

Decision maker:	Cabinet member commissioning, procurement and assets
Meeting date:	Tuesday 26 January 2021
Title of report:	Maylord Shopping Centre - Procurement of Management Contract
Report by:	Strategic property services manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant..

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Central;

Purpose

The current contract for the management of the Maylord Shopping Centre has been in place since the council obtained outright control of the asset in June this year. The management contract is for a period of one year and is due to expire on the 12 June 2021. It is necessary to procure a new contract with a service provider in order that the shopping centre can operate and that rent and service charges are collected and administered.

Recommendation(s)

That:

- (a) **A new contract is procured for the operational and asset management of the Maylord Shopping Centre from June 2021; and**
- (b) **The director of economy and place, in consultation with the cabinet member procurement, contracts and assets, has delegated authority to award the new contract**

Alternative options

1. Not to procure a new contract: this is not recommended as the current contract expires in June 2021 and the shopping centre cannot operate without effective operational and asset management. It is likely the centre would not be compliant, safe, and secure; service charges would not be collected and administered; rent would not be collected and new lettings, lease renewals, rent reviews, consents and lease variations would not be determined.
2. Bring the management of the shopping centre in-house: this is not recommended as there is insufficient capacity with the council's property services department to absorb the workload and establish new systems for the administration of service charges.
3. Extend the existing contract: this is not recommended as the current contract was secured directly and the council's procurement and financial regulations do not permit the contract to be extended beyond its current life.

Key considerations

4. The long leasehold interest of the Maylord Shopping Centre was acquired by the council in June 2020 following negotiations with the leaseholder who was seeking to dispose of their interest. The council are the freehold owners of the shopping centre and a decision was made to grasp the commercial opportunity to have outright strategic control of a substantial area of Hereford City Centre. A decision to acquire the leasehold interest was therefore taken on 23 June 2020 ([decision](#)).
5. The shopping centre comprises multiple tenant leases and licences of varying lengths and terms. In addition, at the time of acquiring the leasehold interest there were a considerable number of vacant shop units and in general there had been a lack of investment in the centre during the preceding years. A considerable amount of organisation in terms of maintenance, cleaning and security had to be handed over from the previous operator and the service charge budget administered. Montagu Evans, who already had knowledge of the asset and experience of managing similar shopping centres throughout the country, were appointed to manage the centre for a period of one year.
6. Due to the expeditious nature of the acquisition Montagu Evans were appointed directly and therefore there was a limit on the length of the management contract due to the financial and procurement regulations that apply to a contract of this value (£140k). The contract was for a period of one year and therefore a new contract has to be in place when the current contract expires in June 2021. This will be procured in accordance with the council's contract procedure rules.

7. Whilst the current contract covers the core management services i.e. the day to day operational management and asset management that are required, it is proposed that the new contract will include some missing elements such as marketing. This will ensure that the contract is both comprehensive and inclusive.
8. There are presently two staff employed in the day to day management of the centre who will be subject to TUPE transfer under the new contract if either the current provider, Montagu Evans do not bid for the new contract, or are unsuccessful in their bid.
9. It is proposed that the contract is awarded for a term of three years plus an option for an additional year. This period allows sufficient time for the master planning and completion of development proposals for the future of the centre, at the end of which the physical transformation and changes to the centre and its environs will commence. Furthermore, a contract of this length is required to achieve the necessary level of interest from potential bidders as it needs to be cost effective and economic given the required investment in time and resource by the service provider.

Community impact

10. The council's county plan 2020-2024 includes supporting the growth of our economy as a strategic priority. The wider Herefordshire economic vision sets out an ambitious framework for economic growth within the county and is supported by the core strategy. Delivery of the core strategy and economic vision relies on significant investment in a variety of developments across the county, the strategic acquisition of the Maylord Shopping Centre is such an investment as it supports the council's delivery of the county plan.
11. The procurement of the management contract will enable the council's investment in the shopping centre to be supported and its medium term objectives to be delivered, pending long term proposals for redevelopment. The operational and asset management of the centre will enable the implementation of a business plan that sets out the short and medium term objectives of encouraging local traders to establish businesses at the centre thereby supporting the local economy and delivering social benefits.
12. The procurement of the management contract will also seek to ensure, subject to competitive regulation, that local businesses have a representation in delivering services at the centre which will further support the objectives of economic growth within the county. In addition the contract will incorporate aspects of social value.

Environmental Impact

13. The management contract will include provision for the management of carbon reduction through the physical systems, buildings and in addition products used in delivering services at the centre. A carbon management plan will be required from the provider within the first six months of the contract.
14. The environmental impact of this proposal will therefore be considered through the service specification and will include appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management.

15. The new contract will therefore seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
18. Should any improvement or refurbishment of the property be required, the council will ensure that it is compliant with the provisions of the Equality Act 2010 relating to physical access to and within the buildings, so far as this is practicable

Resource implications

19. The acquisition of the centre provides an income generating asset. There will be no ongoing revenue costs as the management costs will be drawn from the income received. The income will be monitored to ensure that there is a sufficient margin to cover this cost to cover the management cost that is not covered by the tenant's service charge. Some of the management cost is recoverable from the tenants of the shopping centre through the service charge. This is standard practice in respect of assets of this nature.
20. There will be some legal costs associated with the ongoing management, mainly in respect of lettings, tenancy renewals and lease variations. These costs will also be drawn down from rental income.
21. The management contract and relationship with the service provider will be managed by property services with support from contract management and finance departments.

Revenue or Capital cost of project (indicate R or C)	2019/20	2020/21	2021/22	Future Years	Total
	£000	£000	£000	£000	£000
R	0	200	200	400	800

TOTAL		200	200	400	800

Funding streams (indicate whether base budget / external / grant / capital borrowing)	2019/20	2020/21	2021/22	Future Years	Total
Rental income	-	£200k	£200k	£400k	£800k
TOTAL		£200k	£200k	£400k	

Revenue budget implications	2019/20	2020/21	2021/22	Future Years	Total
	£000	£000	£000	£000	£000
Nil					
TOTAL					

Legal implications

22. The likely value of this procurement is such that the Public Contracts Regulations 2015 will apply and that the process will need to comply with the requirements set out therein. The council will also need to ensure that the obligations set out in the TUPE regulations, which are to any extent within its control, are also met.

Risk management

23.

Risk / opportunity	Mitigation
That there are no bidders for the contract	It is believed that there is sufficient market interest in a contract for this length of term and value.
The preferred bid exceeds the estimated revenue cost	The revenue cost of the management contract is drawn down from received rent

If tenant numbers decrease thereby reducing rent and service charge contributions to cover the management fee

There is a significant margin between the income received and the management cost that is not covered by the service charge. The take up of vacant units since the shopping centre was acquired indicates that even in the current challenging economic environment there is demand for the retail properties

24. These risks will be managed at a service level and added to the risk registered as required.

Consultees

25. Political groups have been consulted as part of this decision and no comments were received.

Appendices

None

Background papers

None identified

Please include a glossary of terms, abbreviations and acronyms used in this report.

TUPE - Transfer of Undertakings (Protection of Employment)