

**CABINET
23 JUNE 2020**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: HITCHIN MARKET – NEW CONTRACT

REPORT OF THE COMMERCIAL MANAGER AND SERVICE DIRECTOR - COMMERCIAL

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR ENTERPRISE AND COOPERATIVE DEVELOPMENT

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES / RESPOND TO CHALLENGES TO THE ENVIRONMENT / ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to seek approval for the new management contract regarding Hitchin Market. This report sets out the new direction for Hitchin Market and demonstrates how the partnership between the Council and Hitchin Markets Limited will continue.

2 RECOMMENDATIONS

- 2.1 That Cabinet approves the entering into of a new contract with Hitchin Markets Limited, for the operation of Hitchin Market, for an initial period of one year with the option to extend on a year by year basis for a further two years [maximum three years].

3. REASONS FOR RECOMMENDATIONS

- 3.1. To seek approval of the new contract going forward and to update Cabinet Members on the potential transformation of the Market.
- 3.2. To ensure that Hitchin Market continues to operate.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. Conducting a tendering exercise regarding the management of Hitchin Market. However, due to the value of the contract the Council does not have to tender this contract. Officers are also confident that Hitchin Markets Ltd are best placed to operate this market at this point in time.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Executive Member and Deputy Executive Member for Enterprise and Co-operative Development and the Executive Member for Finance and IT have been kept regularly updated on this matter and support the entering into a new contract with Hitchin Markets Ltd.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. This report has been written since the current contract extension with Hitchin Markets Limited expires on 31 July 2020. The current contract was extended for two years from 1 August 2018 by the Deputy Chief Executive by Delegated Decision Notice dated 7 September 2018.
- 7.2. This report outlines the need for a new contract and explains why Hitchin Markets Limited are best placed to continue to operate this market.

8. RELEVANT CONSIDERATIONS

- 8.1. The Council originally tendered the contract for Hitchin Market in 2008. Hitchin Markets Ltd (HML) were successful and have operated this contract since 1 August 2008. The contract has since been extended a number of times. It was agreed at the last contract extension of two years in 2018, that HML would pay the Council a management fee of £2,180 on a monthly basis. However, due to increasing financial difficulty, HML has only paid the Council six months of the management fee in this current financial year – which is equal to £13,082. They have not paid their management fee since October 2019.
- 8.2. It was agreed at the time that HML's situation would be reviewed with the Council in April 2020. The team at HML has explained to the Council in recent contract meetings that their financial situation is becoming increasingly worse due to a shift in shopping habits, a change in demand and a lack of new traders.
- 8.3. The Council has worked closely with the team at HML since October 2019 to overcome this difficult period. Hitchin Market is also now suffering financially due to the impact of Covid-19, which resulted in the market closing on 24 March 2020 following Government guidance.
- 8.4. The Council has considered conducting a tendering exercise regarding the future management of the Hitchin Market contract but does not think it is in the Council's best interest and would prefer to continue the partnership with HML. The reasons for this are the current uncertainty surrounding the Market's environment and increasing publicity regarding the general decline in trade of many Markets across the UK.

- 8.5. The proposed new contract is a concession contract at zero value. As a result, we do not have to procure this type of contract through a tender process as it falls beneath the procurement threshold. The Council also wishes to maintain a good working partnership with HML and to share a collective vision for the future of the Market, alongside other stakeholders such as the Hitchin BID and Hitchin Initiative. There will also be an opportunity in the future to consult with residents and existing traders about the future of the Market.
- 8.6. Hitchin Market will aim to be a key element of the recovery of the town and surrounding District post Covid-19. The Council is of the view that HML can support the changing dynamic of the Market and lead it into a brighter future for the community.
- 8.7. Due to the impact of Covid-19, HML is predicting an 80% total income of last year's figures. As mentioned above, the value of the proposed new contract going forward will be £0. The agreement between the Council and HML will be based on a cost neutral basis. As a result, the Council will no longer receive a management fee. Financial support from the Council during the term of the new contract may also need to be considered if the Market continues to decline.
- 8.8. Going forward, HML has proposed a new contract with the Council. Officers are happy that the proposal reflects the current climate that HML is operating in and feel this is an acceptable offer. The suggested contracting proposal allows the Council the opportunity to review the financial position of HML on a yearly basis. The flexibility of this contract also supports any future plans regarding the Churchgate premises and the everchanging Market environment.
- 8.9. This contract will be for an initial period of one year with the option to extend on a year by year basis for a further two years with a maximum of three years. It will be based on the same terms as the previous contract extension in 2018, with changes to the contract length, financial implications and updates in law. The Council will also continue to maintain an open book accounting approach with HML.
- 8.10. As the Council enters into the new contract on 1 August 2020, the role and the future of the Market is likely to change. The aim will be to provide additional new opportunities for those businesses who may have suffered as a result of Covid-19, and to transform the Market into an experience destination as well as shopping. This may include new or extended opening times, opening days and the attraction/ promotion of speciality markets. An Officer of the Council will also have a place on the newly formed Strategic Board alongside two Councillors, Hitchin Initiative, Hitchin BID and Hitchin Markets Limited itself. This will enable more control, better visibility of decisions and steer over the direction of the Market.
- 8.11. These changes will aim to enhance the financial position of the Market and bring the asset up to a high standard, that makes it more appealing to shoppers and traders. Other significant changes such as structural improvements on the Market will be explored and presented back to Cabinet at a later date.

9. LEGAL IMPLICATIONS

- 9.1. Concession Contracts of this value do not need to be competitively tendered for under The Concession Contracts Regulations 2016.
- 9.2. Rule 3.11 of the Council's Contract Procurement Rules (CPRs) [Part B, Section 20 dated 16 January 2020] states that these rules do not apply to Concession Contracts.
- 9.3. Legal will prepare the new Contract and will arrange for it to be executed by the parties.

10. FINANCIAL IMPLICATIONS

- 10.1. In the previous contract, the arrangement was that HML pay the Council £25,327. The new contract would mean that no payment would be made to the Council as HML is expecting to breakeven with the possibility of a shortfall in income.
- 10.2. As a result, there will be a loss of future income of £25,327 to the Council. There could also be further costs to the Council if the forecasted income targets are not met and costs are higher than projected. The drive for changes to the Market could see additional financial resources required, this combined with projected forecasts not being achieved could see further costs being incurred.
- 10.3. Officers have worked closely with HML in recent months to review and understand their financial challenges. Executive Members have also been kept up to date regarding HML's financial difficulty.
- 10.4. A financial check has been carried out on HML as part of the Council's procedure and has reported the company as low risk.

11. RISK IMPLICATIONS

- 11.1. The main risk associated with this report is regarding the financial impact of Covid-19 on HML. There is a risk of the Council will have to provide financial support to HML, however this is subject to HML income levels which are dependent on trader and shopper behaviour.
- 11.2. However, generally, this report is considered relatively low risk due to the fact the Council is currently receiving no income from the existing contract, is maintaining an established working relationship with HML and has the flexibility to change circumstances bearing in mind the duration of the new contract.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

- 12.2. There are no direct equality implications arising from this report, however, further consideration may need to be made in future as efforts are made to transform the Market into an experience destination. If as per 8.10 this includes new opening times and days, and the attraction of speciality markets, such consideration may pay attention, for example, to issues of accessibility for all areas of the community. Furthermore, as outlined in 12.1, efforts should ensure that opportunities to foster good relations between community groups are maximised.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. None identified.
- 13.2. As the recommendations in the report relate to a contract below £50,000 the “go local” policy has been applied. Hitchin Markets Limited is a locally based company that operates from Hitchin and is made up of local board members.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known direct Environmental impacts or requirements that apply to this report. However, further consideration may be required in the future, such as around the disposal of waste as the Market is transformed into an experience destination.
- 14.2. Furthermore, as we approach the attraction of new traders and speciality markets, we should be mindful of how these businesses’ practices align with the Council’s ethos on Climate Change and plastic.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None identified.

16. APPENDICES

- 16.1 None identified.

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

18.1 None identified.