

**EXECUTIVE MEMBER - REGENERATION**

<b>Date:</b> Tuesday 17th August, 2021
<b>Time:</b> 12.00 pm
<b>Venue:</b> Council Chamber

**AGENDA**

1. Bus Shelter Maintenance and Advertising Contract 3 - 12

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Monday 9 August 2021

MEMBERSHIP

Councillor E Polano (Chair)

**Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Susie Blood, 01642 729645, [susie\\_blood@middlesbrough.gov.uk](mailto:susie_blood@middlesbrough.gov.uk)**

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<b>Report of:</b>	<i>Councillor Eric Polano, Executive Member For Regeneration Richard Horniman, Director of Regeneration</i>
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<b>Submitted to:</b>	<i>Single Executive Member Meeting – 17 August 2021</i>
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<b>Subject:</b>	<i>Bus Shelter Maintenance and Advertising Contract</i>
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**Summary**

<b>Proposed decision(s)</b>
<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>The Executive Member for Regeneration approves the publication of a VEAT notice (Voluntary Ex-Ante Transparency Notice, which can be published when a contracting authority has chosen a particular route to market) of the Council’s intention to award a five year contract in respect of Bus Shelter Maintenance and Advertising; with Clear Channel.</li> </ul>

<b>Report for:</b>	<b>Key decision:</b>	<b>Confidential:</b>	<b>Is the report urgent?<sup>1</sup></b>
<i>Decision</i>	Yes	N/A	No

<b>Contribution to delivery of the 2021-24 Strategic Plan</b>		
<b>People</b>	<b>Place</b>	<b>Business</b>
<i>The proposal will enable bus users in Middlesbrough to continue to have clean, safe and modern waiting facilities that are conveniently located for ease and public safety. This ensures that Middlesbrough residents can access employment, education, retail and leisure opportunities by sustainable transport.</i>	<i>The proposal will improve accessibility to key services and facilities by sustainable forms of transport, thereby improving the health and safety of Middlesbrough residents. Bus Shelters will be regularly cleaned and maintained, so as not impact on place making and public realm in each ward across the town.</i>	<i>By improving connectivity and accessibility, the proposal will contribute to the resilience of the local economy, thereby ensuring that the transport network does not act as a barrier to future economic growth.</i>

<b>Ward(s) affected</b>
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<sup>1</sup> Remove for non-Executive reports

*Bus shelters are currently located in all wards across the town and there are currently no plans to install new ones. Ward members have always been keen to ensure bus users are safe and have appropriate waiting facilities for the level of bus services within their wards.*

### **What is the purpose of this report?**

1. To seek Executive Member approval to publish a VEAT notice of the Council's intention to award a 5 year contract with Clear Channel for Bus Shelter Maintenance and Advertising, as the current contract has been extended a number of times and a long-term agreement is required to provide both guaranteed maintenance of the shelters and income for advertising.

### **Why does this report require a Member decision?**

2. As this proposal will require the publication of a VEAT notice, the award of a contract and given that more than two wards will be effected, an Executive Member decision is, therefore required to allow the scheme to be taken forward to the implementation stage.

### **Background**

3. Middlesbrough Council is contracted with Clear Channel to deliver the Street Furniture, which includes the delivery and maintenance of 154 non-advertising shelters, 154 advertising bus shelters and 10 freestanding units across the town at no cost to the Council in relation to staffing or maintenance.
4. Clear Channel own all the shelters and purchased them as part of the original contract award and are fully responsible for all advertising, repair, maintenance and replacement. The contract was initially set up by Cleveland County Council, with an update taking place in 2001 by Middlesbrough Council. The contract nets the Council an income of £50,000 (plus RPI) per annum, which is currently equating to approximately £60,000. Clear Channel value the current asset range at £2.20 million and would remove all shelters if the contract was not continued.
5. In 2018 this contract was reviewed by Methods Consultants advising that the current contract was not achieving the income it should and as part of that process other added value benefits that Middlesbrough Council receives were highlighted and equated to approximately £231,000 details as follows:
  - a. £50 000 - Annual Income
  - b. £57 200 - Free advertising
  - c. £18 130 - 49% retention of business rates
  - d. £53 000 - Saving from maintenance costs advertising
  - e. £53 000 – Saving from maintenance costs of non-advertising shelters
6. The Council has had to extend the current contract a number of times and there was a long-standing ambition to create a Tees Valley contract to ensure that all bus shelters and information were unified across the region. Middlesbrough was to be the lead authority for the procurement, with some capital investment from TVCA to ensure the region would be in a stronger position in terms of capital ownership of the shelters.

7. This approach had been supported by the Tees Valley Transport and Advisory Group (TAG) and was underway when the pandemic forced all parties to extend their respective arrangements due to any future advertising contract being significantly reduced to flexible / home working and lower footfall in town centres.
8. Whilst the Council had not been able to secure an agreement from Clear Channel to increase income, it was still believed that as result of lockdown easing, that the advertising market would return to previous levels. As a result, the Council recently met with Clear Channel to discuss future options. They confirmed that digital advertising is increasing in Middlesbrough and presented a proposition to the Council of increased digital advertising screens along key, town centre sites. The increased sites would result in more income to the Council, along with a review of existing shelter provision to identify if stops are still required.
9. This proposal is to continue an individual contract with Middlesbrough Council and not the aforementioned regional contract. Clear Channel identified that capital investment in shelters would not provide a fundamental change to any position regarding a regional approach, as cleaning and maintenance would still be required on a 3<sup>rd</sup> party owned shelter.
10. The proposal from Clear Channel to the Council is;
  - a. five year term contract extension. This is made on the basis that the current shelter estate is fit for purpose and has a minimum useful life of five years, reducing unnecessary additional production of shelters with assets fit for purpose and disruptive street works.
  - b. In consideration of this extension period, Clear Channel will continue to service and maintain the shelter stock, including the phased replacement of one shelter, which we believe will require replacing in due course due to its age. Additionally, they will address any aesthetic requirements as part of our ongoing maintenance programme.
  - c. Additionally, the proposal is to increase the current annual rental payments to £80,000 from the current rental of £61,449.30 per annum (inc RPI). The intention is to develop additional digital screens over the extended contract term. For each additional screen Clear Channel build, they will pay £2,500 per annum. The objective, if the advertising market starts to recover, would be to build an additional 20+ screens over the first two years, which could yield a further £50,000 per annum when complete.
11. The Council provided a counter proposal for increased income in excess of the proposal, which Clear Channel has confirmed is not possible.
12. This was recently discussed at TAG and the group asked if the Council was going to proceed with this option, or extend for an additional year and try to combine in one contract and potentially incorporate closer working with operators through the impending new Bus Partnership.
13. Clear Channel has confirmed this is possible, but at present there does not appear to be any clear benefit for Middlesbrough Council in this proposal and any future income proposal may not be to what has recently been proposed.

14. Legal, Procurement and the Transport & Infrastructure Service have met on numerous occasions to discuss this contract and if the proposal was acceptable then a VEAT notice would be published, this would then provide 30 days to understand if the other competitor in the market would challenge. This is a compliant procurement route in line with the Public Contract Regulations.

15. A contract will only be entered into with Clear Channel only in the event that no challenge is received from the publishing of the VEAT Notice.

### **What decision(s) are being asked for?**

16. It is recommended that:

The Executive Member for Regeneration approves the publication of a VEAT notice (Voluntary Ex-Ante Transparency Notice, which can be published when a contracting authority has chosen a particular route to market) of the Council's intention to award a five year contract in respect of Bus Shelter Maintenance and Advertising; with Clear Channel.

### **Why is this being recommended?**

17. The Procurement and Transport services are recommending that the Council accepts the new proposal from Clear Channel for a five year contract extension, allowing for future growth opportunities moving forward.

### **Other potential decisions and why these have not been recommended**

18. The other potential decisions that have not been recommended include:

- a) Do nothing. This is not recommended, as the current contract has been extended a number of times. If the Council does not renew with a long-term agreement, there will be no guaranteed maintenance of the shelters and income for advertising.
- b) Reassessing a regional contract with other Tees Valley authorities. The previous discussions were unsuccessful in bringing together, one collective Tees Valley contract due to the covid-19 pandemic. As a result, individual extensions were sought from each local authority. Clear Channel confirmed to the Council that their revised proposal would likely not be possible as a collective contract, due to the time required to seek a regional contract via competitive tender.

### **Impact(s) of recommended decision(s)**

#### ***Legal***

19. There are no legal issues associated with this proposal as it is utilising a compliant procurement route in line with the Public Contract Regulations and is fully compliant with Council Contract Procedure Rules.

## ***Financial***

20. The proposal has been reviewed by the service area Finance Business Partner who is in agreement in terms of increased income to the Council, de-risking any post-pandemic market forces that could affect a single year contract extension e.g. a reduction in bus patronage that could affect advertising income in the following five year period.

## **Policy Framework**

21. The decisions recommended within this report align fully with the Council's policy framework.

## ***Equality and Diversity***

22. It is not anticipated that any protected groups will be impacted upon negatively as a result of implementing the revised proposal from Clear Channel. Please see attached Equality Impact Assessment contained within the appendix.

## ***Risk***

23. The contract will be delivered in line with the Council's established risk management protocols. Appropriate measures will be put in place to ensure that all risks associated with the scheme are minimised.

## **Actions to be taken to implement the decision(s)**

24. Council officers will commence the implementation of the revised proposal upon approval.

## **Appendices**

25. Equality Impact Assessment.

## **Background papers**

26. N/A.

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Template for Impact Assessment Level 1: Initial screening assessment

<b>Subject of assessment:</b>	<i>Bus Shelter Maintenance and Advertising Contract</i>			
<b>Coverage:</b>	The scope is overarching as it is town wide.			
<b>This is a decision relating to:</b>	<input type="checkbox"/> Strategy	<input type="checkbox"/> Policy	<input type="checkbox"/> Service	<input checked="" type="checkbox"/> Function
	<input type="checkbox"/> Process/procedure	<input type="checkbox"/> Programme	<input type="checkbox"/> Project	<input type="checkbox"/> Review
	<input type="checkbox"/> Organisational change	<input type="checkbox"/> Other (please state)		
<b>It is a:</b>	<b>New approach:</b>	<input type="checkbox"/>	<b>Revision of an existing approach:</b>	<input checked="" type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<ul style="list-style-type: none"> <li>Key aims, objectives and activities - To renew the current bus shelter maintenance and advertising contract across the Local Authority boundary. The current contract covers the cleansing, maintenance and advertising revenue for the 318 total sites within Middlesbrough. This will result in the continuation of Clear Channel providing both a regular and reactive maintenance programme for the next five years.</li> <li>Statutory drivers – The Council has a statutory duty to provide public transport information to the public. This duty is discharged both here for information being displayed at each stop, along with all electronic timetable information located on the Connect Tees Valley website. The current provision of shelters in Middlesbrough are accessible by groups with protected characteristics such as disability. This will also continue within the new contract.</li> <li>Differences from any previous approach – There are no differences from the previous approach, as the proposal is the renewal of an existing contract.</li> <li>Key stakeholders and intended beneficiaries – The key stakeholders are any member of the public using a bus shelter in Middlesbrough, the bus operators providing services and also the Council due to it receiving some advertising space to promote public health campaigns all year round.</li> <li>Intended outcomes – that the Council renews its current contract for a guarantee of five years, ensuring all shelters are cleaned and maintained, as well providing a guaranteed income to the Council during the aforementioned period. All advertising will conform to Council policy.</li> </ul>			
<b>Live date:</b>	August 2021			
<b>Lifespan:</b>	August 2021 – August 2026			
<b>Date of next review:</b>	August 2025			

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<b>Human Rights</b> Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are no concerns that the proposal is relevant to human rights.
<b>Equality</b> Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Public Sector Equality Duty (PSED) requires that when exercising its functions the Councils must have due regard to the need to:-</p> <ul style="list-style-type: none"> <li>• eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>• advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and</li> <li>• foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul> <p>In having due regard to the need to advance equality of opportunity, the Council must consider, as part of a single equality duty:</p> <ul style="list-style-type: none"> <li>• removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li> <li>• taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it; and</li> <li>• encouraging people who share a protected characteristic to participate in public life or in any other activity in which participation is low.</li> </ul> <p>There are no concerns that the proposal could adversely impact on any groups or individuals because they hold one or more of the protected characteristics. The current shelter provision in Middlesbrough is accessible by individuals with protected characteristics such as a disability and advertising meets prescribed standards.</p>
<b>Community cohesion</b> Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are no concerns that the proposal could impact negatively on community cohesion. Advertising is required to meet prescribed standards. The current contract does not impact negatively and this proposal is a renewal of the current contract over a five year period.

\* Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.

Screening questions	Response	Evidence
<p><b>Next steps:</b></p> <ul style="list-style-type: none"> <li>➤ If the answer to all of the above screening questions is No then the process is completed.</li> <li>➤ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed.</li> </ul>		

<b>Assessment completed by:</b>	Craig Cowley	<b>Head of Service:</b>	Sam Gilmore
<b>Date:</b>	19/7/21	<b>Date:</b>	19/7/21

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