

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**STREET SCENE & ENVIRONMENT ADVISORY BOARD**

**20 June 2017**

**Report of the Director of Street Scene, Leisure and Technical Services**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 WASTE SERVICES CONTRACT RETENDER**

**Summary**

The current waste services contract for refuse, recycling & street cleansing is due to end in February 2019. This report outlines the proposed retendering process, opportunities for partnership working with other local authorities and the potential for service improvements, efficiencies and savings.

**1.1 Background**

- 1.1.1 Further to a report to this Board in November 2016, Members will be aware that the Council's Waste Services Contract is due to expire in February 2019 and officers are currently working with colleagues to explore a number of options for the future delivery of these services. The value of the existing contracts for refuse, recycling and street cleansing services is around £3.8m per annum and provides a service to over 52,000 households in the Borough.
- 1.1.2 Although these high profile services have always been carried out to a high standard and with very few complaints, it is acknowledged that retendering for a new contract does present an opportunity for further service enhancements. Enquiries and feedback from residents in recent years has indicated their wish for additional kerbside recycling collections, to include plastics and glass in particular.
- 1.1.3 It is also worth noting that when assessing and reporting on our waste collection arrangements to meet new Waste Regulations in 2015, a report to the Housing & Environmental Services Advisory Board in June 2015 recommended that the Council explore future opportunities to improve capture rates for recycling high quality materials (including paper, card, metals, glass and plastics).
- 1.1.4 An internal Officer Project Group has been set up involving colleagues across the organisation, including Waste & Street Scene, Health & Safety, Legal, Audit and Financial Services. The aim of this project group is to identify a way in which this authority can deliver service improvements, generate financial savings and

increase the authority's current rate of recycling. It is also essential that this is all achieved through a retender process that meets legislative requirements.

- 1.1.5 Through the Kent Resource Partnership (KRP) a group of Officers have also been exploring partnership opportunities across West Kent authorities to develop more consistent and cost effective waste service arrangements. Members may be aware that waste services in East and Mid Kent are currently delivered on a partnership basis between the local authorities in these areas.
- 1.1.6 Although there is an ever growing list of considerations and a significant amount of preparatory work involved in taking this project forward, progress has been good and work is now well underway.

## **1.2 West Kent Joint Waste Partners (WKJWP)**

- 1.2.1 With the assistance of the KRP, Officers in West Kent have formed a project group to explore opportunities for partnership working, more consistency in waste collection systems, improvements to services and potential for savings and efficiencies.
- 1.2.2 This group initially included representatives from Tonbridge and Malling, Tunbridge Wells, Sevenoaks, Dartford, Gravesham and Kent County Council. However, following early discussions around working in partnership, consistency in service delivery and contract retendering, both Sevenoaks and Gravesham indicated their intention to continue with their own contract service arrangements. The remaining authorities have aligned their current waste collection contracts so that they all expire in 2019 and taking this project forward the West Kent Joint Waste Partners (WKJWP) was formed and now comprises:
- Tonbridge and Malling Borough Council (contract start 1 March 2019),
  - Tunbridge Wells Borough Council (contract start 1 April 2019)
  - Dartford Borough Council (contract start 1 July 2019), and
  - Kent County Council
- 1.2.3 Kent County Council, as Waste Disposal Authority will play a key role in any partnership arrangements. The WKJWP officer group is now meeting regularly and is already making progress in a number of key areas, and further details are reported below.

## **1.3 Proposed Collection Method**

- 1.3.1 To assist with the work of the group, external waste consultants, Waste Consultancy Services, were engaged by the KRP to evaluate and benchmark current services across partner authorities. This work also included research into various collection systems for refuse and recycling services and explored a range

of options taking into account national and local guidance. For example, work was carried out in liaison with both the East and Mid Kent Waste Partnerships to look at their collection systems and take into account any lessons learnt. These partnerships had already gone through this process with joint contracts being let.

- 1.3.2 The work also looked at service and performance improvements in moving to a more consistent Nominal Optimal Method (NOM) of collection, as well as the potential savings and efficiencies from increased recycling and joint working. The key elements of the proposed new service would include:
- A weekly food waste collection (additional caddy)
  - An alternating fortnightly collection of mixed dry recyclables including plastics, metals, cartons, glass, paper and card (utilise existing green-lidded bin and green box)
  - An alternating fortnightly collection of residual waste that cannot be recycled (utilise existing black bin)
- 1.3.3 Members may also be aware that there has been and continues to be significant debate nationally regarding recycling services across the country. In an effort to drive greater consistency in household recycling in England, the Waste Resources Action Programme (WRAP) has produced a framework guidance document. It is worth noting that the method of collection proposed in sub-section 1.3.2 mirrors one of the three options highlighted in the WRAP guidance.
- 1.3.4 In addition, and in order to underpin the improvements to the overall collection service mentioned above, the NOM also includes the introduction of a separate fortnightly collection of garden waste. Residents would be able to “opt in” to this service if they wished to do so and a new bin would be provided. At present, councils already have the power to charge for the collection of certain types of waste, including garden waste. In line with the majority of councils in Kent and across the UK, the partnership is exploring ways of generating additional income and improving services. If agreed, a charge for the separate collection of garden waste would be introduced, which would help fund the enhancements to the waste and recycling services. Members may be interested to note that one of the partners, Dartford Borough Council, already provides a separate garden waste collection service at an annual cost of £38. The national average charge for garden waste collection is around £42 per property per annum. Whilst charging for garden waste is considered necessary for this authority to underpin the proposed service improvements and potential savings, this will of course be an individual decision for each partner local authority.
- 1.3.5 If the proposed new services are introduced it is estimated that savings of more than £3m **could** be generated collectively across the partnership authorities and that the average recycling performance **could** increase to around 50 per cent (the Council’s recycling performance is currently 42 per cent).

- 1.3.6 The key findings and proposals are summarised above and a full copy of the Briefing Paper that was produced by Waste Consultancy Services for the WKJWP is attached at **Annex 1**.
- 1.3.7 While the NOM represents the preferred method of collection, the partner authorities may take the opportunity to ask contractors for alternative model(s) that meet minimum standards of service to be set and agreed by partners.
- 1.3.8 Although the Briefing Paper specifically relates to refuse and recycling collection and disposal arrangements, it is important to note that the proposals for a joint waste services contract will also include street cleansing. Tonbridge and Malling Borough Council officers are taking the lead role within the partnership in preparing the specifications for these joint contracts. Work is currently underway and proposed standards & levels of service, contract duration and options will be brought back to a future meeting of this Board.

#### **1.4 Memorandum of Understanding (MoU)**

- 1.4.1 In order to make progress with joint working and take this project forward, it has been important to discuss and agree some guiding principles for the partnership. A Memorandum of Understanding (MoU) has been drafted and some of the key elements include:
- Reducing overall operating costs and/or increasing service performance through joint working
  - The principle that no authority is financially worse-off as a consequence of joint working
  - The process for project preparation, decision making and dispute resolution
  - The principle of disaggregating any joint savings fairly between Waste Collection & Waste Disposal Authorities (details of the financial mechanism will be included in an Inter Authority agreement)
- 1.4.2 A copy of the WKJWP Briefing Paper is also being included as an appendix to the MoU.
- 1.4.3 At this stage the MoU is not legally binding, but does provide a basis and “intent” for moving forward in partnership. A copy of the MoU is attached at **Annex 2** and this will form the basis of a more detailed and legally binding Inter Authority Agreement (IAA) that is currently being prepared.

#### **1.5 Inter Authority Agreement (IAA)**

- 1.5.1 Preparation of this document is underway and will build on the key principles of joint working featured in the MoU. The IAA will be necessary to enter into formal partnership arrangements and will be a legally binding contract. This will be a key

document and once prepared will be reported to this Board for formal approval later this year.

## **1.6 Joint Contract Procurement**

- 1.6.1 In keeping with a shared approach, Dartford Borough Council has agreed to take a lead role in procurement. Dartford has a dedicated Procurement Team and this Council has already had experience of using their services for other contracts in recent years.
- 1.6.2 This contract is subject to EU tender regulations and it is recommended that an “Open Tender” procedure be used but with pre-procurement Contractor Engagement, to inform the service specification before the Contract Notice is issued. This provides a thorough and flexible contract retendering process, as it allows early engagement with the market prior to the Contract Notice being issued. In accordance with our own Contract Procedure Rules Members are required to approve the method of procurement.
- 1.6.3 A procurement sub group involving representatives from each authority has been formed and will be preparing key documents and a detailed procurement timetable to ensure that the overall project is delivered on time and in accordance with all legal requirements.

## **1.7 Project Timetable**

- 1.7.1 There is a significant amount of work involved in delivering this overall project, and key elements and tasks have been identified and lead officers assigned from the partner authorities. In many instances this will involve sub groups carrying out the initial work before being brought back to the West Kent Joint Waste Partners Group to be finalised. The financial sub-group is being led by this Council’s Financial Services Manager.
- 1.7.2 Key documents and key decisions have been highlighted and individual authorities will be expected to seek the necessary Member approval at appropriate times in order to meet the deadlines set within the overall timetable. Although there may be minor adjustments made to the timetable, the overall deadlines are not expected to change. For information, a copy of the project timetable is attached at **Annex 3** and key milestones are detailed below:
- Issue Tender OJEU Advert - December 2017
  - Contract Award – July 2018
  - TMBC Contract Start – March 2019

## **1.8 Social Value**

- 1.8.1 Consideration has been given to the Public Services (Social Value) Act 2012 that will apply to this contract. The Act requires the Council to consider how the

procurement process and documentation can assist in providing social, economic and environmental benefits. The Open Tender Procedure will allow proper consideration of this and Officers will take this into account when preparing more detailed contract specification and evaluation criteria. The social, economic and environmental benefits offered can only be scored as part of the evaluation criteria for the tender if they are sufficiently linked to the subject matter of the contract.

- 1.8.2 Officers have considered this and believe that environmental and sustainability issues are sufficiently linked to the subject matter of the contract to be part of the evaluation criteria. It is therefore proposed that contractors submitting tenders be requested to submit details of how they would be able to provide a sustainable and environmentally friendly bid over and above those matters in the technical specification.

## **1.9 Legal Implications**

- 1.9.1 The Council has a legal duty to provide waste and street cleansing services. Due to the contractual and partnership aspects of this project regular and timely legal services guidance is essential in taking this forward. The Procurement will be carried out in accordance with all current legislation, including the Public Contract Regulations 2015.
- 1.9.2 A number of legal considerations have been highlighted and are captured on the project timetable and are being led by Tunbridge Wells Borough Council. This includes specific involvement with the Inter Authority Agreement, the Conditions of Contract and the procurement process. Our own Legal Services Officers are represented at TMBC's Officer Project Group and are also included in the WKJWP legal services sub group.

## **1.10 Financial and Value for Money Considerations**

- 1.10.1 The current refuse, recycling and street cleansing services has a contract value of around £3.8m per annum. The overall collection, disposal and street cleansing costs across the partner authority areas are in excess of £20m per annum. With such large sums involved, there are clearly opportunities for savings and efficiencies as well as service improvements.
- 1.10.2 It is estimated that joint working and a more consistent approach to collection and disposal of waste and recycling could realise savings over £3m per annum across the three authority areas. A large part of the potential savings will come from reduced disposal costs and additional income generation. Although the detail of how any savings will be shared between authorities is still being discussed, there is an overriding principle and an acknowledgement that this needs to be fair and equitable. The financial mechanism for sharing savings will be included in the Inter Authority Agreement (IAA).
- 1.10.3 Due to changes in legislation and guidance since the last contract was let (in particular around health & safety and traffic management requirements); it is felt

that the current street cleansing specification is likely to incur a cost increase. This aspect is also being looked at as part of the retendering exercise and any opportunities for joint efficiencies are being explored.

- 1.10.4 There is an expectation that the Waste Services Contract will make a significant contribution towards the contract savings target contained within the Savings and Transformation Strategy.
- 1.10.5 It is felt that additional income generation will be a key part of being able to offer improved collection services, maintain high street cleansing standards and realise an overall saving for this council. Charging for garden waste collection on an “opt in” basis will be a key factor. Further details will be reported to future meetings of this Board.
- 1.10.6 The KRP has supported this project with budget provision for waste consultancy work and the procurement process.

## **1.11 Risk Assessment**

- 1.11.1 The Council has a duty to provide waste and street cleansing services within the borough. The value, the type of work and the high profile nature of the service give rise to a number of potential risks (financial, health & safety and reputational risks). In addition, there are further potential risks associated with delivering a joint contract in partnership with other authorities.
- 1.11.2 The WKJWP have recognised the need to assess risks and have already drafted a risk management register for the overall delivery of the project. It is envisaged that the key elements will be regularly monitored and reviewed to ensure that the project stays on track.
- 1.11.3 In addition, our Internal Audit (who are also represented in the TMBC Officer Project Group) has highlighted the Waste Services Contract Retender as a key area for focus. This is listed in the Council’s Corporate Risk Register and a scoping brief of the key areas for audit involvement is currently being prepared.

## **1.12 Equality Impact Assessment**

- 1.12.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups.
- 1.12.2 There are a number of individual specification and service elements associated with a contract of this size. Although it is not envisaged that any particular group will be disadvantaged by this contract, the need to carry out a detailed Equality

Impact Assessment has been noted by the WKJWP and will be included within the formal contract documents.

### 1.13 Conclusion

1.13.1 The proposals outlined in this report clearly meet the stated aims of service improvement, financial savings and increased rates of recycling. The introduction of the kerbside collection of glass, plastics and weekly food collection would represent a major benefit to householders in the Borough, and meet an expressed demand for this service. Whilst the precise level of savings to this authority are yet to be determined, it is anticipated that these will make a positive contribution to the Council's Savings & Transformation Strategy. This authority's recycling rate has plateaued over recent years and the proposed way forward would provide a real opportunity to improve performance.

### 1.14 Recommendations

1.14.1 It is **RECOMMENDED** to Cabinet that:

1.14.2 The Nominal Optimal Method (NOM) of collection, including the separate fortnightly collection of garden waste as outlined in section 1.3 is **APPROVED** as the preferred option for retender of the Waste Services Contract to be reflected in the drafting of the Service specification.

1.14.3 The principle of introducing a charge for the separate collection of garden waste on an "opt in" basis is **APPROVED**, with further details being reported to a future meeting of this Board.

1.14.4 The Memorandum of Understanding attached at Annex 2 is **ENDORSED** and it is **NOTED** that this forms the basis of a more detailed Inter Authority Agreement (IAA), to be approved at this Board later this year.

1.14.5 The proposed "Open Tender Procedure" with pre-procurement contractor engagement is **APPROVED**.

1.14.6 It is **NOTED** that further details on proposed standards and levels of service for inclusion within the Contract Specification are reported to a future meeting of this Board for approval.



The Director of Street Scene, Leisure and Technical Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Dennis Gardner

Nil

Robert Styles

Director of Street Scene, Leisure and Technical Services

**Annexes:**

- 1. WKJWP Briefing Paper**
- 2. Memorandum of Understanding (MoU)**
- 3. Project Timetable**