelter Advertising Concession for a period of 8 years with an option to extend for a further period up to 24 months.
- 2.2 That Committee agrees an extension to the current concession contract for up to 12 months with an option to extend for a further 6 months while the procurement process takes place.

### **3. Context and background information**

- 3.1 In January 2014, P&R Committee gave authority to procure and grant a bus and taxi shelters advertising concession agreement for a term of ten years with an option to extend for a further three years. Since then, three unsuccessful attempts to engage with the market due to non-compliant bids being submitted.
- 3.2 Between January & March 2018 - The Council tendered a fourth time with greater incentives such as extending the length of the contract, reducing the capital investment, reducing the minimum requirement for annual fixed income; removing the requirement for additional income from new shelters installed and slightly reducing some performance targets.
- 3.3 Two tenders were received neither of which was compliant. In correspondence received several reasons were given by potential bidders including the level of income and the scope of the capital investment in shelters requested by the council and lack of clarity in the specification.
- 3.4 Tender documents were prepared to be launched in February 2020 under a process of Competitive tendering with negotiation. This was abandoned due to the Covid19 pandemic.
- 3.5 The Council has extended the contract a further two times with most recent extension expiring 5th September 2022.
- 3.6 The reason a full tender has not been conducted to date was due to unstable market conditions over the last few years. A mixture of Covid, Brexit, financial instability, and international trade dislocation. It was therefore not reasonable to expect potential providers to produce a credible bid.
- 3.7 An assessment of the route to market was considered by P&R in January 2019. The proposed methodology was that of competitive dialogue with potential bidders. It is proposed to change that route to one of open tender.
- 3.8 The competitive dialogue procedure was introduced into the public contracts regulations to provide an improved method for awarding complex contracts, e.g., for overly complex and risky projects where bidders will have a key role in defining the solution. However, since the pandemic there has been soft market testing with potential bidders that has resulted in greater clarity in the council specifications and what bidders are likely to be able to provide. It is felt that the likelihood of complaint bids is high and therefore the case for competitive dialogue procedure has been diluted
- 3.9 A contract which is longer than 5 years is required because bidders would be looking to reshape the advertising estate, making significant investment in rolling out digital screens, upgrading existing digital screens where needed and removal of the unwanted or obsolete classic advertising panels. The average useful life of a digital screen is circa 7.5 years. Aligning the

contract length to this period would drive the most economically advantageous outcome to the City. A shorter duration contract would require write down the investment on the screens over a shorter period, reducing the value to be returned

#### **4. Analysis and consideration of alternative options**

- 4.1 Policy & Resources committee have previously considered whether to bring contracts for advertising, cleaning & maintenance “in house” with immediate effect. The officer recommendation was and still is against this because BHCC would need to be in a position to manage the cleaning and maintenance of shelters, to replace shelters following road traffic collisions, including “hit and run” incidents, and commission its own advertising for all 358 6 sheet paper bus shelter panels & 50 Digital bus shelter panels. It is likely that we will need multiple contracts, and the creation of a dedicated multi-disciplinary team. This is not recommended as the multiple contracts would create additional complexity and cost and the creation of a new team would be a considerable financial risk as it would not be known in advance whether the advertising income would cover the cost, whereas the existing model provides, in normal times, an annual income in addition to inclusive cleaning and maintenance.
- 4.2 There is a risk in specifying a long-term contract is that there is a lack of flexibility in response to economic shocks. However, the mitigations are that asset management can be planned over the long term, the concession fee will be index linked and non-performance of the contract can, in extreme cases result in termination and retendering with another contractor.
- 4.3 Another risk is the proliferation of on street digital advertising, e.g., a number of redundant telephone boxes have recently been converted to digital media screens. Another advertising company has just requested planning permission for free standing digital screens. As well as adding to street clutter, if permitted, these screens will reduce the commercial viability of the bus shelter advertising concession. The benefit of the digital media panels is that they are incorporated into existing bus infrastructure, rather than stand-alone and can also carry sustainable transport messages

#### **5. Community engagement and consultation**

- 5.1 A report was taken to the Procurement Advisory Board (PAB) on 17 October 2022 and the advice and recommendations have been considered in the writing of this report.
- 5.2 PAB members raised three main issues. These were firstly in connection with banning the advertising of high fat, salt and sugar foods (HFSS), following on from a recent notice of motion at Full Council. Members also asked that more information is provided about technology and innovation improvements, more explanation of how digital panels contribute to sustainability and to quantify the amount of “voidage” time in a typical contract year. These are questions answered in points 5.3 and 5.4 below

- 5.3 On the issue of HFSS foods this will be taken into consideration as part of the tender. On information regarding “voidage” time, in 2021/22 the council received 22% of all digital screen space, amounting to 24,013, 380 “plays” with each play lasting six seconds. Officers are very proactive in requesting use of unbooked screen time.
- 5.4 PAB members also asked for additional detail on sustainability and energy efficiency particularly in regard to the current energy crisis. The UK’s Out of Home advertising sector accounts for 0.04% of the UK’s total energy usage. Electricity usage reduction is a contract priority and bidders will have to set ambitious targets annually, continually building on previous energy efficiencies that have been made to get to Carbon Net Zero.
- 5.5 In the current contract Adshel Live 75” screens are most common. The annual energy consumption of this type of screen is 3,300 kWh. The median electricity consumption of a UK household is 3,100 kWh so it is reasonable for members to highlight this. At the start of 2022 these screens were re-programmed to be powered down to a low-energy mode between the hours of 12am and 5am each day.
- 5.6 Other measure include transitioning to lower energy LED lighting, saving c.60% per bulb, adaptive brightness, dimming the screens according to light levels in the surrounding environment and installing new shelters with low-power, smart lighting, which is motion activated, and powered by solar panels
- 5.7 As part of any new contract, we will be seeking efficient displays such as the ‘Amscreen Waferlite’ which uses up to 50% less energy than the previous model.

## **6. Conclusion**

- 6.1 Authority to tender is required in order that the Council can offer a viable concession agreement that will provide scope for capital investment in the city’s bus & taxi shelter infrastructure and a sustainable income for the next 8-10 years.
- 6.2 An open tender process should enable bidders to produce a credible and viable bid

## **7. Financial implications**

### **7.1**

The proposed procurement of the bus shelter concession agreement is subject to compliance with the Council’s Contract Standing Orders and Financial Regulations. The procurement process will be prepared on a basis to award to the most economically advantageous bid and to ensure effectiveness and will therefore support achieving value for money. Future financial implications of this service will be dictated by the procurement process.

The Council currently receives net income from the service provider for fulfilling the requirements of the concession agreement which is reflected in the current revenue budget. This figure is not revealed in the report as it is commercially sensitive information that would make the report excluded from the press and public.

The recommendation to extend the current concession contract for up to 12 month with a further 6 month extension has no direct financial implications. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process. A decision not to extend would have significant financial implications as advertising and maintenance of the advertising assets would cease resulting in revenue overspends from lost advertising incomes.

Name of finance officer consulted: John Lack Date consulted 14.11.22:

## **8. Legal implications**

- 8.1 The Concession Contracts Regulations 2016 permit a concession contract which is longer than 5 years in cases where a longer duration is justified on the basis of the time that a concessionaire could reasonably be expected to recoup the investments made at the outset and during the contract, together with a return on invested capital. In this case the concessionaire will be required to make a significant investment which justifies the proposed term.

Name of lawyer consulted: Alice Rowland Date consulted: 9/11/22

## **9. Equalities implications**

- 9.1 Bus shelters will be designed to a specification that benefits all users, but with particular regard to persons with reduced mobility. Advertising messages will conform with equality legislation and where possible free advertising campaigns will be run that promote equality and celebrate diversity including anti-racism messages. There will be a target that racist or other offensive graffiti will be removed from shelters within 24 hours of reporting.

## **10. Sustainability implications**

- 10.1 Ten percent of the quality evaluation percentage will be attributed to Sustainability and will be a scored requirement in the evaluation of any future tender process
- 10.2 The "Out of Home" advertising market consists of 0.04% of the total power consumption in the UK; The average roadside digital 6-sheet uses approx. 1.5x the energy of the average UK home (4500kWhrs) & the roadside digital six sheet network is now powered down between 12pm – 5am to save energy consumption.

- 10.3 A requirement for lower power digital panels will be included in the new tender specification, manufacturers are competing to make ultra-energy efficient screens because this is what the industry wants to buy, and recent technology is expected to come with dramatic reductions in power usage
- 10.4 Digital panels enable a greater turnover of adverts which operate at six second intervals. They do not require visits by staff to insert new paper adverts saving on time and resources.

**11. Other Implications** [delete any or all that are not applicable]

**Social Value and procurement implications**

- 11.1 Ten percent of the quality evaluation percentage will be attributed to Social Value and will be a scored requirement in the evaluation of the tender process.

**Crime & disorder implications:**

- 11.2 None identified directly in relation to this report

**Public health implications:**

- 11.3 A notice of motion was put forward at Full Council that all Council advertising estates should exclude advertising for High Fat Sugar & Salt products. Currently advertising on HFSS brands amounts to 34% in a typical year, in retail and city centre locations and close to fast food outlets. There is a ban on fast food takeaway adverts near schools.
- 11.4 A contract extension could only contain this term if agreed by the current contract holder and it would impact on advertising revenues and therefore City Transport income unless there was a transition period to alternative brands and products (about six months).
- 11.5 The motion referred to Transport for London already having done this without a noticeable impact on revenues. However, the TFL estate covers London Underground and Overground stations, Docklands Light Railway and other building venues as well as Bus Shelters so they were able to absorb the impact much better.
- 11.6 It is not recommended that Policy & Resource Committee mandates a ban on HFSS until the matter has been considered by the Adult Social Care/Public Health and Health and Wellbeing & any other relevant committees, including financial implications. Officers can update tender specifications in response to any recommendations

**Supporting Documentation**

None



