

North Somerset Council

Report to the Council

Date of meeting: 20 February 2024

Subject of report: Commissioning Plan for the procurement of an operator for the Tropicana.

Town or Parish: Weston-super-Mare

Member presenting: Cllr. Mike Solomon, Executive Member for Culture & Leisure

Key Decision: No

Reason: Not an Executive decision

Recommendation

To approve the Commissioning Plan for the procurement of an operator for the Tropicana as set out in sections 3.10 to 3.29 of this report.

1. Summary of report

- 1.1 The Tropicana is currently operated by a Council team, which hires the internal and outside space to external event organisers. The Bay café is operated under a concession contract by an external catering company.
- 1.2 Local Authorities across the UK have successfully leased similar entertainment venues to commercial operators, often following large scale investments which make the sites more attractive to the market, thus reducing costs to the public and improving / extending the entertainment offer to contribute to the local economy. Examples include venues in Wolverhampton, Southport, and Sheffield.
- 1.3 With the benefit of the Levelling Up Funding and a commercially experienced and connected operator, the Tropicana could become a regional / national hub for entertainment.
- 1.4 The vision for the Tropicana is to become a commercially viable, year-round, high-quality, multi-entertainment venue, which operates at no cost to the Council, and helps to raise the profile of Weston-super-Mare as a fantastic place to live, work, visit, and invest.
- 1.5 This report sets out a Commissioning Plan to procure an operator. This recommends using Concessions Contract Regulations, which will ensure a rigorous selection process. The selected operator would enter into an operator services contract underpinned by a long-term lease, expected to last at least 15 years.

2. Policy

- 2.1 The proposed procurement outcome will deliver on the Corporate Plan priority of A Thriving and Sustainable Place and the support the Council's Strategic Asset Management Plan and Medium-Term Financial Plan.
- 2.2 As identified in the Super Weston Placemaking Strategy; investment in this key asset, turning it in a venue with a regional, national, and potentially international audience, will magnify Weston-super-Mare as a more attractive place to live, work, and visit, and support the delivery of entertainment that will enhance the town's placemaking vibrancy and attractiveness for future investment.

3. Details

Introduction

- 3.1 The Tropicana is an asset owned and operated by North Somerset Council. It is one of North Somerset's most iconic assets on Weston-super-Mare seafront. Originally opened as a lido in 1936, the Tropicana occupies a prominent seafront location and is perceived as a significant cultural and community asset.
- 3.2 The Tropicana closed as a commercial leisure pool in 2000. Since then, the Council has on several occasions sought to secure a commercial partner to revitalise and enhance the offer. These efforts have failed due to the capital investment required, and to the requirement (at the time) to include a swimming pool, which proved unviable. This latter requirement has been removed, and the site will benefit from Levelling Up Funding, which significantly reduces the size of the capital investment that would be required from an operator.
- 3.3 In 2015, the Tropicana attracted a one-off visitor attraction known as Dismaland. Since Dismaland, the Council has operated the Tropicana as an event space for hire. Whilst the small team has done a fantastic job, building event and visitor numbers, challenges have included surviving the post COVID-19 downturn without enough resources, lack of the commercial connections, marketing budget and economies of scale of commercial operators. So, the site remains an annual operational cost to the Council and has not generated enough income to maintain and improve the state of repair. The site requires significant investment.
- 3.4 The 2022 SEE MONSTER installation, part of the Government's national UNBOXED festival, brought international profile to Weston and the Tropicana, generating further significant interest in the site.
- 3.5 The building's current condition is a major risk to its future. The site sits outside the town's main sea defences, so the tide and weather have taken their toll. Through the years, the building has had several reactive repairs to its walls and infrastructure, these did not address the long-term issues.
- 3.6 The Council's plans are informed by an options appraisal, jointly commissioned with Arts Council England that concluded:

"Due to the site's layout and current condition, NSC (North Somerset Council) is unlikely to find a commercial or cultural operator to offer year-round operation...[but] with improved facilities, vision and a new delivery model, the operation [of the Tropicana] could be financially sustainable. This would begin the positive

transformation of the site and leave open the option for future partnerships and further capital investment."

- 3.7 In 2023, the Council was awarded just under £20m Levelling Up Funding (LUF) for a programme of investments across Weston, matched by c. £3 million Council funding. A Commissioning Plan for the LUF Capital Programme was agreed by Council in February 2023.
- 3.8 £8.67 million of the LUF money (including contingency and inflation costs) is earmarked for the Tropicana. The Tropicana improvements aim to make major repairs to the site and increase capacity to enable its viable commercial operation for 15 plus years. However, even after works are complete, additional investment is likely to be required for fit-out and to optimise the operation of the venue. Given the Council's current financial position, a commercial operator would be best placed to make this commitment against a long-term lease.

The Commissioning Plan

The opportunity

- 3.09 The Council will offer an operator service contract underpinned by a long lease to enable initial and ongoing investment and to reduce Council's exposure to risk.
- 3.10 The contract shall be for a period of 15 years plus; this is to enable the operator to recoup initial capital expenditure and promote the Tropicana as a long-term viable attraction and business.
- 3.11 The lease will be fully repairing, placing the responsibility for investment in, and maintenance of the facility on the operator.
- 3.12 The operator service contract will outline additional terms to the lease, such as processes for flood defence warnings, seafront management requirements, local resident and business engagement, logistical agreements (for example shared access to the beach, etc.), engagement with the North Somerset Safety Advisory Group for events, etc.
- 3.13 The lease will outline all usual commercial terms and conditions, in which the tenant will be responsible full repair and maintenance, costs of utilities, NNDR, insurance, operational financial risk etc.

Procurement support

- 3.14 To support this work, officers are currently concluding a procurement for specialist advice from an entertainment venue procurement contractor, who can provide strong connections to the industry network and a record of accomplishment of successfully leasing entertainment sites.
- 3.15 This role will include providing market advice and contacts, inputting into the Procurement Plan, preparing tender and lease documentation, marketing the site, and assisting in evaluating bids.

Market

- 3.16 From research, the market has maintained reasonable buoyancy, particularly for more unusual opportunities such as the Tropicana.
- 3.17 The flexibility of the site and planned construction works will allow multiple entertainment uses, which opens the potential market considerably. Also, the construction project will significantly improve operational and energy efficiency.
- 3.18 A soft market testing exercise in 2023 indicated a healthy level of interest in this high-profile site, particularly with the benefit of the Levelling Up investment.
- 3.19 That said, this is a challenging location and site, even with the investment, so operators with successful, topical experience will be sought.

Route to Market

- 3.20 The Procurement Plan for this project will confirm and expand on the detail in this Commissioning Plan, including providing the full selection criteria and weightings.
- 3.21 Using the venue procurement specialist, the opportunity will be widely marketed; sent direct to the specialist's network of possible operators and the existing list of potential operators as identified during soft market testing. Important partners such as the Arts Council England will also support dissemination of marketing messages.
- 3.22 The contract with appended lease will be procured utilising Concession Contract Regulations, which enable a rigorous selection process, within which the Council can adjudicate on levels of relevant experience, business plans, etc.
- 3.23 The current procurement approach identifies several stages (see indicative timetable below). This will be finalised with the venue procurement specialist's advice, based on successful leasing of large entertainment venues across the UK.
- 3.24 Given the high profile of this project, the process will include opportunities for relevant senior officers and members to input into the selection process. This input will be carefully managed to ensure compliance with procurement and competition regulations, and to ensure confidentiality around the bids received.
- 3.25 Competitive dialogue is used for particularly complex contracts such as this. This stage will inform the Council's discussions and decisions in relation to the terms and contract details.
- 3.26 The Procurement Plan will confirm the tender criteria and weighting, expected to include (but not limited to):
 - Realistic long-term business plan, demonstrating at least cost neutral operation to the Council in the short-term.
 - A viable operator with relevant successful experience and diverse programming plans to attract a high level of spend throughout the year and add to the Weston offer.
 - A proactive, professional, co-operative approach to operating in a town centre, seafront location.
 - Demonstrable environmental and social values.

Indicative timescales

- 3.27 The current timescales should allow the operator to take on the venue in late 2025, enabling them to carry out fit-out and other preparatory / mobilisation works prior to opening fully in time for the 2026 season. This timeline also fits the construction timescales, currently approved to end in Jul / Aug 25
- 3.28 The table below shows the indicative programme for the procurement. This will be refined and confirmed in the Procurement Plan. Early conversation with the venue procurement specialist suggests that the timescale could potentially be slightly shortened.

Indicative action	Indicative timescale
Appointment of entertainment venue procurement specialist	By end of Feb 2024
Completion of draft Procurement Plan	By end of March 2024
Executive Member Procurement Plan approval (advised by Director & Head of Strategic Procurement)	12 April 2024
Opportunity & selection questionnaire published and promoted using Find a Tender Service government portal, a national marketing campaign and direct to the network of potential operators. Tender pack complete inc Heads of Terms and sent to interested parties.	30 April 2024
Selection questionnaire submission deadline	31 May 2024
Evaluation & shortlisting against financial viability and experience	June 2024
Finalise outline solutions pack based on initial feedback	June 2024
Publish invitation to submit outline solutions (max 5 bidders)	Early July 2024
Outline solutions submission deadline	End Sept 2024
Soft evaluation/moderation and feedback including against business plans demonstrating viable, diverse, and exciting programme of entertainment to attract higher spending users across the year, environmental and social values and achievement of Levelling Up Fund outputs and outcomes, professional operational, proactive approach, and capital funding to fit out the venue	Oct 2024
Competitive dialogue	Nov/Dec 2024
Legal dialogue	Nov/Dec 2024
Publish invitation to submit final tenders (for the above max 5 bidders)	January 2025
Final tenders' submission deadline	February 2025
Evaluation/moderation	March 2025
Contract award at Executive Meeting	April 2025
Contract award Decision approval	May 2025
Contract signature	June 2025
Commence contract	August 2025 (TBC)
Occupation	From Sept 2025

Governance

- 3.29 An officer working group will oversee the procurement process, including representatives from Weston Placemaking, Procurement, Property & Projects, and Seafront Teams.
- 3.30 Regular reports and updates will be brought to the Weston Placemaking Members Advisory Group and to the Placemaking, Economy and Planning Policy and Scrutiny Panel support.
- 3.31 Once the contracted operator is in place, the Council intends to divest responsibility for operations to the operator. The Property and Projects Team will monitor and manage the contract and compliance.
- 3.32 The operation of the venue under the new operator will continue to be subject to normal regulatory requirements, for example around environmental protection and licensing. These will be regulated through Regulatory Services Teams in the same way as for any other operator of a venue.

4. Consultation

- 4.1 The Council carried out soft market testing during Summer 2023 with potential venue operators. This engagement looked to identify the potential nature and scale of operation that would be feasible at the Tropicana, as well as testing how the funding could be best used to make the venue more attractive and viable.
- 4.2 The Council appointed a venue management specialist to inform the operational requirements for a venue of this type and scale. This input has informed the design brief and will be taken into consideration for the development of the operator brief.
- 4.3 Officers hold monthly briefings of relevant Executive Members in respect of the submission of the Levelling Up Bid, its consequences, and future proposals for the Tropicana. Briefings have also been provided to Ward Members. It is intended that relevant members and senior officers will have a role in the procurement process.
- 4.4 The intention to commission an operator was reported to and discussed with the Placemaking, Economy and Planning Policy and Scrutiny Panel on 22nd November 2023. A follow-up discussion allowing panel input into the more detailed Procurement Plan is proposed to be taken to the meeting of 6th March.
- 4.5 Engagement has taken place with various specialist officers in respect of selected matters, including those involved in the seafront, highways, traffic, and licensing.

5. Financial implications

- 5.1 The Levelling Up Fund provides capital investment only. This does not provide for revenue spending, which will be required to procure an operator to achieve the objectives identified by the Council.

Costs / income

- 5.2 It is expected that, with the appointment of the operator, no further revenue or capital funding will be required of the Council to finance the long-term future of the Tropicana as the operator will generate revenue to cover costs and longer-term profit.
- 5.3 However, the Council will need to monitor the contract lease and service agreement and carry out landowner responsibilities using its staffing resources. These costs will be met in the first instance from existing resources but in future are hoped to be offset through income from the venue.
- 5.4 Part of the procurement will be consideration of the projected costs, expenditure and income expected from the operator, to ensure a robust business case and chance of success.
- 5.5 Whilst initially the aim will be to make the site run on a cost neutral basis, over the longer term the aspirations are to generate income from the site. This could be in the form of a profit share arrangement.
- 5.6 In taking this Commissioning Plan forward, Council revenue funding has been agreed in respect of:
 - Engaging a specialist consultant for the procurement process (estimate £70,000).
 - Additional Legal costs (estimate £5,000)

Funding

- 5.7 It is proposed that the upfront costs of £75,000 are funded by one-off transformation funding. Once the site is operational there will be cost savings to the Council in the region of £100,000, these will be captured in the Council's medium-term financial plan (MTFP). In the longer term it is anticipated that the Council will generate income from leasing the site.

6. Legal powers and implications

- 6.1 The Local Government Act 1972 provides powers to local authorities to use its resources for the better of the community it serves.
- 6.2 The Council proposes using the Concession Contract Regulations (CCR) 2016. Under the CCR the transfer to the operator of the right to exploit the works or services shall always imply an operating risk of economic nature involving the possibility that it will not recoup the investments made and the costs incurred in operating those works or services. This means that under the contract, the operator should not enjoy a guarantee of breaking even on investments and costs incurred.
- 6.3 An operational services contract with appended long-term lease will be offered to the selected operator following procurement.

7. Climate Change and environmental implications

- 7.1 Whilst this Commissioning Plan does not in itself have any climate change or environmental implications, it is expected through the associated procurement for the

future operator to operate the asset in a manner that contributes towards the Council's net zero targets and to minimise the impact on the environment.

8. Risk management

The key risks associated with the procurement of a suitable operator are:

Risk	Detail of risk	Inherent risk	Inherent risk treatment	Mitigating / exploiting actions	Residual risk
Insufficient interest by potential operators	Although soft market testing offered reasonable confidence that there are sufficient organisations prepared to consider bidding for the contract to lease, it is possible that when asked to commit, numbers are lower		Mitigate	Using an appropriate specialist, the Council will ensure the market is stimulated, and the opportunity will be advertised nationally, including on the Government's FTS website to ensure wide visibility.	
The procurement being too detailed, restrictive, and controlled, deterring interest	Whilst the Council will require input into the future management of the Tropicana and attracting of entertainment to the facility, an overly onerous procurement process could potentially dissuade potential operators from bidding.		Mitigate	The procurement strategy and evaluation criteria need to make the prospect of operating the venue sufficiently attractive to operators, whilst providing reasonable Council input and confidence in their ability and plans. The procurement specialist will inform this mitigation.	
Misalignment of the capital works proposed with the aspirations of potential operators.	As the capital programme and operator procurement programme have varying timescales, investment choices could be unadvised.		Mitigate	Through soft market testing and the report by venue management consultancy, plus continued conversations with potential operators through the tendering process and then the preferred bidder, to align design and construction with operator expectations. Plus, most of the investment will be utilised for repairs.	
Delays in the construction programme and / or operator procurement:	The potential for delays in either programme is likely		Mitigate	Needs to be mitigated by close management of both workstreams.	

Risk	Detail of risk	Inherent risk	Inherent risk treatment	Mitigating / exploiting actions	Residual risk
Operator proposals fail to meet requirement of creating a cost-neutral (to NSC) future for the venue	Given the challenging operational environment, both locally with the location and nationally with the entertainment market		Mitigate	This requirement will be made clear in the procurement exercise and will be given a high weighting. Specialist consultant advice on the procurement and in shaping capital proposals will seek to ensure a viable proposal can be drawn up	

9. Equality implications

- 9.1 This Commissioning Plan does not have significant equality implications.
- 9.2 The procurement process will ensure that the potential operators have the knowledge, experience, and ability to comply with all necessary equalities' legislation.
- 9.3 Quality criteria as confirmed through the Procurement Plan will consider the impacts of proposals on different individuals and groups. The considerations and how they have been considered will be reported in the final award of contract to lease decision.
- 9.4 An EIA will be carried out for the capital works to be completed through the Levelling Up Fund.

10. Corporate implications

- 10.1 This project will deliver on the Council's placemaking objectives for Weston-super-Mare. The Council has a ten-year plan for Weston based on consultation with thousands of businesses, visitors, and residents. The strategy aims to reposition Weston, addressing the long-term decline in the traditional retail-led high street and changes to visitor patterns. The plan focuses on wellbeing and recreation, being green and low carbon, a great place to live, work and study, and critically boosting the visitor economy.
- 10.2 The refurbishment of the Tropicana and commissioning of a new operator are a central part of this plan, capable of having a major impact on the town by creating a visitor attraction that is higher-quality and higher value added; helping to develop higher skilled, higher wage jobs.

11. Options considered

The Council considered potential options:

- 11.1 Continuing to operate the Tropicana with an internal Council team: this option is not recommended, as the operation of such a venue is not a core function of the local

authority at a time of financial restrictions, and the Council does not hold the specialist expertise to operate the venue commercially in the long-term. The venue does not currently break even and is not generating the surplus required to maintain and invest in the building.

- 11.2 Offering a long-term lease for the Tropicana by way of a land transaction, i.e. not via a procurement with selection criteria using Concession Contract Regulations: this option was considered and rejected on the basis that it would give the Council limited scope and control to attract and secure the operator which fits most of the Council's operational requirements (as stated above) and may put at risk the realisation of the required Levelling Up Fund investment outcomes.
- 11.3 To appoint an operator for a short-term contract: this is not recommended as any operator will need to invest in the facility, which will only be possible if they have the security of a longer-term tenure.
- 11.4 The recommended option: appointing an operator to the Tropicana under the Concession Contracts Regulations 2016 to offer an operations service contract with long-term lease. This option is the most suitable for this important asset, as it will give the Council the opportunity to select the operator that will most closely align to its desired objectives and outcomes through specialist experience in operating commercial entertainment venues. The expected terms of the lease will include profit-sharing mechanisms with a view to future income generation.

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Background papers:

The Levelling Up Fund bid: <https://n-somerset.gov.uk/business/regeneration-development/north-somerset-placemaking/levelling-fund>