

LONDON BOROUGH OF BRENT

Executive Committee – 28 May 2003 Report from the Director of Communications & Consultation

For Action

Name of Wards Affected

| | | | |
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| | | | |
| Above | X | Below Confidential Line | |
| (Except Appendix 1.) | | | |

Report Title: LAMPPOST ADVERTISING

1. Summary

- 1.1 This report asks members to consider allowing the Council lampposts to carry advertising co-ordinated by an external company.

2. Recommendations

- 2.1 That the Executive agree to allow the Council's lampposts, to carry advertising co-ordinated by an external company.
- 2.2 That the Executive note that the preferred bidder for providing lamppost advertising will be Company A subject to the Executive's agreement to recommendation 2.1 and subject to the following matters:
- (i) review of the Council's Streetlighting PFI Contract and satisfactory re-negotiation and variation of that contract as necessary following the review;
 - (ii) Negotiation of suitable contract terms with Company A;
 - (iii) Environmental issues being addressed: and
 - (iv) J C Decaux Contract.

3. Financial Implications

- 3.1 The Council currently has a budget line of £119k income from advertising, and lamppost advertising was seen as the most likely way of filling this gap. If Members decide not to proceed with lamppost advertising, then the budget line would have to be removed.
- 3.2 Income projections are covered in Appendix 1.

4. Staffing Implications

- 4.1 The administration of the contract would be co-ordinated by the Business Development Officer in the Communications Unit. Part of the revenue raised through advertising would be used to offset the cost of this Officer's time. The Business Development Officer's post is funded entirely by income generation schemes. Further information on staffing is contained in Appendix 1.
- 4.2 It is envisaged that a cross-departmental team (made up of representatives from Environmental Services, Finance and Communications Team) would meet in the initial stages of the contract.

5. Legal Implications

- 5.1 Section 115E(1)(b)(iii) of the Highways Act 1980 permits the Council to grant permission for using structures on certain types of highway (including a footway) for the purpose of advertising. Lampposts on pavements would therefore be covered by this. The Council can impose such conditions as it thinks fit in granting permission for this, including payment to the Council of "reasonable" charges. However, where the Council is not the owner of the sub-soil beneath the part of the footway in question, then the charges are limited to the "standard amount" (which are basically the Council's costs in granting the permission). Therefore in practice, the Council would want to ensure that it was the owner of the sub-soil before granting permission to use any lamp posts, so that its charges were not restricted in this way. To avoid any risk of the Council entering into a contract with a particular Company, and it then subsequently challenging the amount sought by the Council as being "unreasonable", it would be prudent to provide that any contract can be terminated on reasonable period of notice. It is necessary to give notice of intention to permit lamp posts adverts by fixing a notice in the area in question and also serving notice on owners and occupiers likely to be materially affected. The Council has to take into account any representations made within 28 days.
- 5.2 Express consent under the Town & Country Planning (Control of Advertisements) Regulations 1992 for erection of the adverts would be required. There is provision in the regulations for deemed consent for certain advertisements on highway structures but this would not apply in the present case.
- 5.3 In exercising its powers as to whether to grant advert consent the Council (as Planning Authority) are required to have regard only to amenity and public safety.
- 5.4 This contract is not a contract for supplies works or services and is therefore not subject to EU Public Procurement Regulations.
- 5.5 As detailed in the Appendix the Council's contract with JC Decaux restricts the size and placement of other advertising in the borough.

- 5.6 As noted at paragraphs 7.5 - 7.6 the lamppost advertising proposal will require re-negotiation and variation of the Council's Streetlighting PFI. A thorough review of the PFI Contract will need to be undertaken to ascertain what variation will be required.
- 5.7 Officers have delegated powers pursuant to Part 4 of the Constitution to enable them to award this contract.

6. Environmental Comments

None. Environmental issues have been covered in section 8.

7. Detail

- 7.1 A key recommendation in Brent's Comprehensive Performance Assessment was that the council should find further ways of generating income.
- 7.2 One area of income generation which is in the process of being implemented by many Local Authorities is using lampposts (and other sites such as roundabouts) to carry advertising secured by an external company.
- 7.3 The companies awarded these contracts either install their own lighting columns complete with advertising fixtures or install their own fixtures on existing lampposts. Where they install new lampposts these will be identical to the existing ones in the borough. They maintain and meet the running costs of these lampposts and fixtures using their own contractors and materials. They will provide liability cover, insurance and find the advertisers. The Council will receive a percentage of the revenue. There should be no financial implications to the Council other than income generation.
- 7.4 The Council has received proposals from two external suppliers. The process leading to these proposals is described in paragraphs 9.1 – 9.10 and a summary of the detail of the proposals is outlined in the appendix to this report.
- 7.5 The Council has in place a 20 year PFI arrangement to provide streetlighting. This contract will expire on 30 November 2018. Any lamppost advertising contract would need to take this into consideration with regard to wear and tear, health and safety, electrical control systems and energy costs.
- 7.6 Either proposal would require a re-negotiation and variation of the Streetlighting PFI. It should be noted that the Streetlighting PFI has already had previous amendments made to accommodate specific requirements in both Kilburn and Wembley.
- 7.7 The Council already has in place an existing contract with JC Decaux for advertising on street furniture which will need to be taken into account when negotiating a contract for lamppost advertising. Information on this contract is contained in Appendix 1.
- 7.8 Any company providing this service would maintain and meet the running costs of the lamppost fixtures using their own contractors and materials. They must provide liability cover and insurance for the term of the contract.

8. Environmental Issues

8.1 CCTV

There are inherent problems of placing advertising fixtures in close proximity to CCTV cameras and could interfere with their effectiveness. The fixtures would have to be carefully placed and not in close proximity to CCTV cameras or block their sight lines.

8.2 Town & Country Planning Control of Advertisement Regulations

Lamppost advertising would require consent under the Town & Planning Control of Advertisement Regulations 1992 (as amended). The Council has policies within its Unitary Development Plan and related supplementary planning guidance upon which advertisement proposals are judged.

8.3 Brent has no specific policies relating to lamppost advertising. However, the approach previously adopted towards hoardings and other free standing advertisements is that advertising will only be approved where it enhances the appearance of an area.

8.4 There are a number of environmental issues that need to be considered before going ahead with this type of advertising. These include wear and tear on existing or replacement lamppost columns, suitability of existing columns, health & safety, providing indemnity for the council against potential claims and limiting the use of illuminated panels at night. All these factors would be addressed in the details of a contract. It is anticipated there will be planning issues to be resolved for this project along with placement of advertising fixtures in accordance with the JC Decaux contract.

8.5 Advertisements have to be assessed solely by the statutory criteria of amenity and public safety. Each case must be assessed on its merits but it is considered that lamppost advertising would only normally be appropriate in commercial areas, and excluding designated conservation areas, where it can be demonstrated:

- a) it does not result in advertising or general street clutter;
- b) it does not interfere with traffic signage;
- c) it has no impact on the setting of Listed buildings;
- d) it does not frustrate other environmental improvements e.g. the planting of street trees;
- e) it does not present a distraction or other traffic safety hazard.

9. Background Information

9.1 Research into how income could be generated by allowing borough fixtures such as lampposts to carry advertising co-ordinated by an external company has been carried out by the Communications and Consultation Unit over the past year. The research and a demonstration by interested suppliers led to a shortlist being drawn up.

9.2 The purpose of the demonstration was to give interested suppliers the

opportunity to display a non advertising sample of their product and to allow members of the public, council officers and members to view product and obtain feedback for potentially allowing lamppost advertising to in the borough.

9.2 It was agreed by representatives from the Communications Unit, Finance and Environment Departments:

- (i) That the council proceed to the next stage of establishing a contract with an external supplier for lamppost advertising.
- (ii) A proportion of the income should part fund the Business Development Officer's post which is self-financed, as this would remain the key point of contact at the council for this contract.
- (iii) The cost of maintenance, repair and replacement would be wholly met by the contractor and built into the contract.

9.3 The companies who took part in the demonstration were those known to be offering this type of service to local authorities.

9.4 Financial checks were carried out on the companies interested in supplying the service.

9.5 Representatives from Environment, Communications and Finance Departments met to shortlist potential supplier(s).

9.6 For the shortlist the following criteria was applied:

- Results from the demonstration
- Income forecast given by interested companies
- Information supplied by other Local Authorities given as referees by the companies

NB As so few councils have progressed with lamppost advertising they could only comment on the effectiveness and efficiency on the other projects they had with them, mainly major road and roundabout sponsorship deals.

9.7 It was agreed that the following companies would be invited to progress to the next stage:

Company A
Company B
Company C

9.8 The shortlisted companies were asked to provide us with the following information.

- A list of sites where you think maximum advertising income would be achieved
- Estimated income to council
- Estimated timescales for delivery of service

- 9.9 Company A and Company B agreed to take part in the second stage. Company C informed us that they had ceased trading the advertising arm of their business due to the downturn in fortunes throughout the advertising industry following 11 September 2001.
- 9.10 A meeting to look at the proposals from the interested companies was attended by the same representatives from Finance, Environment and Communications.
- 9.11 A summary of the proposal submitted by Company A and Company B is contained in Appendix 1.

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