

<b>Jeremy Hunt, Cabinet Member for Finance and Resources</b>	<b>Ref No: FR 1 19.20</b>
<b>May 2019</b>	<b>Key Decision: Yes</b>
<b>Procurement of West Sussex Outdoor Media Services</b>	<b>Part I</b>
<b>Report by Head of Finance</b>	<b>Electoral Divisions: All</b>
<p><b>Summary</b></p> <p>The primary objective of this proposal is to procure a provider to develop quality outdoor advertising/sponsorship opportunities in West Sussex that offer a revenue return for the County Council.</p> <p>This proposal is a key opportunity to enhance the level of income it generates and sets out the recommendations for developing a West Sussex best practice outdoor media opportunity. The intention of this opportunity is to generate income through:</p> <ul style="list-style-type: none"> <li>a. Large format advertising, e.g. through billboards, paper and paste, digital hoardings, signage posted on the exterior of brick-and-mortar locations however, it excludes roundabout sponsorship.</li> <li>b. County Gateway signs (those placed roadside on entering the county area).</li> </ul>	
<p><b>West Sussex Plan: Policy Impact and Context</b></p> <p>This proposal is in line with the West Sussex Plan priority: <i>'being a council that works for our communities and ensuring West Sussex is a prosperous place'</i>.</p>	
<p><b>Financial Impact</b></p> <p>The County Council will not incur any direct costs as a result of this proposal as the activity associated with the planning, installation and management of any outdoor media hoardings will be met by the successful Service Provider(s).</p> <p>Depending on service tender submissions a revenue return is anticipated and aligned to a £100k per annum income target (full-year).</p>	
<p><b>Recommendations</b></p> <p>The Cabinet Member for Finance and Resources is asked to approve:</p> <ul style="list-style-type: none"> <li>1) the commencement of an open procurement process for Outdoor Media Services for West Sussex; and</li> <li>2) that authority be delegated to the Director Finance and Resources to grant the award to tender a service concession contract and/or leases of County Council owned land, for a period of 5 years with the option to extend up to a further 5 years.</li> </ul>	

## **PROPOSAL**

### **Background and Context**

- 1.1 The County Council is currently under financial pressure and continues to look for opportunities to maximise its level of income. Councils are embracing outdoor media for revenue generation purposes and to support the local economy. There is an opportunity for the County Council to generate a revenue return from the land and/or assets it owns.
- 1.2 Outdoor media is defined as any advertising done outdoors that publicises business products and services. The intention of this opportunity is to generate income through:
  1. Large format advertising, e.g. through billboards, paper and paste, digital hoardings, signage posted on the exterior of brick-and-mortar locations however, it excludes roundabout sponsorship as this is undertaken in house.
  2. County Gateway signs (those placed roadside on entering the county area).
- 1.3 In order to understand the County Council's revenue generation opportunity, a review of the land it owns, adjacent to key highways and population areas has been undertaken.
- 1.4 A small number of locations have been identified and cross checked for; land registration, ownership as well as highway authority relating to both lots as set out below. A full list of initial and suitable locations will be included in the tender documentation.
- 1.5 In addition, the Service Provider(s) would be able to identify any other possible, suitable locations for approval by the County Council. Prior to confirming any agreement for the Service Provider(s) to commence the relevant planning permission for newly identified sites, the County Council would complete its own due diligence checks.

### **2. Proposal Details**

- 2.1. Based on market research, there is no single market provider for all outdoor media options, which means that there will be one procurement process with two invitations to tender (these are two Lots): one for large format and the other for County Gateway Signs.
- 2.2. The first Lot will be to tender a lease for individual pieces of County Council owned land and/or assets adjacent to the highway, suitable property leases and highways licences (Lot 1). The second Lot for the County Gateway Signs (Lot 2) will be offered through an open procurement process.
- 2.3. Bidders will be measured on appropriate specification, methodology, quality questions and pricing schedule.
- 2.4. Given the initial investment and resources required by the Service Provider(s) to install the advertising structures, obtain planning permission and source advertising/sponsorship, as well as the revenue returns to the

Council, an initial period of 5 years with the option to extend for a period or periods up to a further maximum 5 years is proposed. This applies to both lots. The concession contract and leases will contain appropriate termination provisions for any breach and will be co-terminus.

- 2.5. The Service Provider(s) will be required to market outdoor media advertising opportunities, maintain the structure(s) and location site(s) according to West Sussex Highways and Transport Regulations. This will include regularly updating the scheduled advertisements' asset management information to ensure any unsold space is addressed. In addition, the County Council's Highways Area Manager will be apprised of the Service Provider(s) activity for community related information.
- 2.6. The tender specification will include the requirement for Service Provider(s) to comply with [Advertising Standards Authority \(ASA\)](#) regulations as well as the West Sussex County Council advertising/sponsorship [governance](#).
- 2.7. Outdoor Media providers shall be responsible for the utilisation of land and any liabilities arising, seeking appropriate planning permission as well as the installation, content management (in line with Advertising Standards Authority guidance) and maintenance of structures.
- 2.8. As part of the competitive tendering process the County Council will be seeking best value for all parties including the location/environment as well as the amount of money returned to the County Council
- 2.9. There will be a 3 to 6 month contract mobilisation period to allow the Service Provider(s) to obtain all necessary planning consent, enter into highways licences and to install the infrastructure required. Rental payments will not be required during the mobilisation period.

## **FACTORS TAKEN INTO ACCOUNT**

### **3. Consultation**

- 3.1. Engagement with the market and other local authorities who are running outdoor media has been completed in order to understand best practice. In addition, specialist outdoor media subject matter expertise was commissioned. The outcome of these discussions has been incorporated into the proposed procurement processes and the appropriate service specification.
- 3.2. Advice and consultation has also taken place with various services including Highways, Legal, and Planning including Ecology Team

### **4. Resource Implications**

- 4.1 The County Council budget has been built with the expectation that this project will produce a new revenue stream as set out in the table below. As outlined above the contract will be a service concession and as such the County Council will not be directly paying for the service, rather will be receiving a share of any income generated by the Service Provider(s).

- 4.2 Whilst this minimises the financial risk to the County Council should the contract not deliver the expected revenue returns then this would create a pressure on the finances of the County Council.

	2019/20 £000	2020/21 £000	2021/22 £000
Approved Budget (based on Council 15 February 2019)	-50	-100	-100
Estimated Income from proposal	-50	-100	-100
Difference	0	0	0

- 4.3 Effective contract management is essential for the delivery and successful outcome for all parties and the appropriate advertising/sponsorship content inclusion complies with the County Council's internal advertising/sponsorship policy as well as the [Advertising Standards Authority \(ASA\)](#).

## 5. Legal Implications

- 5.1 The County Council has the power to dispose of land for "best value" pursuant to section 123 of the Local Government Act 1972. The disposal would be by way of a lease to use the County Council owned land to the advertising Service Provider(s) with the consideration for that lease being the rent and, where appropriate to the particular site and advertising medium, a share of the advertising income that is paid back to the County Council. Best value and rent amount/income share to be determined through the tendering process.
- 5.2 Disposal of County Council owned land by way of leases is not subject to the County Council's Standing Orders on Procurement and Contracts nor the [Public Contracts Regulations 2015](#) as leases are not services or works contracts.
- 5.3 For the sites initially within scope, Legal Services have carried out appropriate due diligence checks (including Land Registry documents), that the land is owned by the County Council and there are no covenants on the land preventing the proposals set out in this paper. Any land and/or assets identified by any of the Service Provider(s) during the period would be subject to the same due diligence checks prior to entering into any property lease, highways licence and, if applicable a service concession contract.
- 5.4 In relation to the highways aspect, a Section 115F licence, under the [Highways Act 1980](#), allows the County Council to make a charge for the process of granting a licence subject to the charge being "standard amount" for a licence under S115E that is, the County Council's reasonable costs. However, S.115F(2) says this doesn't apply where the County Council are the owners of the sub-soil. Therefore, the County Council can make a commercial charge for a licence under s115E if the County Council also owns the subsoil. In respect of the initial land and/or assets identified, the County Council also owns the sub-soil and is acting in accordance with the highways legislation pertaining to the sites identified.
- 5.5 Under a concession contract the County Council does not pay a traditional contract price so there is no financial amount payable. This is because the service provider receives payment from the third parties

(advertiser/sponsor). The commercial risk therefore resides with the Service Provider(s). The consideration to the Service Provider(s) consists of the right to exploit the services/assets within scope.

- 5.5 The value of a service concession contract is therefore determined by the amount that the Service Provider(s) could generate over the duration of the contract period. These types of contract are subject to the [Concession Contracts Regulations 2016](#) if the total value of the contract is at or above the current concession threshold of £4,104,394. It is our understanding that the total value of the proposed service concession contract will be below this threshold, however, this will be monitored throughout the contract term, particularly if any additional sites are included.
- 5.6 The lease as well as the contract will ensure the Service Provider(s) is responsible for installation and all maintenance, repairs, replacement and health and safety obligations. The lease as well as the contract will also require the Service Provider(s) to comply with all directions of the highways legislation, policy and guidance and allow access if needed.

## 6. Risk Assessment Implications and Mitigations

- 6.1 A number of risks and mitigations have been identified which are set out in the table below.

<b>Risk</b>	<b>Mitigation</b>
Reputation and political aspects relating to community arrangements.	Create strong connections with key officers and plan effectively.
The tenders do not attract any compliant bids.	The tenders have been shaped to attract appropriately (eg: Outdoor media market providers) according to the market.
Revenue return to the target level set within this paper is not achieved and/or economic change.	Realistic goal setting and management at stated contract/lease periods. Reset the target scope against what is possible within the market.
Lack of suitable land and/or assets.	Reset the target scope against what is possible within the market.
Types of advertisers/sponsors accepted outside of advertising policy.	Contract/leases will include appropriate advertising/sponsor standards and compliance process including Advertising Standards Authority regulations (ASA).
Aggressive sales approach potentially causing reputational damage and impacting ability to sell.	Managed effectively according to contract sales standard.

## 9. Other Options Considered

- 9.1 Investigation around best practice within other local authorities to see what they are doing nationally within the income generation arena has taken place. Feedback has indicated an interest in developing in-house options however the majority of local authorities have external Service Provider(s) contracts in place. The amount of revenue generated by these local authorities varies according to the number of assets as well as any maintenance schedules/overheads.
- 9.2 The option of "do nothing" was also explored however this was not considered to be the preferred option as there is an opportunity to utilise County Council land and/or assets more effectively through the generation of revenue return.
- 9.3 Consideration was also given to an in-house function, however due to the market skills and specialist knowledge there was limited value in replicating this in-house. Working with specialist provider(s) also offers the County Council the opportunity to work with the market to grow outdoor media and revenue return ability.

**10. Equality and Human Rights Assessment**

None

**11. Social Value and Sustainability Assessment**

None

**11. Crime and Disorder Reduction Assessment**

None

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**Appendices:** None

**Background papers:** None