

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD**

**13 February 2018**

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

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 WASTE SERVICES CONTRACT RETENDER**

**Summary**

**The current waste services contract for refuse, recycling & street cleansing is due to end in February 2019 and is being retendered on a partnership basis with other West Kent local authorities and Kent County Council.**

**This report provides an update on key issues associated with the procurement process and partnership arrangements for the new contract.**

**1.1 Background**

1.1.1 Further to previous reports to this Board, Members will be aware that the Council's Waste Services Contract is due to expire in February 2019 and that Officers are currently working with West Kent colleagues, as well as Kent County Council, to work in partnership on the future delivery of these services. The value of this Council's existing contract for refuse, recycling and street cleansing services is around £3.8m per annum, and provides a refuse and recycling collection service to over 52,000 households and a street cleansing service across the whole Borough.

1.1.2 At the June 2017 meeting of this Board, Officers provided an overview of the tendering process and outlined the proposed recycling & refuse collection arrangements for an enhanced service, known as the "NOM" (Nominal Optimal Method), which include:

- Weekly Food Waste Collection;
- Fortnightly Collection of Residual Waste;
- Alternate Fortnightly Collection of Mixed Dry Recyclate (plastics, metals, cartons and glass) in a wheeled bin with a separate container for paper and card; and
- The separate fortnightly collection of garden waste (as an "opt in" charged service).

1.1.3 The retendering of the Waste Services Contract together with West Kent partners presents a real opportunity to improve current arrangements, with an overall aim of providing:

- service improvements and efficiencies;
- greater consistency across partner authorities;
- increased recycling performance; and
- financial savings.

1.1.4 At the last meeting of this Board Members considered and agreed in principle the proposed Inter Authority Agreement and financial disaggregation arrangements between the partners, and approved the evaluation criteria for the award of the contract. In addition, Members also agreed that the meeting of this Board would receive an update on progress to date, including delivery against the project timetable; communication plans for the new service; and the development of the Equality Impact Assessment associated with the proposed new services.

## **1.2 Partnership Update**

1.2.1 Since the last meeting of this Board Members at Tunbridge Wells Borough Council formally approved the principles of adopting the collection methods outlined in 1.1.2 above. However, Dartford Borough Council has decided to review their current service provision. As such, Dartford will now be conducting a single procurement for their Waste Services and have confirmed their withdrawal from the joint procurement and partnership.

1.2.2 Whilst this decision is disappointing both in terms of its timing and the significant amount of work undertaken to date, at least the position is now clear and both this authority and Tunbridge Wells Borough Council can now proceed. It is felt that whilst the financial savings would have benefitted from all the original partners being involved, the financial impact of Dartford's withdrawal on the joint savings will not be significant. The expected economies of scale to be achieved operationally through shared resources, depots, cross-boundary rounds, etc., were expected to be achieved primarily between this Council and Tunbridge Wells Borough Council, and at this stage it is not felt necessary to amend the estimated disposal savings previously reported to Members.

1.2.3 On a more positive note, Dartford Borough Council has confirmed that its procurement team can continue to deliver the administrative aspects of the procurement process through its ProContract system, which has been used successfully by this authority for a number of other contract tenders. The Officer Project Group has renamed the project as the South West Kent Waste Project. The procedure to be followed for the project will remain an open tendering procedure for the entire Service in Tunbridge Wells and this authority being awarded to a single Contractor commencing with an OJEU notice.

### 1.3 Project Timetable

1.3.1 Originally the tender documents and associated OJEU Notice were due to be available to tenderers from early January. However, due to Dartford Borough Council withdrawing from the project, the contract specification & conditions of contract had to be further revised to reflect the changes to the partnership arrangements. As a result, the final documents are expected to go out to contractors in the week commencing Monday 29th January. This short delay has been absorbed within the original timescale, which had allowed additional time to the minimum periods stipulated by the relevant EU regulations for the tender and evaluation processes.

1.3.2 Although the revised timetable is attached in full at **Annex 1**, a summary of the key project milestones are provided below for information:

- w/c 29 January 2018 Publication of OJEU Notice & Tender Documents
- 30 April 2018 Closing Date for Tender Submissions
- 10 June 2018 Conclusion of Tender Evaluation Period
- June/July 2018 SSEAB/Cabinet Approval of Contract Award
- 6 August 2018 Publication of Contract Award (+10 day standstill)
- 20 August 2018 Initial Meeting with successful Contractor
- 1 March 2019 Contract Start Date (TMBC)
- 31 March 2019 Contract Start Date (TWBC)

1.3.3 The appointment of the successful contractor, together with final versions of associated partnership management documents will be reported to this Board for agreement in June/July 2018. The documents will include the Inter-Authority Agreement between the two Districts and KCC; the Partnership Agreement between this authority & Tunbridge Wells Borough Council regarding the management of the contract and also the final Equality Impact Assessment relating to the proposed new services.

### 1.4 Equality Impact Assessment

1.4.1 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.

- 1.4.2 There are a number of individual specification and service elements associated with a contract of this size which will deal with protected characteristics under the Equality Act to ensure that the Service adequately caters for those person who are affected e.g. a pull out service for those who require assistance such as disabled residents or those who are frail and elderly. Although it is not envisaged that any particular group will be disadvantaged by the new contract, a detailed Equality Impact Assessment is being carried out with the assistance of Tunbridge Wells Borough Council's legal team.
- 1.4.3 One of the main considerations of the Group was whether or not there should be a concessionary reduction for the proposed garden waste charge for those in receipt of Council Tax Reduction. Research was carried out both in Kent districts and further afield. Although a number of waste collection authorities do have a reduced charge for garden waste collections, the only district in Kent to do so is Canterbury City Council. It is also considered that being in receipt of Council Tax Reduction is not in itself a protected characteristic under the Equality Act. Whereas a pull out service may be the only option for certain residents to ensure they receive a refuse collection service, there are alternative methods of disposing of garden waste, such as home composting and using the Household Waste Recycling Centres. As such, the Officer Project Group does not consider that such a reduction is appropriate under the EQIA.

## **1.5 Length of Contract**

- 1.5.1 Members will be aware from previous reports that it was the intention for the contract to be for an eight year period with a possible extension for a further eight years based on satisfactory performance by the contractor.
- 1.5.2 Having given the matter careful consideration, a slight amendment has been made. Contractors will be offered the contract for a period of eight years, plus a two year **OR** eight year extension, with a potential further two year extension if an eight year extension is agreed. These greater options for extension gives more flexibility in terms of aligning contracts; taking advantage of future opportunities; disposal facility options; and legislative changes; all of which will be dependent on contract performance & financial benefits.
- 1.5.3 Due to the different termination dates of the existing contracts for the partner authorities there will be a need for staggered service commencement dates. This authority's contract will commence on 1<sup>st</sup> March 2019 and Tunbridge Wells Borough Council on 31<sup>st</sup> March 2019. However, we have taken this opportunity to align the end of the new contract for both authorities to 31<sup>st</sup> March in whichever year it ends.

## **1.6 Communications**

- 1.6.1 At previous meetings of this Board Members have stressed the importance of future communication with residents, and explained the need for a proactive approach to marketing the new Service. As a result it was felt appropriate to set

up a small Member group to discuss this issue, which is likely to meet informally on 2 or 3 occasions. In liaison with the Group Leaders, Councillors Lettington, Keers, Bishop, Roud and Thomas were nominated to join the group and the first meeting took place on 8<sup>th</sup> February 2018. Feedback from this first meeting will be shared with Members of the Board.

- 1.6.2 In terms of resident communication, it is the intention to develop a detailed marketing plan which will include traditional and newer forms of reaching the public. We will continue liaison arrangements with established forums such as the Parish Partnership Panel and Tonbridge Forum and also incorporate lessons from other local authorities which have implemented similar new arrangements. It is essential that residents are fully informed of the reasons behind the proposed changes and information is shared as early as possible.
- 1.6.3 Due to the partnership approach to the contract, and to reflect the different commencement dates of the two authorities, the mobilisation of the new contract arrangements has required careful consideration. A table showing the contract start dates and the new collection service mobilisation period is shown below:

| <b>Authority</b>                               | <b>Contract Start Date</b> | <b>New Collection Service Mobilisation Period</b>                                |
|--|----------------------------|--|
| <b>Tonbridge &amp; Malling Borough Council</b> | 1st March 2019             | Start 1 <sup>st</sup> July 2019<br>(complete by 30 <sup>th</sup> November, 2019) |
| <b>Tunbridge Wells Borough Council</b>         | 31st March 2019            | Start 1 <sup>st</sup> July 2019<br>(complete by 30 <sup>th</sup> November, 2019) |

- 1.6.4 The existing refuse and recycling service will be maintained until the new collection service is fully implemented. The contractors will be required to submit details of their mobilisation plans and method statements for transition to the new collection service, which will form part of the contract tender evaluation. This issue will be the subject of further discussion with Members at the next meeting of this Board.

## **1.7 Legal Implications**

- 1.7.1 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.
- 1.7.2 A number of legal considerations have been highlighted, and are captured on the project timetable which 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 the Officer Project Group and are also included in the South West Kent Waste Project Group Legal Services sub-group and the South West Kent Waste Project Group Procurement sub-group and have been involved in the production of the legal documents.

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

- 1.8.1 As outlined in sub-section 1.2.2, it is not anticipated that Dartford BC's withdrawal from the project will have a significant impact on either the operational efficiencies of scale or the savings associated with reduced disposal costs by adopting the "NOM". However, it is worth reminding Members that without the formal tender prices and experience 'on the ground' following implementation of the new arrangements, it is still not possible to predict the overall net savings that might be achieved, and it is therefore very important to stress that figures set out in previous reports are indicative only. Nevertheless, it is apparent that the financial analysis supports the expectation that the retender of the waste services contract will make a significant contribution to the contract savings target reflected in the Savings and Transformation Strategy. It is also worthy of note that the level of the new 'opt-in' garden waste charge will not be considered by Members until the tender submissions have been received and evaluated.

## **1.9 Risk Assessment**

- 1.9.1 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.
- 1.9.2 The South West Kent Waste Project Group has recognised the need to assess risks and has been working in accordance with a risk management register for the overall delivery of the project. The key elements will continue to be regularly monitored and reviewed to ensure that the project stays on track.
- 1.9.3 In addition, our Internal Audit Team (also represented on the Officer Project Group) has highlighted the Waste Services Contract Retender as a key area for focus.

## **1.10 Equality Impact Assessment**

- 1.10.1 Covered in sub-section 1.4.

## **1.11 Policy Considerations**

- 1.11.1 Communications

- 1.11.2 Community

1.11.3 Customer Contact

1.11.4 Procurement

## **1.12 Recommendations**

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

- i) the withdrawal of Dartford Borough Council from the Waste Contract Partnership be noted and the resultant project timescale be approved;
- ii) subject to Member comment on the draft EQIA, a final Equality Impact Assessment be presented to the next meeting of the Board for approval;
- iii) the modification to the length of contract outlined in the report be noted, and;
- iv) the approach to resident communication and the development of a marketing plan in liaison with Council Members be agreed.

Background papers:

contact: Dennis Gardner

Nil

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and Technical Services