

**Report for: Cabinet**

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Date of Meeting: 27 August 2024

**Subject: Extending the Fleet Contract with Specialist Fleet Services**

Cabinet Member: Cllr Josh Wright, Cabinet Member for Environment and Services

Responsible Officer: Darren Beer, Operations Manager – Street Scene and Open Spaces

Matthew Page, Head of People, Performance and Waste

Exempt: Appendix A

These are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)

Wards Affected: All

Enclosures: Appendix A: Lease vs Purchase Capital Costs

**Section 1 – Summary and Recommendation(s)**

Cabinet are asked to consider the report and recommend to approve the decision to extend the current and existing contract regarding the Council’s fleet provision with SFS (Specialist Fleet Services Limited) by a further seven years (this option previously agreed by Cabinet in March 2019 as part of the original procurement decision). The current contract with SFS is due to expire in 2026.

The provision of an effective fleet will help continue deliver quality, efficient and sustainable services to the residents of Mid Devon and is an essential component of our Business Continuity and Emergency Planning provision. This arrangement will help the Council continue to transition towards net zero, supporting Mid Devon to use low and zero emission vehicles. If approved, the contract would terminate in June 2033 and will continue to be reviewed regularly in terms of its performance and service provision.

## **Recommendation that Cabinet be asked:**

- 1. To approve the decision to extend the contract with SFS (Specialist Fleet Services Limited) for a further seven year period to cover 2026-2033 at the earliest possible opportunity.**
- 2. To include lease borrowing in the Capital Programme.**
- 3. To authorise the negotiation of the removal of the indexation rate from the master contract for all new vehicles as soon as possible and replace it with a fixed rate for the term of the individual contract.**

## **Section 2 – Report**

### **1.0 Introduction – the request to extend the SFS Contract**

- 1.1 This report requests for Cabinet to give permission for the existing fleet contract with SFS to be extended for a further seven years (this extension was part of the original proposal which was approved by Cabinet in March 2019). It includes both the vehicles for the General Fund and the Housing Revenue Account. The cost of the contract is approximately £1.4 million a year for 2024-25.
- 1.2 The Service Delivery and Continuous Improvement PDG reviewed this paper on 24 June 2024 and asked for it to clearly set out the business rationale and reasons for extending our current contract together with the alternative options and risks which could be considered as well as the potential impact on service provision. These sections are set out clearly below.
- 1.3 The specification for the original contract was published in 2018 with six suppliers submitting a completed questionnaire. Of these six suppliers only two submitted formal tenders. The Council awarded the fleet supply and maintenance contract to SFS on 03 June 2019 for an initial seven year term to 02 June 2026 with an option to extend for a further seven years as a secondary term following Cabinet approval in March 2019.
- 1.4 The indicative pricing given is correct at the time the information was provided in May 2024 and the new approach, if approved, would be implemented as of the 01 April 2025. It will give the Council the ability to more accurately budget based upon knowing what the future costs will be.
- 1.5 The Council has a statutory duty to provide a range of services that require access to a variety of different vehicles e.g. vans, road sweepers, recycling and waste HGV vehicles as well as the Grounds Maintenance tractors. So having one provider delivers consistency (rather than dealing with a range of suppliers) and ensures the particular range of vehicles the Council needs is achieved. This contract also gives the Council the knowledge and advice we require to continue our transition to an electric based fleet.
- 1.6 SFS are proficient in ensuring the fleet is roadworthy and the Council have sufficient availability of vehicles to deliver the service. SFS can purchase

vehicles more cheaply than Mid Devon and through the existing leasing arrangement SFS fully owns the operational and financial risk which would otherwise be held by the Council. As has been experienced by other national and regional authorities who have gone through recent tendering exercises, there is a current lack of alternative lease providers for the Council to consider (and hence why they have also chosen SFS as their supplier. Further detail below).

- 1.7 Extending the current contract would give the Council financial stability and service reassurance. Given that the effective operation and delivery of our public facing services is dependent on us having reliable fleet provision, this decision is crucial for the Council.
- 1.8 The only alternative course of action is for the Council to go through a lengthy full tendering exercise which would cost the authority time (9 to 12 months) and money (£40K plus) with possible little benefit gained. There is also the risk that we put the current provision that exists into a worse state, which in turn, would have a very real detrimental impact on service delivery.
- 2.0 **The Reasons to Extend the Contract with SFS**
- 2.1 There are a number of important reasons behind our request to extend the current contract with SFS. First the Council has been provided with a nuanced and specialist contract that ensures we have a variety of different vehicles that underpin the many services that we provide to the public e.g. waste, recycling, grounds maintenance, street cleansing, housing, enforcement and property. Hence why many other local and national authorities have decided to contract them as their supplier (details below).
- 2.2 As already stated, SFS are able to purchase vehicles more cheaply than the Council. Through the leasing arrangement that the Council has through its contract with SFS, the supplier owns all of the operational and financial risk that would otherwise be held by the Council. A key objective that underpins our request to extend the current contract with SFS is to move all of our fleet to a lease contract arrangement.
- 2.3 SFS have a strong and greater emerging local presence in the South West. Other authorities have recently tendered for vehicle contract hire and fleet management provision with SFS being chosen as their supplier based on both the quality and price of their proposed submission e.g. Exeter, West Somerset and Taunton, North Devon (recently in 2021) and Teignbridge (over 20 years of service provision).
- 2.4 The growing commitment of SFS to the South West is further underlined by the building of an extra depot on the border of the District in Wellington (subject to planning permission). This will further improve the service provision obtained by the Council in terms of repairs and maintenance.
- 2.5 The stronger and emerging presence in the South West opens up the possibility of exploring a shared service provision with other authorities in the

future. SFS are also committed through an extension to the existing contract to support the Councils employment of apprentices and the sponsoring of social action projects to improve education and increase recycling (see later section on service provision).

- 2.6 SFS have significant buying power with manufacturers and influence over the supply chain which results in improved operational performance for the Council and the services we deliver. This assists the Council with emergency situations like the COVID-19 pandemic where SFS were able to use their purchasing leverage and position in the market to ensure Mid Devon received the fleet we required in a competitive and crowded field (and where other industry orders for vehicles were being cancelled).
- 2.7 As a result our fleet provision is an essential component of our Business Continuity and Emergency Planning provision. We could not deliver our public facing services without it.
- 2.8 SFS are a wholly owned subsidiary of Paragon Bank PLC with 30 years' experience of fleet and workshop. This gives the Council greater stability and confidence regarding the service provision we receive e.g. being able to obtain what we need at the time we need it.

### 3.0 **Lack of Viable Alternatives for Consideration and Risks**

- 3.1 Over recent years, industry changes in the external fleet market have meant that specialist suppliers like SFS who can provide a variety of different vehicles are now in very short supply.
- 3.2 We are therefore unlikely to procure another plausible option at this moment in time due to the nature of the external market that meets the requirements of the Council (and hence why other regional authorities already listed and national authorities including Corby, Epping Forrest, Northampton, Epsom and Ewell, Hinkley and Bosworth, Hindburn, Staffordshire Moorlands, Lichfield and Tamworth, Kettering and Spelthorne have recently decided to go with SFS).
- 3.3 As stated, a full market tender would likely take 9 to 12 months to complete (it took 10 months in 2018 prior to the last formal tender). So whilst it is important to know what represents value for money for the Council, there must be balance in terms of the resource that would need to be invested (and the cost of this resource) and the length of time another tendering exercise would take.
- 3.4 The Council requires a lease arrangement for its fleet and does not wish to purchase vehicles. This is due to the fact that there would be additional costs for purchasing vehicles (**see Appendix A**) but also extra running costs for the certification and checks that we would the need to carry out ourselves.
- 3.5 SFS can also ensure that the Council has immediate access to the vehicles it requires due to its presence in the supply and purchase market. There is very little residual value in our larger vehicles when sold on at the end of their

lifespan. It was universally supported by the Service Delivery and Continuous Improvement PDG that the Council should look to continue its leasing arrangement (and that purchasing our own fleet was not a viable option).

- 3.6 There is also the very real risk that by not extending the existing contract with SFS and going through a full tender exercise the Council could end up being in a situation of greater uncertainty in terms of the viable options it has (particularly due to the lack of alternative supplier options in the external market). As well as potentially affecting the vehicle provision which underpins service delivery, the current commitment of the supplier to Mid Devon together with five years' worth of knowledge and insight into our service needs would be lost.

#### **4.0 Service Provision**

- 4.1 SFS are committed to Mid Devon and helping evolve the delivery of our services. A good illustration of this commitment is SFS being prepared to sponsor social action based projects including the educating of younger people on recycling and the promotion of Council Services through new logos and exterior vehicle design. This has an important alignment with our values but also underpins the principles of public service delivery.
- 4.3 SFS committing to building a new depot in Wellington will mean SFS being able to carry out and undergo major repairs themselves which will really benefit the services we operate by reducing the turn-around time and ensures the service has the availability of vehicles it needs. This development would be of significant value to the Council.
- 4.4 SFS have also committed to help drive forwards apprentice opportunities through the building and running of this new depot and working in partnership with the Council to assist our own development programme. Apprenticeships are a central plank of our own workforce strategy and the Districts wider investment in younger people. They have also offered to help sponsor relevant social action projects to raise awareness of key environment issues and help raise awareness of best practice with regards to recycling and other important commitments.
- 4.5 The current contract specifies key KPI response times and vehicle availability rates, which are closely monitored by the Waste and Recycling Manager and the SFS Contract Manager through quarterly contract review meetings and regular operational meetings.
- 4.6 As previously stated, with five years of service provision SFS understand our needs as a Council and have first-hand knowledge of the District. Our KPIs show a good delivery of service provision with issues that are raised being effectively and expediently addressed.

## 5.0 Summary of considerations

	Pros	Cons
Extend with SFS	<ul style="list-style-type: none"> <li>• Expertise in managing fleets</li> <li>• Buying power and influence over supply chain</li> <li>• Dedicated workshops and back-up options</li> <li>• Fleet management software and administration</li> <li>• Contract is performing well</li> <li>• Other local authorities moving to SFS and staying with them</li> <li>• SFS own the risk – inflation and supply chain</li> <li>• Commitment to District and pledge to support apprenticeship programme.</li> <li>• Commitment to building a new depot in Wellington.</li> </ul>	<ul style="list-style-type: none"> <li>• Risk of better contract opportunity arising over coming years.</li> </ul>
Manage own fleet	<ul style="list-style-type: none"> <li>• Not tied to lease contract terms for replacements</li> <li>• Able to use a range of local repairs workshops (subject to procurement process)</li> </ul>	<ul style="list-style-type: none"> <li>• Limited discounts through frameworks</li> <li>• Maintenance contract with primary and secondary support through procurement</li> <li>• The Council owns all the risk – inflation and supply chain</li> </ul>
Use of alternative supplier	<ul style="list-style-type: none"> <li>• Able to compare performance to SFS</li> <li>• Expertise in managing fleets</li> <li>• Fleet management software and administration</li> </ul>	<ul style="list-style-type: none"> <li>• Limited alternative suppliers in the region</li> <li>• A new contract to establish and embed</li> <li>• Lose five years of working knowledge established</li> </ul>

## 6. Legal Considerations

6.1 Procurement law prohibits “substantial” modifications to contracts following their award. Modifications will generally be deemed substantial if they:

- a) render a contract materially different in character from the one initially concluded;
- b) introduce conditions that would have allowed or attracted additional bidders to the procurement exercise;

- c) change the economic balance of the contract in favour of the contractor in a manner that was not provided for in the initial contract;
- d) extend the scope of the contract considerably; or
- e) involve the replacement of the original contractor.

6.2 There are some “safe harbour” provisions in procurement law, which specify conditions that, if met, would mean a modification would not be deemed substantive and would therefore, not be permissible. If a “substantial” modification is made to a public contract during its term, it is considered a new contract, which should be subject to a fresh procurement. Making a “substantial” change is tantamount to making a direct award in breach of the procurement rules, and runs the risk of by an aggrieved party challenging the decision to modify the contract and the court making an ineffectiveness order.

## **7.0 Summary**

7.1 The Council wishes to extend the current fleet contract with the supplier SFS by a further seven years to 2033 which was approved by Cabinet in March 2019. This is due to the strong purchase and supply position SFS has in the external market, its growing presence in the South West (together with a commitment to build a new depot on the border of Mid Devon) and its commitment to the Council to enable best practice in terms of service delivery as well as its sponsoring of social action projects to benefit the District.

7.2 As other authorities have found who have recently tendered for their fleet supplier, there are a distinct lack of viable options that can offer the nuanced and specialist provision currently being delivered to the Council. The carrying out of a full and hard tendering exercise would take between 9 and 12 months to complete and cost the Council £40K in additional costs.

7.3 An early decision to exercise the additional seven year option will reduce the financial impact of a spike in maintenance charges in June 2026. Hence the early request for the Council to trigger the extension offer which was carefully negotiated in 2019.

## **Financial Implications**

The current contract provides for lease and maintenance contracts until June 2026, thereafter lease only for the remainder of the individual vehicle contract term. This exposes the authority to an increased financial risk in terms of the significantly increased costs associated with maintaining an aging fleet.

## **Legal Implications**

The Council is in a legal contract with SFS until 02 June 2026 for the supply and maintenance of the whole fleet. Any termination of the contract before that date requires 6 months’ notice. The Council’s legal team reviewed the contract terms and conditions prior to signing the contract. The procurement process ensured compliance with the Procurement Regulations. There is an option available to extend the contract by a further seven years.

## **Risk Assessment**

This report is a risk assessment of the contract and the associated financial risk.

## **Impact on Climate Change**

All new vehicles must be Zero Emissions Vehicles (ZEV) or Ultra Low Emissions Vehicles (ULEV) if the Council is to meet its climate emergency obligations by 2030, with the understanding that there may be constraints on viable solutions due to cost, infrastructure and vehicle capability.

## **Equalities Impact Assessment**

There are no equality issues identified in this report.

## **Relationship to Corporate Plan**

To ensure compliance with procurement regulations and to deliver our Corporate Plan priorities within existing financial resources.

## **Section 3 – Statutory Officer sign-off/mandatory checks**

**Statutory Officer:** Andrew Jarrett

Agreed by or on behalf of the Section 151

**Date:** 14 August 2024

**Statutory Officer:** Maria de Leiburne

Agreed on behalf of the Monitoring Officer

**Date:** 14 August 2024

**Chief Officer:** Andrew Jarrett

Agreed by or on behalf of the Chief Executive/Corporate Director

**Date:** 14 August 2024

**Performance and risk:** Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

**Date:** 05 June 2024

**Cabinet member notified:** Yes

## **Section 4 - Contact Details and Background Papers**

**Contact:** Darren Beer, Operations Manager – Street Scene and Open Spaces

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