

Title of report: Electric Vehicle Charge Point Concession Contract

Decision maker: Interim Director of Economy and Place

Decision date: Thursday 18 November 2021

Report by: Sustainability and Climate Change Officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

To amend the decision made by the Director of Economy and Place of 7 August 2020 to increase the duration of the proposed concession contract.

Recommendation(s)

That:

- a) That the decision by the Director of Economy and Place of 7 August 2020 be amended to increase the duration of the proposed concession contract from 3 years + 2 extensions of 1 year to 10 year + extension of up to 5 years (in any number of periods not less than 2 years); and
- b) All other elements of the decision of 7 August 2020 remain unaffected.

Alternative options

1. An options appraisal was undertaken before the original decision to inform the above recommendation. The alternative options are summarised in the original decision report (<https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7047>).

Key considerations

2. Following the decision of the Director of Economy and Place of 7 August 2020 (<https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7047>) a procurement process with a 3+1+1 year contract received numerous feedback from the market that the contract duration was not long enough. The clarification questions gave valuable feedback that a minimum contract duration of 8 years would be necessary in order for both the provider to receive a return for their investment and for the council to receive the maximum benefit of the installed charge points.

Background

3. The background information can be viewed in the original report (<https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=7047>)

Local and national policy context

4. In 2019 Herefordshire Council declared a Climate Emergency and committed to accelerated carbon reduction targets aspiring for both organisational and countywide carbon neutrality by 2030. In addition we will continue to invest in low carbon projects such as renewable energy systems, using energy efficiency measures and electric vehicles to further reduce our carbon footprint and our daily running costs.
5. The council has recently completed a corporate fleet review and has recently introduced 6 electric hybrid cars, 1 full electric van and 6 electric cars. These additional vehicles, in addition to the growing number of residents switching to electric vehicles is placing an increasing demand on the existing charge network.
6. The Government has committed to banning the sale of new diesel and petrol cars and vans by 2030. It is estimated that approximately one million electric vehicles will be on UK roads within five years, potentially growing to nine million by 2030.
7. Electric vehicles have the potential to radically improve residents' lives by reducing air pollution and improving health. These contribute to the Council's County Plan (2020-2024), Air Quality Management Plans, Health & Wellbeing strategy, Carbon Management Plan and Local Transport Plan.
8. Whilst local authorities are not required to provide charging facilities, in order to provide residents with the choice and opportunity to switch to electric vehicles, numerous authorities, including Herefordshire Council, have developed infrastructure to address the current gap in the market.
9. In order to explore the best role for the council to facilitate the acceleration of electric vehicle charging infrastructure, an options appraisal was undertaken. Here the main considerations were:
 - (a) Meeting the current and future infrastructure needs of residents
 - (b) Facilitating and accelerating the local transition to ultra-low emission vehicles
 - (c) Contributing to the council's commitment to achieve carbon neutrality by 2030

- (d) Create a reliable infrastructure for the use of electric vehicles through facilitating the market and working with delivery partners
- (e) Ensuring best value for the use of public finances

Proposal

10. The recommendation approach is to develop and procure a development partner through a concession contract in order to facilitate and accelerate the private market place within the council.
11. The supplier would be required to provide a minimum number of EV charge points at specified sites throughout the county and would receive exclusivity to council owned car parks for the duration of the contract.
12. We will actively work with the supplier who is expected to expand the number of charge points in response to the market and take up of EV's.
13. The council reserves the right to terminate the contract if the minimum number of charge points were not installed.
14. The supplier would also be expected to adopt the council's existing network of public EV charge points.
15. The advantages and disadvantages identified in the options appraisal are summarised below:

	Advantages	Disadvantages
Concession contract	<p>Leverage private sector investment and no cost to the council.</p> <p>Upgrading and accelerating the growth of the county's electric vehicle charging network.</p> <p>Back office, maintenance and upgrades to be managed by delivery partner who will bring expertise and innovation as the market continues to develop.</p> <p>Procurement / partnership negotiations would mean the council is able to define terms of service and regulate the costs to residents.</p> <p>council continues to support EV drivers in the county but with reduced risks.</p>	<p>Provision dependent upon relationship with third party.</p> <p>Working with partners may result in some compromise on terms.</p>

16. The council's existing Host Agreement with BP Chargemaster currently operates as a concession contract. As such the proposal seeks to further develop this model and to build on the success and lessons learnt to date. The council will procure the concession in line with the council's contract procedure rules working alongside and with support from the Commercial, Property and Legal Services Teams.
17. The original report can be found here:
<https://councillors.herefordshire.gov.uk/documents/s50081717/Electric%20Vehicle%20Charge%20Point%20Concession.pdf>

Community impact

18. Provision of more charge points is a key step forwards in providing effective electric vehicle charging facilities in the county and will further support work to become a low carbon county and reduce air pollution from vehicle emissions. It will underpin the themes of connectivity, wellbeing and sustainability of the County Plan 2020-2024 by improving and extending travel options throughout the county.
19. This proposal specifically addresses the corporate delivery plan objective to significantly increase electric vehicle charging infrastructure by leveraging private sector investment through the development of a concession contract.
20. Promoting the transition to zero emission, electric vehicles will contribute towards the delivery of the following corporate strategies:
 - a. Executive Response to the Climate Emergency.
 - b. Herefordshire Council Carbon Management Plan 2017-21
 - c. Air Quality Strategy for Herefordshire and Bargates (Leominster).
 - d. Herefordshire Council Local Transport Plan 2016-31
 - e. Herefordshire Health & Wellbeing Strategy

Environmental Impact

21. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
22. This proposal seeks to deliver the council's environmental policy commitments and aligns to the following success measures in the County Plan and Delivery Plan:
 - Invest in low carbon projects
 - Reduce the council's carbon emissions
 - Work in partnership with others to reduce county carbon emissions
23. The environmental impact of this proposal has been considered through the service specification and includes 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.

Equality duty

24. 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

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

25. 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 and we will only award contracts to organisations that can evidence that they are fully compliant with the Equality Act.

Resource implications

26. The concession contract will be at no cost to the council and will not require any capital investment from the council or revenue commitment. It will require officer time for the procurement, set up and ongoing monitoring and management of the contract, but this work will be absorbed within existing resource. Once established it is not expected to require any more time than the current arrangement.

27. It is estimated that the overall income value generated from this contract is in the region of £1,234,037 for the entire 15 year contract period or £693,264 for the 10 year contract period. The value provides an estimate of income based on current technologies and current charging uses. This may increase/decrease slightly if technology evolves and the overall number of charges changes. These are indicative figures based on various assumptions as below:

- 15p/kWh electricity costs + 1.5% inflation each year
- £1.50 per recharge connection fee
- Total of 75 units including existing network at Year 5, 90 at Year 10 and 105 at Year 15 (minimum no. at Year 5 with increments each 5 year period)
- No. of recharges – 310 per charger/yr

28. The provider is responsible for installation of charge points, repair and maintenance, signage and back office support. It is expected that once a break-even point is reached, that the council will then receive a profit share generated by each charge point for the remainder of the contract period. The break-even period is difficult to define for each charger due to the state of the EV market and rural nature of the county but is likely to be in the final quarter of the contract period if current trends continue.

Legal implications

29. Given the clarifications received from the procurement exercise the decision was taken to abandon the exercise and seek approval for a longer concession contract. The Council was legally entitled to do this as provided for by the Court of the European Union in *Croce Amica One Italia Srl v Azienda Regionale Emergenza Urgenza* (Case C-440/13) EU:C:2014:2435 which gives a contracting authority wide discretion to abandon a procurement exercise; and also *Apcoa Parking (UK) Ltd v City of Westminster* [2010] EWHC 943 (QB) where the invitation to tender also set out reservations. Whilst those decisions were in respect of public services contracts by analogy they apply equally to public concessions contracts.
30. The council has already advised potential bidders of its decision to abandon in accordance with regulation 40 of the Concession Contracts Regulations 2016.

Risk management

31. Full consideration of the impact of the Hereford Transport Strategy Review will be included. Procurement will be undertaken with advice from the commercial services team and obtaining guidance from other Local Authorities.
32. There is a small risk that there will not be interest in bidding for the contract, in which case Business As Usual would resume until feedback is reviewed and a new way forward found, at which point an updated decision may need to be made to reflect this. This risk can be mitigated by utilising a concession contract, resulting in no upfront or ongoing costs to the council. The service provider would be responsible for the day to day operation and management of the network as well as increasing provision of charge points in line with the contract.
33. A detailed evaluation criteria will be developed alongside the commercial and legal teams to ensure the right provider is appointed to provide a good quality of service.

Consultees

34. The Cabinet Member for Infrastructure and Transport has been consulted and is supportive of the proposed recommendations.
35. This proposal has been developed in conjunction with Parking, Legal and Commercial Services.

Appendices

- None

Background papers

- None

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