

 <b>Executive 18<sup>th</sup> March 2009</b>		<b>Agenda Item No.</b>
<b>Title:</b>	Future maintenance of bus shelters within Warwick District	
<b>For further information about this report please contact</b>	Roger Jewsbury Head of Engineering Services	
<b>Service Area</b>	Engineering Services	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006</b>	NO	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>	Schedule of Bus shelter locations	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes no. 129

<b>Officer/Councillor Approval</b>		
With regard to officer approval all reports <u>must</u> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Relevant Director	23/02/09	Bill Hunt
Chief Executive	26/02/09	Chris Elliott
CMT	26/02/09	Chris Elliott
Section 151 Officer	26/02/09	Mary Hawkins
Legal	24/02/09	Peter Oliver
Finance	24/02/09	Mike Snow
Portfolio Holder(s)	02/02/09	Michael Kinson
<b>Consultation Undertaken</b>		
<b>Final Decision?</b>	Yes	
<b>Suggested next steps (if not final decision please set out below)</b>		

## **1. SUMMARY**

This report identifies the history and responsibility for the maintenance of bus shelters within the District and consideration on how the delivery of this non – statutory service could be provided.

## **2. RECOMMENDATIONS**

- 2.1 To give 'Clear Channel' (formally Adshell) 12 months written notice that the Council will not be extending the original 1995 agreement for the bus shelters they provide and maintain in exchange for free advertising in the Public Highway. The locations of these shelters are contained in Appendix 1.
- 2.2 To consult with relevant Town and Parish Council's on whether they are prepared to take over the current condition and maintenance responsibilities for the twenty four bus shelters owned by the Council. The locations of the Council's shelters are contained in Appendix 2.
- 2.3 To approve the subsequent transfer of any bus shelters together with their associated maintenance responsibilities, to those Parish and Town Councils who are in agreement to deliver this service.

## **3 REASONS FOR THE RECOMMENDATIONS**

- 3.1 There are four organisations who currently maintain bus shelter in the District, namely;
  - those maintained by 'Clear Channel' (formally Adshell) under the agreement made between the Council and Adshell dated 19<sup>th</sup> April 1995.
  - twenty four shelters which fall outside the Adshell contract and which the District Council currently maintain.
  - County Council provided and maintained shelters on their quality bus corridors, via their agreements with third party suppliers.
  - certain Parish Council's in the District also maintain shelters in their own administrative area.
- 3.2 Recommendation 2.1 is suggested because the Council has no control over the future of the bus shelters which formed part of the 'Clear Channel' agreement which was made with the Council at a time when it was the agent for the County Highway Authority.
- 3.3 Officers consider that termination of the Highways Agency in 2003 effectively nullified the 'Clear Channel' agreement, as it was signed by the District Council, as the Highway Authority. Clearly when the Council was no longer the agent highway authority, it was believed that this agreement would revert back to the County Highway Authority.
- 3.4 However, the County Council's legal officers do not consider this to be the situation. Negotiations for the assignment of the 'Clear Channel' agreement to the County

Council did start in 2003. However, the County Council was unable to agree to the terms of the assignment because the agreement contained an exclusivity clause in favour of 'Clear Channel'. This clause prevented the County Council from awarding further bus shelter contracts throughout the District, to anyone other than 'Clear Channel'. This was unacceptable to the County Council because the clause was anti-competitive and therefore probably also unlawful.

- 3.5 The District Council is therefore faced with the inability to control how this current agreement is delivered, both now and in the future, as it has no legal powers to permit or control the bus shelter structures in the highway. Advice from Legal Services in March 2006 and April 2008, indicates that the Council has no recorded consent from the County Council to have the 'Clear Channel' bus shelters in the public highway. The Council could therefore, potentially face enforcement action from the County Highway Authority, requiring the bus shelters to be removed from the highway.
- 3.6 If the Council were to terminate the agreement prior to the agreement period, it is considered 'Clear Channel' would have recourse to potential losses. The 15 year agreement elapses in April 2010, providing that the Council gives 12 months notice to 'Clear Channel' that we have no intention of extending the agreement. Through not giving notice, the agreement would otherwise continue for an additional 5 years with the Council being in a powerless situation to control 'Clear Channel's' desires.
- 3.7 By serving notice to terminate the agreement on 'Clear Channel' allows for the Council to withdraw from this complex situation and allow the County Council to conduct whatever negotiations it considers appropriate with 'Clear Channel', for the existing and future provision of 'Clear Channel' shelters.
- 3.8 For clarification, the Council receives no monies for the advertising on the 'Clear Channel' shelters, but is also not put to any maintenance costs because 'Clear Channel' undertakes this activity directly.
- 3.9 Recommendations 2.2 and 2.3 are made because of the Council's need to make difficult decisions over its future priorities and who best should deliver those local services. The provision and maintenance of bus shelters has been highlighted as a non – statutory function, and is in fact an outstanding unresolved matter left over from the dissolution of the Highways Agency agreement in 2003.
- 3.10 One possible option for consideration is whether Parish and Town Council's, should perhaps be the best local body to deliver the maintenance of bus shelters in their own administrative areas. These facilities are predominantly a local issue for local people and all the District Council is doing is acting as an intermediary. Parish Council's in particular, are also actively pressing the County Council, as the transport authority, for new bus services. Ideally with those new services, there should be the provision of the associated bus shelters, something which again the County Council could potentially provide.
- 3.11 It is therefore suggested that your Officers consult with the Parish and Town Council's over their views on whether they would wish to take over any of the 24 District owned bus shelters. This concept is not new and from research it is apparent that in many County Council areas, the Parish and Town Council's are responsible for the maintenance of bus shelters. The Parish Council's Act 1957, Section 42 further permits this to happen and states, " A Parish or Town Council

may provide and maintain seats and shelters for the use of the public and cause them to be installed or erected in proper and convenient situations in, or in any land abutting on, any road within the Parish.”

- 3.12 It is accepted that some Parish and Town Council's may not want to take over these shelters. If they do not, then the Council will continue to maintain them, as at present with limited funds, until they ultimately become a health and safety risk whereby each one would be considered for removal.
- 3.13 For completeness, Members should be aware that the County Council were requested to take over the maintenance of the District Council's shelters shortly after the termination of the highway Agency agreement in 2003. Some years later, the County Council through their legal officials, accepted that they may take over, “a number of shelters in due course”. They have to date effectively taken over 9 shelters since 2003. These were subsequently removed and then replaced with new shelters, via third party arrangements, in order to deliver the County Council's quality bus corridors throughout the District.

#### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 To not serve notice on ‘Clear Channel’ and accept the terms and conditions of the agreement for another 5 years, whereby the District and County Council are unable to control how this current agreement is delivered, both now and in the future. This is not a viable option for the reasons stated earlier.
- 4.2 To continue maintaining the existing District Council bus shelters with basic budget. Although an option, it should be recognized that without an increase in budget these shelters will ultimately become a health & safety liability, with removal being an option for consideration.
- 4.3 Provide for sufficient finance to permit all District Council bus shelters to be brought up to good condition and then to continue financial provision at a level which will enable them to be adequately maintained. The budget estimate for the improvement works is £120,000 at current price base, with an annual maintenance budget of £22,500. Due to the savings the Council is required to make over future years, this is not considered to be a viable option for the delivery of a non –statutory service.

#### **5 BUDGETARY FRAMEWORK**

The current allocated 2008 / 2009 budget for the 24 District Council bus shelters is £11,200.

#### **6 POLICY FRAMEWORK**

- 6.1 Promotion of green forms of transport and increased usage of public transport is a core requirement of the climate change agenda where local Government is expected to lead. The provision of bus shelters is clearly one means by which the experience of traveling by public bus transport can be improved as they allow people shelter from the weather whilst waiting. However, the Council is not the Highway or Transport Authority for the District and it is therefore considered that the County Council should logically be the provider of bus shelters.

- 6.2 The County Council has already done some excellent work in providing quality bus corridors, i.e. route 66 and others, which have real time control bus arrival information attached to some very smart bus shelters. To achieve this, over the past three years, the County Council has with the District Council's agreement, removed bus shelters originally provided by the Council and replaced them with 'Clear Channel' shelters. It is believed this provides some clear indication of their accepted responsibilities in promoting the use of public transport.

## APPENDIX 1

### SCHEDULE OF 'CLEAR CHANNEL' (FORMALLY ADSHELL) BUS SHELTERS

Site Ref	Address
<b>South Leamington Spa</b>	
0001	Brunswick Street/Charlotte Street
0002	St Margarets Road/Southway
0004	Heathcote Road/Whitnash Opp Murcott Road East
0005	Old Warwick Road o/s Railway Station
0006	High Street Opp Bath Place
0007	High Street /Wise Street
0016	Victoria Terrace Opp Spencer Street
0017	8-10 Victoria Terrace
0026	Tachbrook Road Opp Culworth Close
0029	Sydenham Drive Berrington Road
0034	Victoria Terrace
<b>North Leamington Spa</b>	
0018	The Parade o/s Tesco Supermarket
0019	The Parade o/s Mothercare
0020	Kenilworth Road Opp Grosvenor Square
0028	Rugby Road Cornwall Place
0035	The Parade o/s Tesco Supermarket
0036	The Parade o/s Energy Centre
0037	The Parade o/s 21
<b>Kenilworth</b>	
0008	Warwick Road/Randall Road
0023	Abbey End Smalley Place
<b>Warwick</b>	
0009	Coten End/Guy Street o/s Sharps
0010	Coten End Opp Guy Street
0011	Emscote Road/Greville Road Opp Greyhound PH
0012	Spinney Hill Opp The Chantry
0013	Woodloes Avenue South Opp Kettlewell Close
0014	20 Emscote Road/Pickard Street
0015	Emscote Road/Ilex Court
0021	Shakespeare Avenue o/s 30
0022	Hampton Road Opp Goldsmith Avenue
0030	Coventry Road Adj Railway Inn
0031	Coventry Road Station Road
0032	Primrose Hill Woodloes Avenue
0033	Coventry Road Spinney Hill

## SCHEDULE of WDC BUS SHELTERS

## Kenilworth Bus Shelter Locations

Ref	Location	Type	Comments	
K1	Beauchamp Road. Opposite School	Enc		
K2	Warwick Road adj. Green Man PH	Enc		
K3	Abbey Hill/Abbey Fields	Enc-Wood		
K4	Rosemary Hill opp. School Lane	Enc-Wood		
K5	Coventry Road/Tainters Hill	Enc-Wood		
K6	Coventry Road opp. Princes Drive	Enc-Wood	Has Street Seat	
			<b>Total Enclosed</b>	<b>6</b>

## North Leamington Bus Shelter Locations

Ref	Location	Type	Comments	
L1	Cublington Road/Parklands Avenue	Enc	No current bus service, school kids only	
L2	Cromer Road. Jnc of Valley Rd/Pound Way	Enc		
L3	Valley Road. Opp Wellington Rd	Enc	Has Street Seat	
L4	Mason Avenue o/s Library	Enc		
L5	Mason Avenue opp. Denby Close	Cant		
L6	Buckley Road opp. Clare Close	Enc		
L7	Buckley Road opp. Wellington Road	Enc		
L9	Hamilton Terrace nr. Police Station	Enc	No current bus service	
			<b>Total Enclosed</b>	<b>7</b>
			<b>Total Cantilevered</b>	<b>1</b>

## South Leamington &amp; Whitnash Bus Shelter Locations

Ref	Location	Type	Comments	
L15	Heathcote Road/Tachbrook Road Jnc	Enc		
L17	Gainsborough Drive nr. Curzon Grove	Cant	Has Street Seat	
L19	Tachbrook/Ashford Road Whitnash Jnc	Enc		
			<b>Total Enclosed</b>	<b>2</b>
			<b>Total Cantilevered</b>	<b>1</b>

## Warwick Bus Shelter Locations

Ref	Location	Type	Comments	
W6	Lakin Road o/s Warwick Hospital	Enc		-
W7	Lakin Road opp. Warwick Hospital	Enc		-
W12	Lower Cape. Opp Landor Rd	Cant	L28a	-
W15	Emscote Road nr. Railway Bridge. Opp Waterloo Court	Enc		-
			<b>Total Enclosed</b>	<b>3</b>
			<b>Total Cantilevered</b>	<b>1</b>

**Rural Bus Shelter Locations**

<b>Ref</b>	<b>Location</b>	<b>Type</b>	<b>Comments</b>	
R1	St. Chads Road Bishops Tachbrook	Enc	No current bus service	
R2	Mallory Road Bishops Tachbrook	Cant		
R4	Slade Hill Hampton Magna	Enc		
			<b>Total Enclosed</b>	<b>2</b>
			<b>Total Cantilvered</b>	<b>1</b>