

Forward Plan reference number: FP/458/06/19

Report title: Proposed Essex-wide Bus Shelter Contract	
Report to: Cabinet	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 25 February 2020	For: Decision
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County Divisions affected: All Essex	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To outline the background to bus shelter provision across the County of Essex and detail recommendations for a decision on the future management of the estate.

2. Recommendations

- 2.1 To approve entering into a Collaboration Agreement with the twelve Borough, City and District councils in Essex.
- 2.2 To approve procurement of a concession contract for the maintenance, the supply of bus shelters and advertising on those shelters for a 10 year period, with a 5 year extension option, with an estimated value of £10m to £30m over its lifetime.
- 2.3 That approval to award the contract is delegated to Executive Director, Public Health and Place.
- 2.4 To adopt the proposed Advertising and Sponsorship Policy for the Highways and Transportation services in the form appended to this report.
- 2.5 To note that under these arrangements ECC will become owner of all local authority bus shelters in Essex (other than those owned by parishes).
- 2.6 Agree that the Director, Highways and Transportation may procure and maintain a dynamic purchasing system for the procurement of suppliers to install and sell non-bus shelter advertising as set out in paragraph 3.20 of this report.

3. Summary of issue

- 3.1 In 2018/19 there were 43 million bus passenger journeys in Essex. The Council has an ambitious strategy to increase bus usage across the County by 1% year on year; recognising the important future that sustainable transport has in reducing congestion, carbon and air quality emissions and improving social mobility.
- 3.2 To support this ambition, the Council's vision is to develop *"a sustainable and quality bus infrastructure network that provides consistency of experience, is commercially focussed and future proofed"*.
- 3.3 The procurement of an Essex-wide Bus Shelter contract will be key in delivering this vision; by providing an improved bus stop experience for existing and prospective bus passengers and leveraging significant advertising potential to generate income that will support this venture.
- 3.4 Essex scores lower than the average score for all bus stop experience indicators than other Two-tier areas in the UK (Transport Focus, 2018). It is likely that bus usage could be higher if people were less exposed to the weather and if there was better provision available at bus stops.
- 3.5 ECC, unlike many Local Authorities around the UK, has maintained a high investment in local services, to the sum of £8 million per annum (2019/20 budget) along with the operation of a concessionary fares scheme which exceeds the minimum statutory requirement.
- 3.6 Bus shelter provision is currently patchy, inconsistent and uncoordinated across the County. Shelter ownership is split across multiple organisations and the Council does not benefit from any advertising income. ECC owns many bus shelters throughout the county. None of these have advertising space. The City, Borough and Districts also own several bus shelters. In addition, some districts have arrangements with an advertising contractor where the contractor provides, owns and maintains bus shelters and sells advertising space on it. ECC does not have an arrangement of this nature, all such arrangements are between contractors and Borough, City or District Councils. This means that in some areas there is a modern stock of bus shelters but in others the shelters are old and are not always well maintained. The real-time bus information system displays and bus stop flags are owned by ECC even though they may be attached to bus shelters owned by others.
- 3.7 To tackle these issues, over the last year the Council has been working collaboratively with all 12 district, city and borough councils across the County to bring the estate together and create a cohesive and attractive proposition for the market.
- 3.8 This partnership working will be formalised by way of a Collaboration Agreement. Under the proposed agreement and the proposed arrangements with the new contractor:

- * ECC will be the Lead Party and will procure a 'concession' contract with a supplier.

- * ECC will become the owner of all district council owned bus shelters in Essex
 - * The bus shelters currently owned by contractors – mainly those used for advertising - will be removed by the outgoing contractor unless they are transferred to ECC.
 - * ECC will use capital money to buy new bus shelters from the new contractor to replace those removed and, subject to funding being available, in additional locations.
 - * The Contractor will sell advertising, where viable, on the shelters and maintain all shelters. In selling advertising, the contractor will comply with our advertising policy and ECC will retain right to direct removal of any advertisement it considers to be unsuitable.
 - * ECC will receive a minimum income and there will be a profit-sharing mechanism where ECC and the contractor split income.
 - * Any surplus funds will be spent on bus infrastructure.
- 3.9 In addition to the Council becoming the owner of all bus shelters currently owned by district councils, it would be agreed that bus shelters in all new locations would similarly be provided via the contract. This will provide a larger estate to leverage the best commercially-focussed, concession contract from the market.
- 3.10 For clarity, Parish and Town Council owned shelters are not included in the scope of the contract. The contract will enable those Councils to purchase shelters through it, via the current and established Local Highways Panel process, enabling an alignment, over time, with the new, consistent bus shelter estate desired.
- 3.11 A market engagement event was held in March 2019. This was to gain insight from suppliers in the market to inform and shape the contract specification; in order to present a viable and attractive proposal.
- 3.12 The contract would require the contractor to undertake a pro-active maintenance programme for shelters, to ensure a higher quality standard than is currently consistently achieved across Essex. ECC only carries out reactive cleaning of its own shelters.
- 3.13 The implementation of this contract forms part of the Council's wider approach to increasing sustainable transport use across the County. The increase in bus shelters across the County aides the comfort of bus passengers and increases the likelihood of those services being accessed by new users.
- 3.14 To ensure delivery of what is proposed the Council will adopt an Advertising and Sponsorship Policy relating to Highways and Transport advertising. The successful supplier will be required to adhere to this policy in conjunction with the Advertising Standards Authority (ASA) rules. The proposed policy meets this requirement and clearly outlines the Council's expectations, without being too restrictive and damaging the viability of the contracts commerciality.

3.15 Any and all advertising posted as part of this contract will be in accordance with the policy; which prohibits certain adverts, for example, political messages, payday lenders and smoking. The Collaboration Agreement with district councils makes clear that the contract will make use of the Council's proposed Advertising and Sponsorship Policy.

3.18 Key benefits for users of the bus shelters the Council expects are:

- Improved more consistent look and feel to the bus shelter estate; through contracting one supplier and requiring a standard specification as sites are replaced
- Increased shelter provision across the County; by generating income to fund future purchases and refurbishing, where possible, replaced shelters for use at current bus stops without shelter provision
- An excellent user experience, including key areas such as accessibility, by having a consistent and standard specification

3.19 In summary, the Essex-wide Bus Shelter contract and the requested capital investment, will improve the overall bus stop experience and lead to increased bus patronage, as well as replacing taxpayer funding with commercial funding. In turn, this will improve mobility of many Essex residents and directly impact the following Strategic Priorities within the Council's Organisation Strategy:

- Help people in Essex prosper by increasing their skills
- Enable Essex to attract and grow large firms in high growth industries
- Improve the health of people in Essex
- Help to secure stronger, safer and more neighbourly communities
- Help to secure sustainable development and protect the environment
- Facilitate growing communities and new homes
- Limit cost and drive growth in revenue.

3.20 The Council is also exploring other opportunities to sell advertising. In order to facilitate this, it is proposed to create a dynamic purchasing system which will facilitate awarding contracts for new sponsorship or advertising opportunities. DPS offers a simpler procurement process, is easier for suppliers to use; has less resource impact for ECC, allows shorter procurement timescales and increases market engagement and participation. This will enable ECC to maximise the benefits of this opportunity. This will be advertised through OJEU and evaluated through a standard selection questionnaire. It will be delivered through existing corporate procurement systems. Suppliers will need to meet minimum standards and be accredited to join. Suppliers will be able to join at any time. Suppliers will be able to bid for a diverse range of opportunities through mini competitions allowing flexibility. This system will not be used for the provision of bus shelters as this will be a separate contract. Any new advertising opportunity will be subject to approval in a formal decision.

4. Options

4.1 Several options were considered in reaching the recommendations for Cabinet to approve.

4.2 Option 1 – Do nothing (not recommended)

The Council could choose to take no action and continue to reactively fund and maintain its own estate.

Pros	Cons
Capital investment not required	Missed income generation opportunity
Asset responsibility for majority of shelters remains with district local authorities	Ongoing Council funded maintenance and capital costs of our shelter estate
	Arguable that shelters sitting on Highways land but owned by Tier 2 authorities remain a cost risk for ECC, if they fall into disrepair or damaged in a Road Traffic Collision
	Missed opportunity to improve consistency and quality of estate, thereby possibly increasing bus usage
	The number of shelters is reducing as some districts are removing damaged or life expired shelters and not replacing them
	Continued reactive cleaning regime for ECC-owned shelters

4.3 Option 2 – The Council funds capital investment (Recommended)

In collaboration with District, Borough and City councils, this option is to put a long-term Essex-wide contract in place which incorporates the provision of all maintenance, replacement and supply of shelters and is cost neutral at minimum, paid for from the generation of income through advertising.

Pros	Cons
Income leveraged from advertising – unachievable as individual authorities	Capital investment required by the Council
Use advertising income to sustain the Council's estate	Asset responsibility sits with the Council whereas at the moment others own 75% of the bus shelters
A modernisation of the estate – improving customer experience for residents and by extension – increased and sustainable bus patronage	
Planned, programmed and sustainable cleaning regime – offering a better bus stop experience,	

aiding efforts to increase sustainable transport journeys	
Estate rationalisation and reduced street clutter – improved street scene environment for residents and improved accessibility	
Positive message to residents – showing clear commitment, and demonstration thereof, to sustainable bus transportation	
Collaborative approach – bringing all Tier 2 authorities onboard to the agreement, with a single brand and message	

4.4 **Option 3 – Replace all shelters in-scope of the contract (not recommended)**

Equivalent to the description of Option 2, but with a higher Capital Investment by the Council to fund the replacement of every shelter in-scope of the contract.

Pros	Cons
Income leveraged from advertising – unachievable as individual authorities	Reduced ROI compared to the recommended option due to the requirement for greater capital investment
A modernisation of the estate – improving customer experience for residents and by extension – increased and sustainable bus patronage	Council funded maintenance and capital of our existing shelter infrastructure would have to be maintained
Planned, programmed and sustainable cleaning regime – offering a better bus stop experience, aiding efforts to increase sustainable transport journeys	Likely to narrow the supply market to two suppliers, due to the volume of installations required, reducing competition
Estate rationalisation and reduced street clutter – improved street scene environment for residents and improved accessibility	There are shelters that are of a suitable standard and do not need replacing during the lifetime of the contract
Positive message to residents – showing clear commitment, and demonstration thereof, to sustainable bus transportation	Potential for residents to perceive the investment as a waste of taxpayer monies
Collaborative approach – bringing all tier 2 authorities onboard to the agreement, with a single brand and message	

4.5 **Option 4 – Put Capital Expenditure responsibility on the winning supplier, with a profit-share or minimum income guarantee (not recommended)**

As per the description for option 2 or 3, but the capital expenditure would be funded by the winning supplier, instead of the Council.

Pros	Cons
The Council wouldn't have to fund the requested capital investment	Limiting the market – research has shown that other Local Authorities who took this approach received between zero and two bids. This resulted in those authorities being pushed into unfavourable contract arrangements
	Opaque costs – a minimum income guarantee model would not enable clear assessment of costs as part of evaluation, as suppliers would only provide an income figure. Therefore resulting in the Council being unable to identify whether we're receiving value for money
	Likely to result in no income being achieved due to the significant capital investment required and the risk that the supplier would price into delivering that scale of investment, resulting in a negative ROI and NPV This is evidenced in similar contracts across the Country.

The financial appraisal for these options is included in Confidential Appendix A.

5. **Issues for consideration**

5.1 **Financial implications**

5.1.1 Please refer to Confidential Appendix A for details related to this paper's finances.

5.2 **Legal implications**

5.2.1 The Concession Contracts Regulations 2016 are applicable to those contracts where the value exceeds £4,733,252 and which the authority awards to a company on the basis that that company has the right to use the services or works to recoup its investment and make a commercial return.

5.2.2 The Local Government (Miscellaneous Provisions) Act 1953 allows the Council to provide bus shelters. Advertisement consent under the control of advertisement regulations is required for new advertisements.

5.2.3 The Collaboration Agreement with the district authorities includes provision for the transfer to be made, where applicable.

5.3 Procurement

5.3.1 The Council proposes to run a competitive procurement to award a concession contract for the maintenance, the supply of bus shelters and advertising on those shelters. This will be via a single-stage process.

5.3.2 The proposed procurement process is anticipated to commence in March 2020, with bids to be received by May 2020. It is intended that the contract will be awarded in July 2020 in order for the service to commence in October 2020.

5.3.3 It is recommended that the evaluation criteria used for this procurement is 70% price and 30% quality, because the specification clearly defines the requirements of the contract. Having engaged with the market it is expected that at least three bidders will tender for this opportunity who have considerable experience within this area of work. Within the 30% quality element of the tender there will be a Social Value assessment broadly covering areas such as, spend within the local economy, volunteering and the circular economy. (This is will equate to 5% of the 30% quality).

5.3.4 Following the successful completion of the procurement process, the Executive Director for Place and Public Health will award the contract to the successful bidder in accordance with the outcome of the evaluation as set out in the procurement documents.

6. Equality and Diversity implications

6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

- 7.1 Confidential Appendix A – Finances
- 7.2 Equality Impact Assessment (EQulA)
- 7.3 Essex County Council – Highways and Transport Advertising and Sponsorship Policy

8. List of Background papers

- 8.1 Transport Focus Survey 2018

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	

In consultation with:

Role	Date
Mark Carroll, Executive Director for Place and Public Health	30 January 2020
Executive Director for Corporate and Customer Services (S151 Officer)	30 January 2020
Stephanie Mitchener	
Director, Legal and Assurance (Monitoring Officer)	30 January 2020
Paul Turner	