

NORTH SOMERSET COUNCIL DECISION



DECISION OF: THE DIRECTOR OF PLACE

WITH ADVICE FROM: S151 OFFICER AND HEAD OF PROCUREMENT

DECISION NO: 24/25 DP180

SUBJECT: TO APPROVE THE DIRECT AWARD OF CONCESSIONS CONTRACT TO MANAGE THE FOOD WORKS SOUTH WEST TO FUTURE FOOD PARTNERSHIP CIC.

KEY DECISION: YES

BACKGROUND:

Food Works South West (“the centre”) is the North Somerset Council owned food and drink innovation centre located at Weston Business Quarter. For the past five years, and following a competitive procurement process, the centre has been operated by the Food and Drink Forum (“the Forum”). On 28th May 2024 the Forum informed the council that because of financial difficulties associated with its operations in the East Midlands, it would be closing its business in August 2024 and would no longer be able to continue operating the centre. Rapid work in the first few weeks of June 2024 explored options to identify an appropriate way forward. A direct award procurement process has been run due to reasons of extreme urgency (6.3.2) and quantifiable and significant cost and time savings (reason 6.3.1 within the Council’s Standing Orders). The outcome of this procurement is to request to approve contract award to the Future Food Partnership CIC.

DECISION:

1. For the award of a 6-year concessions contract to operate Food Works South West be awarded to the Future Food Partnership CIC, The Food Works, 8 Whirlwind Road, Weston-Super-Mare, England, BS24 8EF (company registration number 15837434).
2. To approve the business rate relief requests identified in the Financial Implication section.

REASONS:

Overview

- Consultation with senior colleagues and Members demonstrated a desire for Food Works to continue running.
- The options appraisal (appendix 1) identified the award to a newly established CIC Limited by Guarantee to be preferable option for the following reasons:
 - It will retain and be able to draw in local expertise from industry and the region on how to commercialise the centre at pace and a radical re-look at income generation and sustainability.
 - It would enable the retention of staff who are expert in centre operations.
 - It would enable the creation of a local board and derive additional value from better embedding Food Works into the region.
 - Members cannot receive profits in company and company must meet community benefit test.
 - CICs can access additional sources of grant funding.

- A new CIC can be mobilised quickly enough to meet the timescales needed to adopt the operation of the centre.
- There is positive public perception of CICs
- Following this options appraisal a single provider procurement was agreed to be acceptable route to market via the production of a Procurement Plan (DP110). The procurement will retain a focus on the priorities and due diligence set out in the Commissioning and Procurement Plans for the previous operator, links to which can be found in the associated 2024 Procurement Plan (DP110). This procurement exercise has established that the Future Food Partnership CIC had passed the relevant due diligence tests and submitted an acceptable proposal.
- The provision of tapered business rate relief is recommended to allow the new CIC to build up a robust financial position, re-invest in growth and recruit appropriate staffing levels at the centre. However, this will be kept under annual review, and should the financial position of the centre improve more quickly than anticipated we will remove the business rate relief. Finance colleagues will be involved in ongoing discussions with the CIC board of Directors on the opportunity to pay full business rates as soon as possible.
- A six-year lease with break clause at 3 years provides enough time for the new CIC to establish its maturity and generate a sustainable income for the centre. The break clause at three years provides the council with security to terminate the contract if the Future Food Partnership CIC is not performing at the level expected.

Governance

In accordance with the council's Contract Standing Orders, the Procurement Plan (DP110) was approved by the Director, advised by the Head of Strategic Procurement. The contract award will be approved by the Director, advised by the S151 Officer and the Head of Procurement. This award will need to involve colleagues from Finance in relation to business rate relief asks.

Award criteria

The council's standard due diligence questions were assessed as pass/ fail. Quality submission was scored scoring matrix shown below with anything with a score of 3 or over passing the quality submission. All quality answers scored a 4 or above.

Score		Classification	Award Criteria
5		Excellent	A response that inspires confidence; specification is fully met and is robustly and clearly demonstrated and evidenced. Full evidence as to how the contract will be fulfilled either by demonstrating past experience or through a clear process of implementation.
4		Good	A response supported by good evidence/examples of the Bidders' relevant ability and/or gives the council a good level of confidence in the Bidders' ability. All requirements are met and evidence is provided to support the answers demonstrating sufficiency, compliance and either actual experience or a process of implementation.

3		Satisfactory	A response that is acceptable and meets the minimum requirement but remains limited and could have been expanded upon.
2		Weak	A response only partially satisfying the requirement with deficiencies apparent. Not supported by sufficient breadth or sufficient quality of evidence/examples and provides the council a limited level of confidence in the Bidders' ability to deliver the specification.
1		Inadequate	A response that has material omissions not supported by sufficient breadth and sufficient quality of evidence/examples. Overall the response provides the council with a very low level of confidence in the Bidders' ability to deliver the specification.
0		Unsatisfactory	No response or response does not provide any relevant information and does not answer the question.

Evaluation panel and evaluation

In addition to the council's standard due diligence questions and financial forecasts the proposal was evaluated on the following quality questions:

Key Section Question/s	Outline	Maximum Score
Section 8	Project specific questions to assess technical and professional ability	
8.1	Technical Support: In accordance with the specification, please provide details of your proposals for technical support, both to support tenant businesses and to support the start-up and growth of food manufacturing businesses in the West of England and the wider Southwest region. Page count 2	5
8.2	Business Support In accordance with the specification, please provide details of your proposals for business support, both to support tenant businesses and to support the start-up and growth of food manufacturing businesses in the West of England and wider Southwest region. Page count 2	5
8.3	Facilities Management In accordance with the specification, please provide details of your proposals for facilities management.	5

	Page count 2	
8.4	Marketing: In accordance with the specification, please provide details of your proposals for marketing the Centre. If bidding as a consortium, please outline the relevance of each partner's experience to the successful delivery of the contract. Page count 2	5
8.5	Monitoring: In accordance with the specification, please provide details of your proposals for monitoring the contract. If bidding as a consortium, please outline the relevance of each partner's experience to the successful delivery of the contract. Page count 2	5
8.6	Climate Emergency: How will you ensure reduced greenhouse gas emissions are considered in the delivery and lifecycle of the services provided? Page count 2	5
8.7	Social Value – please complete Appendix 2	5
8.8	Financial Forecast Model: Please provide your Financial Forecast Model and narrative as per the guidance in Appendix 6	5
	Total Score	40

The evaluation panel was the Senior Economic Development Officer and UK Shared Prosperity Fund Programme Manager. Health and Safety colleagues provided feedback on the H&S response, procurement colleagues evaluated the Social Value and Equalities and Diversity Policy, and the Place Finance Business Provider assessed the financial forecasts.

Contract management

Contract management responsibility for the success of FoodWorksSW will lie with the Economy Team as the Commissioning Service, supported by other services, when required, including Property Asset and Management, Finance, and Procurement.

- Day to day performance management: will be undertaken through the sector development and business support team situated within the Economy Team. This is led by the Sector Development and Business Support Manager who has an officer working with a focus on food and drink sector. This level of contract management will pick up day to day issues such as on-site issues, comms and marketing, events etc.
- Strategic oversight: will be provided through a Partnership Board arrangement. This will be a regular meeting with key council officers coming together with the Future Food Partnership CIC. Colleagues from finance, comms and property will be included in this meeting as relevant. This meeting will cover issues associated with income generation at Food Works Operator 2024 the centre, financial monitoring, performance monitoring against annual KPI and strategic promotion.
- Visibility and transparency over wider CIC financial performance, risk management and growth: Given the ongoing concern the council has in relation to the operation of Food Works it will have a seat on the Future Food Partnership CIC Board to ensure the organisation remains on track to deliver the operational arrangements and that it

does not change shape or direction in a way which would compromise the delivery of the contract.

OPTIONS CONSIDERED:

Please see appendices 1 and 2: options appraisal on operating arrangements for Food Works South West and options appraisal on type of contract.

FINANCIAL IMPLICATIONS:

Estimated total management contract value is approximately £3.9m which is based upon the financial projections from previous years of operation. All expenditure and costs for the Operator will be covered by charges and rents from end users of the Centre. There may be an opportunity for the council to receive some profit after year 10 of the site being completed March 2029 should the centre get to that position. This will all be set out in the Management Agreement with the operator.

Support and advice from colleagues in Finance has been sought throughout this piece of work to understand if the operator needs to some additional, temporary financial support through business rate relief. Their proposal has requested this as set out below. Scrutiny of budget forecasts for current year and the next two years demonstrates the following levels of profitability and support required:

- 24/25, 100% business rate relief (agreed in 23/ 24 DP 552)
- 25/ 26, 70% business rate relief requested
- 26/ 27, 40% business rate relief requested
- 27/ 28, 0% business rate relief requested

Costs

The anticipated cost of this business rate relief (assuming current assumptions of business rates remain consistent), tapering up to a point where the new CIC can pay 100% of its relief, is **£64,585**. (Note £20,170 of this had already been approved as part of DP 552).

This is based on the following annual assumptions:

- £155,000 Rateable value for 2024/25
- £ 82,446 Gross rates liability, i.e. total payable by Foodworks
- £ 0 Budgeted discretionary relief
- £ 40,399 Budgeted income for NSC, i.e. 49% of total rates liability

LEGAL POWERS AND IMPLICATION

The preferred option of single provider procurement and direct award of contract was proposed due to:

- Urgency of timeline, with the current operator ceasing operation from August 2024.
- Prior knowledge of the centre and its operations stemming from the CIC being established by existing local staff, thereby resulting in quantifiable and significant cost and time savings (reason 6.3.1 within the Council's Standing Orders). An alternative operator would require significant additional time and cost to be able to start running the centre from scratch, including staff requirement.

This is permitted under Concession Contract Regulations.

The proposed terms and conditions agreed by the Future Food Partnership CIC are the Management Agreement and Lease. Legal support has been sought from Bevan Brittan who worked on the previous agreement and who have reviewed and updated these documents as necessary, building in additional protections for the council.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

There is no change to the centre in terms of its operation. This is a change of operator and therefore there are no adverse climate change and environmental implications.

CONSULTATION

Finance

Legal

Procurement

Leader of the council

Deputy Leader of the council

Executive Member for Placemaking and Economy

Director of Place

S151 Officer

Chief Executive Officer

RISK MANAGEMENT

Risk	Inherent likelihood	Inherent impact	Inherent risk	Mitigating / exploiting actions	Residual likelihood)	Residual impact	Residual risk	Risk treatment
Direct award to new operator could result in procurement challenge	3	2	LOWMED	Ensure as much transparency as possible regarding decision making by listing on forward plan and publishing decision making process.	1	2	LOW	ACCEPT
Risk of financial underperformance could lead to requests of further financial support from the council.	3	1	LOWMED	Council involvement in Board of Directors for newco to push commercialisation of activity. Capital investment in the centre will grow new income streams. Prudent assumptions in budget mean likely financial position is better than forecast.	1	2	LOW	ACCEPT
New entity with no trading history and this may be negatively perceived by the market e.g. could result in increased premiums for utilities or insurance contracts	3	2	LOWMED	Seek option for council to act as guarantor for payments for first 12 months of operation (similar to NSEC)	1	1	LOW	ACCEPT
Risk associated with engaging with a newly formed CiC/ organisation i.e. risk associated with failure of the CiC should it occur (risks include reputational risk as financial risk has principally been mitigated through Management Agreement)	2	4	MEDIUM	Financial risk has been mitigated through the Management Agreement i.e. liabilities remain with the CiC and should the organisation fail, the Council would either need to bring operations in house (financial modelling suggests Food Works can cover its own costs) or a new provider procured – there would be limited costs associated with the process. Reputational risk would be mitigated through communications regarding the decision-making process re: CiC appointment and the wider council position on the positive impact of Food Works and need to continue its operation. In addition frequency of	2	3	LOWMED	ACCEPT

				Partnership Board meetings have been increased to ensure greater oversight experienced food sector and professional services board members will be invited to join CIC Board of Directors to provide additional support, expertise and understanding of local needs to support bedding in of new CiC.				
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EQUALITY IMPLICATIONS

An EIA has not been completed for this activity. The operation of Food Works South West is covered by the Economic Plan which has an aligned EIA in place and can be applied to this project as the outcomes of Food Works are unaffected by the change of operator.

CORPORATE IMPLICATIONS

None

APPENDICES

Appendix 1 – Options appraisal for operator vehicle
Appendix 2 – Option appraisal for type of contract

BACKGROUND PAPERS

Food Works Operator Procurement Plan, DP110

SIGNATORIES:

DECISION MAKER(S):



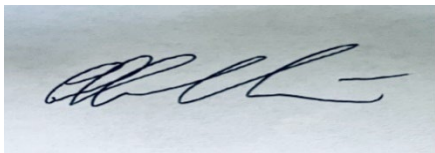
Signed: Director of Place

Date: 21 August 2024



Signed: S151 Officer

Date: 21 August 2024



Signed: Head of Strategic Procurement

Date: 21 August 2024

Appendix 1: Options for operator vehicle

Option	Pros	Cons	Rec
Transfer to council	<ul style="list-style-type: none"> • Council control in short term • Certainty provided to staff • Capex improvements can continue 	<ul style="list-style-type: none"> • Resource implications associated with transfer e.g. TUPE, transfer of leases, utilities switchover etc. • Not core council business i.e. why we decided to have an operator in the first instance. 	Rule out
Support F&DF to continue operating on a reduced scale	<ul style="list-style-type: none"> • Reduce work levels associated with transfer • Known operator • Capex improvements can continue 	<ul style="list-style-type: none"> • We have tested with F&DF and they because the contract in Nottingham will not run from September 2024 they do not have a viable business model. • Staff are located in East Midlands – would not provide local oversight and input • Question re: information provided in a timely way and council desire to continue working with them. 	Rule out
Transfer to council ALMO – NSEC	<ul style="list-style-type: none"> • Council control in short term • Certainty would be provided to staff which would minimise risk of losing them. • Capex improvements can continue 	<ul style="list-style-type: none"> • Council would likely need to underwrite any financial risk • Council may need to support/ fund costs of transfer • Could put direct award of regional funding at risk • NSEC currently mobilising two other contracts – advice from finance was timing is not good. 	Rule out

Transfer to another workspace provider	<ul style="list-style-type: none"> Existing back-office systems can be utilised e.g. payroll, Opportunity to make savings through shared services across multiple sites Provides certainty to staff Capex improvements can continue 	<ul style="list-style-type: none"> Council would likely need to underwrite any financial risk for the operator Council may need to support/ fund costs of transfer Could put direct award of regional funding at risk. Initial conversations with other operators show limited interest – although options are available. 	Explore
Transfer to newly established vehicle e.g. CIC	<ul style="list-style-type: none"> Expertise from industry on how to commercialise the centre at pace and a radical re-look at income generation and sustainability Would retain awareness of centre operations. Build a local board and derive additional value from better embedding FWs into the region. CICs can access additional sources of funding BCC (accountable body for regional funding) is supportive Capex improvements can continue Positive public perception 	<ul style="list-style-type: none"> Pace at which a robust CIC could be established with appropriate governance and management structures. 	Recommend

Close the centre.

- Reduces some of the financial risk

- Loss of businesses from business units
- Loss of confidence in the centre and momentum of room bookings, technical support, innovation kitchen use.
- West of England funding at risk
- Capex funding at risk
- Loss of staff and experience (recruiting has been difficult to date).

Rule out

Appendix 2: Options for type of contract

Option	Pros	Cons	Rec
Short term concession contract with re-procurement after 2/ 3 years	<p>A concession contract puts the onus on the operator to invest in growth and hold financial risk</p> <p>Would provide an interim solution and allow us to test the market for alternative providers in the next 2 – 3 years</p> <p>Can be directly awarded as whole life value would be below CCR threshold.</p>	<p>A shorter-term contract likely to de-incentivise investment in growth and innovation from the operator because the the Council might seek an alternative long-term solution.</p> <p>Would require another significant procurement exercise in short time scale.</p> <p>There is always some risk of challenge with a direct award, however confident this can be justified.</p>	Explore
Longer term (10 year) concession contract	<p>A concession contract puts the onus on the operator to invest in growth and hold financial risk</p> <p>No break clause can help to embed the operator fully in the project – however there is a risk around council ability to end the contract if underperformance.</p>	<p>Value would be over the CCR threshold which would mean we would have to run a competitive procurement</p> <p>Lack of break clause reduces some levels of council control.</p>	Rule out
Medium term (5 – 8 years) concession contract with break clause	<p>A concession contract puts the onus on the operator to invest in growth and hold financial risk</p> <p>Would allow the CIC time to invest and mature but the break clause would provide a safeguard for underperformance.</p>	<p>There is always some risk of challenge with a direct award, however confident this can be justified and legal advice from Bevan Brittan confirms this position.</p>	Recommend

	Can be directly awarded as whole life value would be below CCR threshold.		
Public services contract (rather than concession contract)		The council would use budget to pay the operator to deliver services for us – this would not be relevant in this case as the Food Works needs to operate as a concession and we have no budget to pay for its operation.	Rule out