Decision Pathway – Report

PURPOSE: Key decision

MEETING: Cabinet

DATE: 25 February 2021

TITLE	**Bristol Bus Shelter Advertising Concession Agreement**	
Ward(s)	Citywide	
Author: Stephen Pick		**Job title:** Team Leader, Sustainable Transport Projects and Infrastructure
Cabinet lead: Cllr Kye Dudd		**Executive Director lead:** Stephen Peacock
Proposal origin: *BCC Staff*		
Decision maker: Cabinet Member **Decision forum:** *Cabinet*		

Purpose of Report:

1. To approve a 12-month extension to the Bus Shelter Advertising Concession Agreement with Clear Channel UK Ltd (CCUK), on the same terms as the current agreement.
2. To authorise the Executive Director for Growth & Regeneration to invite tenders for, and to subsequently award, a new contract for the Bus Shelter Advertising Concession Agreement, in consultation with the Cabinet Member for Transport and Energy, the Green New Deal, Clean Air Zone planning.

Evidence Base

Context : The existing Bus Shelter Advertising Concession Agreement expires on 31st March 2021. Cabinet approval to procure a new Bus Shelter Advertising Concession Agreement was granted on 2nd Oct 2018.

At the start of 2020, work was well underway on the re-tendering of the Bus Shelter Advertising Concession Agreement, with a view to going out to the market in May 2020 and awarding in September 2020, to allow a 6-month transition period in the event of a new provider. COVID-19 put an immediate halt to all work on this. The pandemic caused a swift collapse in the outdoor advertising market and, with the timescale for recovery unclear, the view was reached that going out to tender was unlikely to result in value for money for the Bus Shelter Advertising Concession Agreement, due to the market uncertainty, and that it would, therefore, be prudent to delay the procurement.

The timing of advertising the Bus Shelter Advertising Concession Agreement is of the utmost importance; ideally, we want as much certainty as possible when we go out to the market. The assessment of the consultant supporting us with the re-tendering project is that an extension of up to 12 months is the right approach. The tender could then be advertised during the summer of 2021, which would give the outdoor advertising market more time to recover from the impact of COVID-19, and should provide greater opportunity to maximise the income from the new Bus Shelter Advertising Concession Agreement. An extension would also provide the time and space to properly assess the state of the market and future prospects, whilst maintaining continuity of income.

Issue for consideration :

1. Decline in "6-sheet" (paper) advertising – CCUK's analysis before COVID-19 indicated that 6-sheet sales were weakening, with market preference for digital formats. It is anticipated that this is a trend that will continue. CCUK have been notified by the Valuation Office Agency that they intend to significantly increase business rates on 6-sheet panels.
2. Consideration of the Council's proposed Advertising and Sponsorship Policy, which is to be presented for consideration at Cabinet on 9 March 2021. This proposes a set of restrictions, most notably no advertising of

High Fat, Salt and Sugar (HFSS) products on Council-owned sites. The view of the consultant advising BCC on the Bus Shelter Advertising Concession is that restricting advertising of particular products could have a negative impact on the perceived 'attractiveness' of future tenders, as well as on associated revenues received. It should, however, be noted that despite predictions of large revenue losses after a Healthier Food Policy (High Fat, Salt or Sugar ban) was implemented across the Transport for London network, TfL's revenue actually increased. Any potential commercial impact resulting from further advertising restrictions should also be balanced with the opportunities of reducing the risk of public health harm and cost associated with the proposed restricted products and services.

3. As the Policy is not yet approved, it will not be applied to the proposed 12-month extension of the Bus Shelter Advertising Concession Agreement but, if approved, it will be applied in the full procurement exercise later in 2021.

Cabinet Member / Officer Recommendations:

Cabinet:

1. To agree a 12-month extension to the current Bus Shelter Advertising Concession Agreement to CCUK, from 1 April 2021 to 31 March 2022, on the same terms as the current contract.
2. To authorise the Executive Director for Growth & Regeneration to invite tenders for, and to subsequently award, a new contract for the Bus Shelter Advertising Concession Agreement, in consultation with the Cabinet Member for Transport and Energy, the Green New Deal, Clean Air Zone planning.

Corporate Strategy alignment: A Bristol Bus Shelter Advertising Concession Agreement is aligned with Theme 3 - Well Connected, and Theme 4 – Wellbeing, set out in the Corporate Strategy, as well as the principle of using our assets wisely to generate a social and/or financial return. An integrated, accessible and sustainable public transport system is essential to the city's future, and bus shelters are a key part of making an attractive end-to end journey.

City Benefits: Income derived from a Bus Shelter Advertising Concession Agreement is used to pay for the supply, installation and maintenance of bus shelters across the city; this ensures that the shelters do not fall into a state of disrepair and that the Council can continue providing high quality, accessible public transport facilities. Our assessment shows that bus shelters, and associated raised kerbs, are beneficial to equalities groups. Growth in bus patronage helps the city mitigate the impacts of congestion and air poor quality.

Consultation Details:

External

- CCUK : consultation with the incumbent advertising concessionaire has resulted in agreement, in principle, to a 12-month extension, on the same terms as the current Bus Shelter Advertising Concession Agreement.
- Out of Home Media Consultancy (OHMC) : Discussions have taken place, since April 2020, regarding the impact of COVID-19 on the outdoor advertising market and on the timing of the retendering of the Bus Shelter Advertising Concession Agreement, as well as about a 12-month extension to the current Concession Agreement.

Internal

- Legal – regular consultation has taken place since April 2020.
- Procurement – consultation has taken place since April 2020.
- Finance – consultation has taken place during the preparation of this report.
- Transport Management Team – consulted on 23/11/20 and 11/01/21.
- Executive Director, Growth & Regeneration – consulted on 08/12/20. It was proposed in this meeting that a break-clause be inserted in the Bus Shelter Advertising Concession Agreement; this has now been included as follows : "*The Council shall be entitled to terminate the Agreement on and with effect from 1 October 2021 on the provision of not less than three months' prior notice."*
- Cabinet Member for Transport, Energy & New Green Deal – consulted on 14/12/20 and 18/01/21.
- EDM – 13/01/21.

Background Documents:

Corporate Strategy

Bristol Bus Shelter Advertising Concession Cabinet report 2nd October 2018

Revenue Cost	**No additional**	**Source of Revenue Funding**	N/A
Capital Cost	**No additional**	**Source of Capital Funding**	N/A

One off cost ☐ Ongoing cost ☐	**Saving Proposal ☐ Income generation proposal ☒**

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:
This report seeks to:
1) renew the existing Bus Shelter Advertising Concession Agreement with CCUK for 12 months to 31 March 2022
2) To authorise the Executive Director for Growth & Regeneration to invite tenders for, and to subsequently award, a new Advertising Concession starting from 1 April 2022

CCUK is the incumbent provider, and under the existing contract delivers 40k per month fixed rental, and c. 15k variable rental per month based upon 2019 actuals. Renewal under the existing terms will therefore generate 660k income at 2019 levels, of which 480k will be fixed. This high proportion of fixed income protects BCC from the current volatility of the market which is likely to continue in the first half of calendar year 2021.

BCC offered CCUK a reduction in their fixed rental income in 2020/21. CCUK have subsequently demonstrated that despite the impacts of COVID-19, they have still returned a positive contribution from the current contract in 2020/21. Therefore finance recommend that no reduction to the rentals is considered in the renewal for 2021/22.

Given the uncertainty of the current environment surrounding the impact of COVID-19, it is unlikely that running a tender process at the current point in time would deliver best value for money to BCC. Therefore the renewal of the contract under existing terms for 12 months will allow BCC to continue to generate fixed income, and run a tender at a later point that will receive better value responses than at the current time.

The proposed approach minimises BCC's exposure in the short term to BCC income loss, and allows time for the market to settle to a position when best value for money can be achieved by a tender process.

Finance Business Partner: George Palmer, Finance Business Partner, Growth and Regeneration 07/01/21

2. Legal Advice: Advertising is not a public function and therefore does not fall within the scope of the Concession Contracts Regulations 2016 (Ocean Outdoor UK Ltd v Hammersmith and Fulham LBC). On this basis, a twelve month direct award is permissible, irrespective of the value of the concession. It will though be in the council's interests to run an open competition for this concession at such time as the market permits in order to ensure that value for money is obtained.

Legal Team Leader: Eric Andrews, Team Leader, Legal 08/01/21

3. Implications on IT: No anticipated impact to IT Services.

IT Team Leader: Simon Oliver, Director – Digital Transformation 15/01/21

4. HR Advice: There are no HR implications evident in this report.

HR Partner: Celia Williams, HR Business Partner – Growth and Regeneration 27/01/21

EDM Sign-off	Stephen Peacock	13th Jan 2021
Cabinet Member sign-off	Cllr Kye Dudd	20th Jan 2021
For Key Decisions - Mayor's Office sign-off	Mayor's Office	27th Jan 2021

Appendix A – Further essential background / detail on the proposal	
Appendix B – Details of consultation carried out - internal and external	**NO**
Appendix C – Summary of any engagement with scrutiny	**NO**
Appendix D – Risk assessment	**NO**
Appendix E – Equalities screening / impact assessment of proposal	**YES**

Appendix F – Eco-impact screening/ impact assessment of proposal	**YES**
Appendix G – Financial Advice	**NO**
Appendix H – Legal Advice	**NO**
Appendix I – Exempt Information	**NO**
Appendix J – HR advice	**NO**
Appendix K – ICT	**NO**
Appendix L – Procurement	**NO**