

CABINET

12 July 2022

WASTE AND STREETSCENE SERVICES (INCLUDING WASTE COLLECTION AND DISPOSAL) - STRATEGY AND PROCUREMENT

Report of the Portfolio Holder for Communities, Environment and Climate Change

Strategic Aim:	Customer-focussed services	
Key Decision: Yes	Forward Plan Reference: FP/280422	
Exempt Information	Appendix A contains exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, namely private financial information of third parties.	
Cabinet Member(s) Responsible:	Cllr M Oxley, Portfolio Holder for Communities, Environment and Climate Change	
Contact Officer(s):	Penny Sharp, Strategic Director of Places	07973 854906 psharp@rutland.gov.uk
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Ward Councillors	All	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the re-procurement of the integrated Waste and Streetscene services (including waste and recycling collection and disposal) contract as detailed in the Pre-Procurement Business Case attached at appendix A.
2. Delegates authority to the Strategic Director – Places in consultation with the Leader and Portfolio Holder with responsibility for Environmental Services to finalise the tender and contract documentation.
3. Approves the Municipal Waste Management and Streetscene Strategy 2022-2035
4. Notes that the Council has invoked a contractual option to extend (Biffa Contract) and an option to extend under Regulation 72 (1)(b) PCR 2015 (FCC Environment; Casepak and Mid-UK contracts), so that all contracts have a co-terminus end date and expire on the 31 March 2024. There are no further extension options available.

5. Notes that the Clinical waste service will be procured in a stand-alone contract in advance of the main consolidated waste contract re-procurement.

1 PURPOSE OF THE REPORT

- 1.1 The report seeks approval to re-procure the waste and streetscene services (including waste and recycling collection and disposal) as detailed in the pre-procurement business case, attached at Appendix A. The report also seeks approval of a new Waste and Recycling Strategy for Rutland 2022-2035, attached at Appendix B.
- 1.2 The report outlines the key issues for consideration during the tendering process, the lotting structure, procurement route and the street cleansing, waste and recycling service standards to be achieved in the new contract.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Councils existing waste collection and disposal contracts are due to end on 31st March 2024 and cannot be further extended. The Council is responding to new policy and legislative drivers, as set out in the Resources and Waste Strategy 2018 (RWS) and the Environment Act 2021 in the provision of a new contract.
- 2.2 The new integrated waste management contracts will seek an efficient, cost effective and reliable collection service, and will implement the waste and recycling collection option agreed by Cabinet in March 2022 which complies with new requirements in the Environment Act 2021.
- 2.3 The new collection service will introduce a separate weekly food waste collection and separate fortnightly collections of a mix of paper and cardboard and separate dry mixed recycling (glass, cans and plastic). Fortnightly garden waste collections will be continued in the present format.
- 2.4 Cabinet also approved a reduction in the capacity for residual waste, however, in addition to the proposed 140 litre bins to be collected fortnightly, required a variant bid of 240 litre bins to be collected 4-weekly to be explored in the procurement.
- 2.5 Retaining a fortnightly collection aligns with Government considerations of a minimum service standard of alternate weekly collections of residual waste as part of their drive for collections consistency. Retaining a fortnightly collection was considered more acceptable to the public than three weekly residual collection (44% preferred a smaller black bin and 32% reduced collection frequency, as evidenced through a recent public consultation exercise).
- 2.6 In addition to the 'existing collections' bid and a 'new collections' bid, the request for a 'variant bid' in the tender, will introduce additional resource and capability requirements on the part of potential bidders and could discourage bids for this lot.

3 SOFT MARKET TESTING OUTCOMES

- 3.1 A Soft Market Testing (SMT) exercise has been undertaken, 12 companies responded and whilst the view was not unanimous, feedback suggests that the

services to be procured would be best split into three lots, as set out below:

- 3.1.1 Lot 1 - all kerbside collections: including residual, dry recycling, food, garden, bulky household waste and street cleansing.
- 3.1.2 Lot 2 - all kerbside disposal/treatment: including the same suite of services as kerbside collections and all materials currently treated under informal arrangements. Any transfer and haulage arrangements should fall under this contract, which is in line with the current residual waste treatment contract arrangements.
- 3.1.3 Lot 3 - HWRC services: operations, transport and disposal.
- 3.2 Clinical waste requires specialised services and so have been procured separately in advance (01.04.2022 until 31.03.2025) of the commencement of the rest of the consolidated waste services, due to the lack of interest from the market in this regard.
- 3.3 Other outcomes from the soft market testing are summarised below;
- 3.4 **Procurement route:** It is recommended that for the simpler Lot (where there is a clear direction of travel) the 'open' process is carried out, and for the more complex Lots where there may need to be discussion/negotiation in relation to specific risk areas, a 'competitive procedure with negotiation' is followed, as outlined in the business case.
- 3.5 **Infrastructure:** Contractors were keen to highlight in their responses that the lack of certainty around available infrastructure could result in a 'no bid' approach being taken with the tender. The Council should be mindful of the risks the Contractors perceive and minimise any uncertainty in the tender documents.
- 3.6 **Mobilisation period risk:** Responses to the SMT highlighted that the proposed mobilisation period of six months is not currently long enough, and that at a minimum of nine months would be required if new vehicles are to be in place from day one. The Council should review whether extending the mobilisation period is at all possible and evaluate the impacts and costs of what would happen if it was not.
- 3.7 **New service commencement risk:** It is recommended that the Council undertakes an assessment to determine whether a 12-month delay in service changes commencing would be financially feasible, or whether extending the mobilisation period / hiring vehicles in the interim to allow for vehicles to be in place for a Day 1 service change start would be more financially beneficial.
- 3.8 **Vehicle risk:** It is recommended that the Council considers providing the capital budget for both vehicles and containers and allowing the Contractors to lead in the procurement of these assets to reduce the likelihood of potential bidders 'no bidding' the tender. This may also include funding the hiring of vehicles in an interim period, as highlighted above.

4 BUSINESS CASE

- 4.1 The attached pre-procurement business case takes account of the SMT exercise. It adopts the lotting structure preferred by the market and proposes the procurement route to ensure optimum interest in the procurement and the best opportunity to drive a cost-effective improvement in quality of service provision.

4.2 The purchase of vehicles by the Council for use by the contractor and Council investment in the provision of waste infra-structure such as depot and waste transfer station requires further consideration and if necessary will be brought back to Cabinet for further approval in due course.

4.3 Bid evaluation criteria

4.4 The bid evaluation criteria is proposed in a 60%:40% quality:cost split, which reflects the importance of the quality of service to our residents and the impact of the service on the Council's reputation. The detailed evaluation criteria will align closely with the draft specifications to be finalised over the Summer period, in time for the Invitation to Tender documentation to be finalised in October 2022. A financial partner will be secured to assist with the preparation of financial tender documentation and financial evaluation of the bids, overseen by our Finance Team.

4.5 Service Specification

4.6 Detailed specifications for the 3 proposed lots are being drafted. Service standards to be achieved, payment mechanism and method statements will be specified in the tender documentation, specific to each proposed Lot.

4.6.1 An outcome base specification is proposed for Street Cleansing so that the standards achieved meet our statutory obligations set out in the Code of Practice on litter and refuse, this will be blended with some minimum frequencies of cleansing to ensure visibility of service provision in our Town Centres and Gateways.

4.6.2 The service standard to be achieved in the delivery of the new collection design will be specified, together with requirements for assisted collections, container replacement and delivery, response times for service issues such as missed collections and customer care.

4.6.3 The specification for the Household Waste Recycling Centre (HWRC) will require at least one HWRC to be open from 10am to 6pm in the Summer and from 10am to 4pm in the Winter, 7 days per week and will require 75% of the materials collected to be recycled. Materials to be collected include; residual waste, cardboard and paper, glass, green waste, fridges and freezers, WEEE, engine oil and batteries, textiles, metal, tyres, inert waste, wood, gas bottles, plasterboard, mattresses and carpets, books and media, hard plastics, bicycles, chemicals and paint, all of which shall fall within the scope of the new consolidated waste contract, rather than existing as a raft of separate service arrangements as is currently the case.

4.6.4 The disposal specification will require the provision of disposal and recycling facilities and services to ensure that 95% of recyclable waste collected in Rutland is recycled.

4.7 Method statements will invite the market to respond on how the services will be provided to meet the specifications and so encourage innovation and modernisation of service provision. The method statements will form a key element of the bid evaluation process and will ensure that the procurement exercise identifies the best quality bid at the best price.

4.8 Strong project governance is in place for this important procurement exercise which identifies the key milestones as detailed in the business case and provides detailed project plans. The project team in addition to operational experience provides

procurement, financial, technical and legal expertise and is overseen by the Project Board to ensure the delivery of the project in time for a seamless transfer to a new service provider on the 1st April 2024.

4.9 The Municipal Waste Management and Streetscene Strategy 2022-2035.

4.10 The proposed strategy is attached at Appendix B. Whilst the overall ambition, had been to realise a budget saving during the re-procurement of the contract, the vision and goals must reflect the reality of the current economic climate. The drive to minimise costs as much as possible and the new collection service will support this through increased diversion of waste to recycling (with a lower gate fee) and waste prevention so there is less tonnage to pay to dispose of as outlined in Goal 3 of the strategy.

5 CONSULTATION

5.1 The Growth, Infrastructure and Resources (GIR) Scrutiny Committee considered the design of the waste and recycling collection service during a series of meetings from September 2021 to February 2022 as reported back to Cabinet in March 2022. Consultation with the existing contractors has also taken place through a lesson's learnt exercise.

5.2 Public consultation on waste including collection requirements set the direction for the development of the new waste strategy as reported to Cabinet in March 2022.

5.3 The Future Rutland Conversation considered environmental issues. The consultation on the Draft Future Rutland Vision ran for a period of four weeks, throughout November 2021. Residents were found to be deeply concerned about environmental protection and the immediate impact of climate change and commented on the importance of developing circular economies. The Vision talks about communities and organisations embracing their environmental responsibilities and the proposed Municipal Waste Strategy sets out a clear direction in how this can be achieved.
<https://rutlandcounty.moderngov.co.uk/documents/s22265/Report%20No.%2053.2022%20Future%20Rutland%20Vision.pdf>

6 ALTERNATIVE OPTIONS

6.1 There are no further lawful options to extend the current four contract arrangements.

6.2 The Council could choose not to follow the requirements of the Environment Act 2021 and retain the existing waste and recycling collection design in a new contract; however, this will not meet statutory obligations expected to be introduced by the Act and therefore presents a risk of reputational damage and risk of legal and financial penalties.

6.3 A different procurement route could be followed, such as a fully Open Procedure, however, this was discounted due to the complexity of provision waste infrastructure and financing of vehicles. The selected procurement procedures gives the flexibility required to achieve the best service provision at the best price for the Council.

6.4 An alternative lotting structure could be used, such as one fully integrated waste and street cleansing contract. This was discounted following the SMT, as it would

present obstacles to the involvement of smaller local service providers.

7 FINANCIAL IMPLICATIONS

7.1 As part of the Councils 22/23 Outturn Report officers revised the assumptions for the waste contract within the Councils Medium Term Financial Plan (MTFP) as per Table 1 below.

Table 1

Contract	Position	Assumptions	22/23	23/24	24/25
Waste	Contract to end of March 2024 is based on CPI uplift annually. 22/23 rates not yet agreed.	Inflation rates change from c3% in 22/23 to 9% and 5% in 23/24. Expected new tender cost increased by 5%.	£216k	£329k	£545k

7.2 The Councils Medium Term Financial Plan (MTFP) included the following for waste services as shown in Table 2.

Table 2

	24/25 £m	25/26 £m	26/27 £m
Contract Costs	£4.457	£4.550	£4.646
Grant Green Waste*	-£0.405	-£0.405	-£0.405
Removal of Charging for Green Waste	£0.540	£0.540	£0.540
Grant Food Waste**	£0.000	-£0.204	-£0.204
Net Budget	£4.592	£4.481	£4.577

7.3 The MTFP includes the following budgets relating to the street scene contract as shown in Table 3.

Table 3

	24/25 £m	25/26 £m	26/27 £m
Contract Costs	£0.675	£0.688	0.703

7.4 The outturn report showed an underspend on Dry Mixed Recycling gate fees which have continued into the new financial year.

7.5 The MTFP position assumes rates will not continue at the current low position. The current economic climate creates greater uncertainty in terms of the financial position due to rising interest rates and increasing fuel costs, which could in turn impact on the cost of the contract. If the trend continues, then assumptions will be revised.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

8.1 The Cabinet is responsible for approving the re-procurement of the waste and street cleansing contracts. Under the Council's Contract and Grants Procedure Rules, Full Council will need to approve the final award criteria as the new contract will involve

expenditure of over £1M.

- 8.2 External legal firm Throwers & Hamblins, have been appointed to work alongside the Project Team to provide legal support during the pre-procurement and tender stages, as well as to draft a bespoke set of Contract Terms and Conditions to underpin the new consolidated waste contract.

9 DATA PROTECTION IMPLICATIONS

- 9.1 A Data Protection Impact Assessments (DPIA) has been completed. No adverse or other significant risks/issues were found. A copy of the DPIA can be obtained from Angie Culleton.

10 EQUALITY IMPACT ASSESSMENT

- 10.1 The reduction in size of residual bin (or reduction in collection frequency) has the potential to impact more households with needs for a larger bin than the current waste collections. Any additional demand for larger bins will be assessed using the existing larger bin policy and so there are no implications arising out of this report.

11 COMMUNITY SAFETY IMPLICATIONS

- 11.1 There are no implications arising out of this report.

12 HEALTH AND WELLBEING IMPLICATIONS

- 12.1 There are no health and wellbeing implications arising out of this report.

13 ORGANISATIONAL IMPLICATIONS (OPTIONAL DETERMINED BY SUBJECT)

- 13.1 Environmental implications

- 13.1.1 The detailed specification will have regard to the environmental aspirations of the Council, as guided by the Environment Act 2021.

- 13.2 Human Resource implications

- 13.3 Transfer of Undertakings (Protection of Employment) Regulations (TUPE) will apply to the waste and disposal contract. TUPE information will form part of the tender pack provided to market. This information shall be requested from the incumbent providers in good time as it will form part of the specification information against which bidders will cost their bids to the Council. The deadline for the provision of this information from the incumbent will be the end of August 2022.

- 13.4 Procurement Implications

- 13.5 In addition to the Open Procedure, the use of the Competitive Procedure with Negotiation (CPN) is proposed for the more complex Lots. The use of CPN is justified as technical specifications cannot be established with sufficient precision with reference to defined standards or technical references (vehicles and waste infra-structure) and so the contract cannot be awarded without prior negotiations due to specific risks in this regard.

- 13.6 CPN limits the scope of dialogue, with the Council setting minimum requirements that all bidders must commit to delivering or complying with. If using this route, the

Council must ensure that it leaves open for negotiation areas that may involve risk transfer where they are not sufficiently certain of either (i) its intent to transfer the risk to the supplier, or (ii) the impact of transfer of the risk.

- 13.7 The Council or its procurement partner Welland Procurement do not currently have relevant experience of running a CPN procedure, however, external legal support is in place to support the Council through this process, which will be confined to the areas that are not able to be specified with sufficient precision. This will mitigate the risk of increased costs and time associated with this procurement route.
- 13.8 If technical specifications can be made with sufficient precision then the CPN route allows the award of contract without negotiations to be made, where this was indicated in the contract notice.

14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 14.1 The Council must re-procure the waste and recycling collection and disposal contracts, as the current contracts are all due to end on 31st March 2024 and cannot be further extended.
- 14.2 The pre-procurement business case outlines how the new contract will respond to new policy and legislative drivers detailed in the Resources and Waste Strategy 2018 (RWS) and the Environment Act 2021. The procurement exercise seeks to secure an efficient, cost effective and reliable collection service and will implement the waste and recycling collection option agreed by Cabinet in March 2022 which complies with new requirements in the Environment Act 2021.
- 14.3 The report gives detail of the consultation with key stakeholders/ residents and the market. The proposed waste collection, lotting structure and other issues such as mobilisation period, vehicle ownership and waste infrastructure have taken account of the public consultation and views of the market as detailed in the pre-procurement business case, attached at Appendix A.
- 14.4 The selected procurement routes are considered the best option to achieve the required service standards and value for money in this high-profile service area.
- 14.5 The new Waste and Recycling Strategy for Rutland 2022-2035, attached at Appendix B, sets out the strategic direction of the service which aligns with emerging government policy and legislation and supports the aims of the Council's corporate plan with regard to customer focussed services, sustainability and the Council's path to net zero carbon emissions.

15 BACKGROUND PAPERS

- 15.1 Cabinet report of 8th March 2022; FUTURE RUTLAND VISION
- 15.1.1 <https://rutlandcounty.moderngov.co.uk/documents/s22265/Report%20No.%2053.2022%20Future%20Rutland%20Vision.pdf>
- 15.1.2 Cabinet report of 8th March 2022; DOMESTIC WASTE AND RELATED CONTRACTS – OPTIONS
- 15.1.3 <https://rutlandcounty.moderngov.co.uk/documents/s22262/Report%20No.%2>

051.2022%20Domestic%20Waste%20and%20Related%20Contracts%20-%20Options.pdf

16 APPENDICES

- 16.1 The pre-procurement business case is provided at Appendix A
- 16.2 The Municipal Waste Management and Streetscene Strategy 2022-2035 is provided at Appendix B

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.