

This Report will be made public on 7 November 2017

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number **C/17/52**

To: Cabinet
Date: 15 November 2017
Status: Non-Key Decision
Head of Service: Amandeep Khroud, Democratic Services and Law
Cabinet Member: Councillor David Godfrey, Special Projects

SUBJECT: WASTE & STREET CLEANSING PROJECT 2021

SUMMARY: The waste partnership agreement and Veolia contract ends in January 2021. It is proposed that the East Kent Districts and KCC work together to develop options for new joint service arrangements to start in 2021, before if practicable. This report summarises the current issues and risks, the likely options to be considered and presents a project plan to develop and deliver the new service arrangements.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because:

- a) The current service arrangements end in 2021 and due to the long lead in times for service design and procurement, project planning needs to start well in advance.
- b) The East Kent Districts and KCC already work within a waste partnership that has delivered benefits in both cost and service delivery. There will be significant cost pressures on the next waste and street cleansing contract which may be best addressed working jointly. It also potentially creates a level of scale in processing that makes options to improve the waste infrastructure in East Kent feasible.

RECOMMENDATIONS:

1. To receive and note report C/17/52.
2. To approve the following –
 - a. SDC to participate in a multi-authority project group tasked to deliver as a first stage an options report and strategy to take forward the joint approach across East Kent for the provision of Waste, Recycling and Street Cleansing services from 2021.
 - b. Options report to be completed and reported to Cabinet by July 2018 and to include:

- i. Review of the current service operating model with recommendations that will form East Kent Waste Strategy from 2021 onwards, or before if practicable.**
 - ii. Review of options to develop the waste management infrastructure in East Kent.**
 - iii. Review of service delivery options for in-house service, local authority owned company and outsourced service.**
- c. Draft Project Plan and timeline to be recommended for adoption by other participating councils.**
- d. Approval of project budget of £50,000 for 2017/18.**

1. BACKGROUND

- 1.1 In 2007 the four East Kent Waste Collection Authorities (Canterbury, Dover, Shepway and Thanet) and the Waste Disposal Authority (Kent County Council) undertook a project to develop through joined up working arrangements the recycling, waste collection and street cleansing services in East Kent
- 1.2 The project was tasked with delivering a consistent collection scheme across the East Kent district, which delivered savings and streamlined the recycling and waste collection methods.

This was to be achieved by: -

- Minimising the escalating costs of waste disposal.
 - Delivering cost efficiencies in collection systems.
 - Increasing the recycling rate.
 - Developing a coordinated approach to managing waste across the two tiers of Local Government.
 - Facilitating the development of processing facilities within the East Kent area.
 - Removing budget constraints from individual authorities.
 - Removing the distorting effect of the recycling credit mechanism.
- 1.3 The outcomes of this project eventually developed in 2010 into a formal legal partnership agreement ('5-way agreement'), between five authorities.
 - 1.4 The 5-way agreement committed the four District Councils to make changes to their services, notably to containerisation and kerbside collection, with KCC committing in return to provide both enabling revenue and capital funding to facilitate these service changes. This agreement formally ends on 15 January 2021.
 - 1.5 After the formation of the partnership the authorities completed the following procurements:

2011

- Dover and Shepway joint contract for waste, recycling collection and street cleansing.
- The contract also includes the KCC responsibilities for reprocessing of the recyclate collected across all four East Kent district authorities.
- The contract was awarded to Veolia and ends 15 January 2021.

2013

- Canterbury City Council contract for waste collection and street cleansing.

- Contract was awarded to Serco Ltd.
- The contract ends 31 March 2021 in order to align with the DDC/SDC/KCC contract.

1.6 Thanet District Council has continued to run an in-house direct service for both waste collections and street cleansing.

1.7 All four district authorities and the county council have expressed an interest in continuing to work collectively and further develop their waste, recycling and street cleansing services when the current contracts end in 2021. Due to the complexity of the service delivery options and the long procurement lead in times, decisions related to any joint arrangements in 2021 need to be decided several years in advance.

2. FUTURE ISSUES AND RISKS

Financial

2.1. A motivation in forming the original East Kent partnership was the ability to achieve cost efficiencies throughout the waste and recycling process. Cost savings were achieved in the outsourced contract with Veolia. In addition, KCC agreed to pay annually a fixed 'enabling' payment to ensure a 'no-worse' financial position for each District at the outset of the project.

2.2. The combination of a competitively tendered contract, the fixed enabling payments and low contract indexation have meant that during the contract term costs have been controlled and remained within budget. However it is recognised that there are significant financial pressures that will impact on future service arrangements.

2.3. In summary the main financial pressures arise from: -

- Operating losses – It is understood from discussions with Veolia Ltd that meeting the service requirements of the current joint contract with DDC, SDC and KCC within the budget envelope as per the tender documents has created significant financial pressures on their cost model. There is therefore that a significant risk that the cost to SDC (&DDC) of delivering the current service model could increase substantially when the services are retendered and as a consequence a provision of £1.5m per annum has been made in the MTFS. CCC share similar concerns regarding their contract with Serco.
- Income generation - There was a general expectation that the price of recyclate would progressively increase. However this has not been the case and instead prices have remained low and often fluctuated widely. This has depressed contractor incomes and placed a greater emphasis on the quality of recyclate rather than quantity produced.
- Infrastructure - The limited waste infrastructure in East Kent has resulted in haulage costs and multi-site tipping becoming an increasing burden on the contractor...

- Enabling payment - The annual enabling payment made by KCC will cease with the end of the agreement in 2021. KCC have already advised that it cannot sustain payments that do not drive or incentivize recycling performance improvements and it would instead be looking for payments to become equalized across all Collection Authorities and commensurate with actual performance rather than modelled performance that is not achieved. The annual enabling payment to SDC is £797,160 and based on similar arrangements being introduced in West Kent this could fall by as much as £450k per annum depending on the performance levels achieved.
- Competition - It is difficult to assess the level of commercial competition that will exist in 2021. However soundings from the major outsource providers would suggest that they will be more selective and financially realistic about future bids.

2.4. Overall there is a clear financial risk of significantly increased costs in maintaining the current service provision from 2021 onwards. There is therefore a need to review the current service arrangements, methodology and collection frequency to ensure future affordability. It is recognised that plans to change service methodology or frequency will need to be considered carefully and subjected to extensive consultation before any decision.

The current MTFs has built in a £1.5 million per annum cost pressure from January 2021 which is part of the increasing financial pressure the council is facing as reported to Cabinet in May 2017. As identified above, although this is a significant sum this will need to be reviewed as it may well not be sufficient to fund the costs of the new waste service depending on the negotiations. At this stage although the scale of the pressure has been highlighted, the means of meeting those increased costs or the adjustments to the service arrangements required in order to mitigate the increased costs has not.

Infrastructure

- 2.5. Limitations in the East Kent waste infrastructure have resulted in increased haulage costs and impacted on service arrangements due to the need waste streams at different locations. If this remains unchanged this will be a cost pressure on the next service arrangements and will make them particularly at risk from spikes in fuel prices.
- 2.6. The current service arrangements, by combining collection and processing responsibilities, aimed to encourage private sector investment in the provision of sorting and processing capacity within East Kent. The Veolia bid did in fact include a proposal to develop a waste processing facility earmarked to be built at Richborough.
- 2.7. In the event, Veolia decided not to proceed with this investment. A decision it is understood they now regret the financial impact of the haulage of materials to alternative sites across Kent and the South East has increased. From the start of the contract, mixed recycling from Shepway

has been transported outside of the county mainly to Veolia's plant at Rainham in Essex. Whilst any proposal for an East Kent MRF would need to be subject to a detailed business case, fundamentally there would appear to be merit in exploring the options for new facility to enable informed decisions to be taken..

2.8. The infrastructure issues are not solely related to the lack of processing facilities: -

- HWRCs - KCC estimate that many of the HWRC located in East Kent will be working at near of over capacity by 2030. There will also remain reliance in East Kent on third party provision of transfer site facilities, which is a risk as these facilities are not in direct control.
- Ross Depot - The Environment Agency has restricted the Ross Depot license and food waste can no longer be tipped. Food waste is now transported to Ashford for bulking. There is also a question over the long-term suitability of Ross Depot as an operational site in what is increasingly a residential area.
- Waste Transfer Stations - The transportation of SDC waste to the transfer station in Ashford has resulted in additional haulage costs of £214,000 (16/17 estimates). These costs are currently met by KCC as the Waste Disposal Authority. Refuse collection in the district is heavily reliant on an efficient turnaround at the Ashford and Whitfield sites. Service issues at these sites or delays due to limited transfer capacity would increase directly impact on service delivery.

2.9. Working in partnership with the other Districts and KCC could create a level of scale that would make the opportunity to develop and enhance the waste infrastructure feasible. The result of this could be a significant reduction in transportation costs, improved processing and realisation of other opportunities to create cost efficiencies through service integration. KCC are shortly due to begin consultation on the next stage of its proposed Kent Waste Disposal Strategy for 2017-2035.

2.10. Options for infrastructure development may include but are not restricted to:-

- The building of a materials recycling facility (MRF) to serve East Kent.
- Re-location of depot facilities.
- Improvement or development of transfer stations.
- Improved integration with the Household Waste Recycling Centres (HWRC).
- Single management of waste infrastructure to support the transfer of waste collected by the collection authorities and residents using the HWRC.

Legislative Framework

2.11. Leading up to and post Brexit there will be an opportunity for the UK to develop its own legislative framework for environmental issues. Much of the current waste legislation originates from EU directives (e.g. EU Waste

Framework Directive 2008) and it is expected that this will initially be transposed into UK law. However how these directives will be enforced in practice is uncertain. There is also uncertainty over the long-term approach that will be adopted to promoting the 'Circular Economy Package' and how recycling targets will be treated. The direction taken by the Scottish and Welsh devolved administrations may suggest an increased commitment to both.

- 2.12. This uncertainty will make planning for the new service arrangements in 2021 difficult. The project will need to be mindful that future statutory obligations may change. There is also a risk that the current uncertainty may impact negatively on the level of private sector investment and commitment being made in processing facilities and improving capacity.

3. PROJECT PLAN

Overview

- 3.1. Draft project plans are attached as Appendix 1 (Waste Company Scenario) and Appendix 2 (Joint Tender Scenario). These broadly represent the two directions the project could take.
- 3.2. Although the current service is outsourced it is recognised that due to concerns over limited market competition means that any options appraisal would need to look at all service alternatives including in-house delivery possibly via a local authority owned waste company. Several councils across the country have chosen to pursue this option in recent years such as Bristol Waste Company, Ansa Environmental Services Ltd (Cheshire East), Swindon Commercial Services, Ubico (Cheltenham Borough and Cotswold District Council), Joint Waste Solutions (Surrey CC).
- 3.3. There are several 'company' options ranging from a joint company that commissions and procures its own service contracts; through to a joint waste collection and waste reprocessing company that directly delivers the services in-house, as well as offering its own services to the commercial sector. The project plan in Appendix 1 is based on the scenario of a joint waste company established with the remit to directly deliver services, employ staff and purchase and manage its own vehicle fleet.
- 3.4. Similarly if the option was to taken to outsource service arrangements there are different procurement approaches that could be adopted. For the purposes of the report, the project plan in Appendix 2 is based on a project involving a joint district and county procurement that also incorporated options for a negotiated infrastructure investment programme. For this reason the Competitive Dialogue Procedure would be advised.
- 3.5. Both project plans are split into three 'phases' that can be roughly defined as: -
 - Phase 1 'Options'
 - Options appraisal, review of options through to approval of the new waste strategy and service delivery method.

- Phase 2 'Preparation'
 - Detailed work on the governance and structure of any company or partnership, legal formation of these arrangements and preparation (e.g. tender specifications) for any procurements exercises.
 - Phase 3 'Procurement'
 - Formal procurement exercises, recruitment, delivery lead in times, service transition through to Day 1 operations.
- 3.6. Both project plans have the same Phase 1 tasks, which include the completion of an options appraisal report. This report would develop into recommendations/business case for the new service delivery arrangements coming into operation from 2021. It would also develop into proposals for a new East Kent Waste Strategy to come into effect from 2021. Both the business case and draft strategy would be submitted to Cabinet for approval in July 2018.
- 3.7. In terms of the options appraisal a consultant brief has been prepared in partnership with the other East Kent Councils and KCC and work on the procurement of a consultant to undertake the work is well advanced. The aim will be to complete the report by early 2018, to inform decision within each authority. The consultant brief provides a wide remit of options to be considered including:
- Collection Methodology - Reviewing the current collection methodology and making recommendations on changes in terms of savings and performance.
 - Infrastructure - Costs, risks and benefits of building waste infrastructure in East Kent (e.g. district Materials Recovery Facility).
 - Funding - Funding arrangements between KCC (disposal/reprocessing) and the District Authorities (collections) in particular use of recycling credits / Enabling payments.
 - Service Integration - Improved integration between districts' collection and county's disposal/reprocessing services – HWRC / transfer stations.
 - Future delivery structures - Risks, benefits, savings from setting up a waste trading company and governance arrangements.
 - Market Position - Reviewing the current procurement market in terms of delivering waste infrastructure, waste collection and street cleansing. Compare the risks/benefits of insourcing for some or all the services
- 3.8. After Phase 1, the project timelines diverge depending on the service delivery arrangements adopted. It is worth noting that having made a commitment to a service delivery model whether in-house or outsourced in summer 2018, it will be difficult to change approach later without risking the new arrangements failing to be operational from January 2021. For practical purposes a point of 'no return' is effectively reached for both preferred service delivery and project timelines by the end of 2018.

East Kent Waste Strategy

- 3.9. A second action from Phase 1 is the drafting of an East Kent Waste Strategy. The strategy serves several purposes. Firstly in the absence of a national waste framework it provides a degree of strategic direction which could be helpful when negotiating with service providers. Secondly, it will provide a blue print for what will eventually become the service plan/service targets for a directly delivered service or specification for an outsourced service. Finally, it provides an opportunity to link waste and recycling objectives with street cleansing objectives.
- 3.10. It is proposed that the new waste strategy would take a comprehensive view of waste management and street cleansing issues. As expected it would agree targets for recycling, contamination and participation. It would also look at establishing a commonality of approach to more operational issues like waste enforcement (street-level fly tipping, bins out early and contamination), bin replacement policy and tenanted properties. Having a commonality of approach would be important for a joint service or joint contract as we know from experience where this is not the case it can result in additional costs and inefficiencies.
- 3.11. An East Kent Strategy would also need to dovetail with other county-level strategies developed for 2021 onwards for example Kent Joint Municipal Waste Management Strategy (adopted by SDC in 2007/08) or Kent Waste Disposal Strategy 2017-2035. An East Kent Strategy would however be able to consider delivery at a local level. Topics for consideration within the strategy may include: -
- Collection Methodology/Scheme
 - Targets set for active participation in recycling schemes.
 - Targets for recycling %
 - Segmented targets for recycling % (e.g. food waste)
 - Targets for level of contamination
 - Reduce/re-use initiatives
 - Links to HWRCs
 - Building local waste infrastructure
 - Street cleansing standards
 - Improving litter sent recycling
 - Enforcement
 - Bin replacements
 - Education programme/work with schools
 - New builds - space for schemes
 - Transition Plan to new strategy
- 3.12. The project timeline for the preparation of the strategy is: -
- | | |
|---------------|--|
| Feb-May 2018 | Draft strategy and action plan prepared |
| July 2018 | Draft strategy approved to go to public consultation |
| July-Sep 2018 | Public Consultation |
| Oct 2018 | Final approval of strategy |
| Nov 2018 | Strategy implementation work begins |

3.13. The project plan recognises that implementation of the new strategy would need to take place in advance of the new service arrangements in 2021. An example of a potential 'transition' action could be to improve the overall levels of recycling and reduce levels of material contamination in advance of the new service arrangements. This would be beneficial to any commercial negotiation and would give the new service arrangements a solid platform from which to operate.

Waste Company Scenario

3.14. After Phase 1 the project timelines diverge for both scenarios.

3.15. In the Waste Company scenario, Phase 2 is focused on formation of the new company, exploring infrastructure and vehicle options and preparing for vehicle and equipment procurements. Phase 2 would run from July 2018 to May 2019.

3.16. Listed below are some of the main decisions related to the formation of a new company: -

- Governance arrangements between authorities
- Cost allocation between authorities
- Employee terms, conditions and pension arrangements
- TUPE arrangements and timescales
- New management structure
- Management Agreement
- Key Performance Indicators and Service Level Agreements
- Business Plan
- Trading powers (e.g. commercial waste)
- Client performance monitoring
- Location of company and depots
- Set up and transition period

3.17. Phase 3 in this scenario would run from June 2019 to Day 1 operations in January 2021. This phase would be occupied by the vehicle and equipment procurement and the company transition to full operation (e.g. staff recruitment).

3.18. The company would need to arrange for the large scale procurement of new equipment and vehicles for start of the contract. Options around purchasing vehicles from the current contractors will be limited as many of these will be end of life. A major vehicle replacement programme would also be necessary if the options appraisal recommended changes to the collection methodology.

3.19. In terms of delivery times from the point a purchase order is raised Dennis are currently delivering waste refuse vehicles around 24-26 weeks and Scania around 32 weeks. For the purposes of the project plan, the time line for the procurement work stream is based solely on replacement vehicles. It is anticipated that there would be in fact be several procurement projects

running consecutively including the purchase of new street cleansing equipment and an IT procurement to implement a service management/monitoring application with linked 'in cab' technology, vehicle telematics and handheld devices.

Joint Tender Scenario

- 3.20. Phase 2 of the Joint Tender Scenario would run from July 2018 to January 2019. In comparison to the company scenario this is a shorter phase and the focus would be on preparation for the tender and competitive dialogue stages that would begin in 2019. The main tasks in this phase would be preparation of the new waste partnership agreement, preparation of the tender specification and detailed work on the infrastructure options.
- 3.21. Phase 3 of this scenario would run from February 2019 to Day 1 operations in January 2021. The focus in this phase would be formal procurement process and the competitive dialogue phases where the new service solution would be considered including potential infrastructure projects. For the purposes of the project plan three dialogue stages have been programmed in although the last stage may not be necessary. In addition the procurement time line has been designed to give a reasonable service transition period from August 2020 to December 2020.

Further Project Phases

- 3.22. It anticipated that for both scenarios there would be further project phases probably related to Year 1 service operations and Infrastructure Delivery. Project plans for these stages would need to be developed as the project progresses and key decisions are made.
- 3.23. In terms of an Infrastructure Delivery project it is likely that the building of a district MRF would take precedence over any plan to re-locate depots. This is because reducing high bulking and transportation costs would be a major financial incentive to complete this project first. There may also be an extended negotiation if a commercial partner is sought to jointly invest and operate the facility.
- 3.24. Realistically it is difficult to see that a newly formed company or commercial provider would be in the position to deliver the infrastructure projects before the new service came into operation in January 2021. This would mean that the new waste infrastructure would be delivered over a period of time beyond 2021 starting with the building of a new MRF and then new depot facilities optimally placed to serve the four districts. This would mean that the new waste company would need to make interim reprocessing arrangements for the collected material until a new district MRF was operational.
- 3.25. Delaying the building of a new MRF may however be advantageous as it would allow the impact of any new post-Brexit waste framework to be assessed.

4. DECISIONS

- 4.1. Listed below are the main decisions for cabinet and council as identified in the project plans:

Waste Company Scenario

July 2018	Business case to form Waste Company
July 2018	Draft EK Waste Strategy for public consultation
October 2018	Final approval EK Waste Strategy and Action Plan
January 2019	Waste Company Management Agreement
February 2019	Appointments to the Waste Company Board
June 2019	Capital spend for vehicles/equipment procurement

Joint Tender Scenario

July 2018	Business case to form Waste Company
July 2018	Draft EK Waste Strategy for public consultation
October 2018	Final approval EK Waste Strategy and Action Plan
January 2019	Approval of tender/service specification
July 2020	Approval of tender award

- 4.2. It is also expected that throughout the project there would be a series of update reports to be prepared by the Project Group.

5. PROJECT GOVERNANCE & RESOURCES

- 5.1. It is proposed that the project will be delivered via Project Group or Board comprised of at least one representative from each district and KCC. SDC will be represented on the Project Group by the Corporate Contracts Manager. The Project Group held already held initial meetings within the framework of the existing partnership in order to prepare the Options Appraisal specification and develop the proposed Project Plan.
- 5.2. The Project Group will be responsible for delivering each phase of the project plan. It will need in each phase to set up 'task and finish' work streams each of which will report into the main Project Group. The Project Group will need to be empowered co-opt staff from across the authorities to assist with the delivery work streams or to provide general administrative support or advisory services to the main Project Group.
- 5.3. A project budget of £50,000 is requested for financial year 17/18 to be funded from the Council's general fund reserve.
- 5.4. This would fund:
- SDC contribution to the consultant costs for the Options Appraisal.
 - Any further work related to Options Appraisal commissioned within this financial year.

6. RISK MANAGEMENT ISSUES

6.1 The Project Group will need to develop for the project its own detailed risk register. At this stage, the main risks are: -

Perceived risk	Seriousness	Likelihood	Preventative action
Financial –a significant increase in costs for the next waste, recycling and street cleansing contract	High	High	<ul style="list-style-type: none"> • Early planning for the next service arrangements. • Joint working to create economies of scale and cost efficiencies across the collection and processing. • Opportunities to improve the waste infrastructure in East Kent to reduce transportation and processing costs. • EK Waste Strategy to improve recycling both in terms of volume and quality. • Review of waste collection methodology to drive cost efficiencies.
Service Failures – The waste, recycling and street cleansing service is a high profile customer facing service. It is logistically complex with many potential points of failure.	High	High	<ul style="list-style-type: none"> • Early planning for the next service arrangements • Public consultation on waste strategy • Robust client and contract monitoring arrangements to be established. • Agreed service plans and service level agreements. • Enforceable KPIs and SLAs with default mechanisms applicable to both an in-house or outsourced service.
Limitations of	High	High	<ul style="list-style-type: none"> • Waste project 2021

the Waste Infrastructure in East Kent.			to review option for provision of waste infrastructure.
Regulatory Uncertainty	High	High	<ul style="list-style-type: none"> • Regular monitoring of the national debate about regulatory standards and waste framework. • Additional consultancy support if needed to inform service options. • EK MRF proposals after 2021.
Lack of commercial competition	High	Medium	<ul style="list-style-type: none"> • In-house service delivery options to be considered. • EK Waste Strategy gives clear direction for contract and specification. • EK Waste Transition Plan – improve commercial factors like material contamination in order to make new contract commercially appealing. • Options to provide EK waste infrastructure.
Project Not Delivered By January 2021	High	Medium	<ul style="list-style-type: none"> • Early planning for the next service arrangements • Project budget to obtain additional consultancy support if needed

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (David Kelly)

There are no legal implications arising directly out of this report. (Upon instruction) Legal Services will advise on the benefits of entering into a partnering or consortium agreement with other councils in order to facilitate the project group agreeing on ways forward and their respective responsibilities.

7.2 Finance Officer's Comments (Tim Madden)

The report itself identifies the potential financial pressure arising from the end of the current waste contract. Although these are identified in part in the MTFS the means of funding this position has not as yet been identified.

As further options are considered, the full financial impact will need to be assessed using a whole life costing principles to assess the most cost effective option of delivering the chosen service.

7.3 Diversities and Equalities Implications (AR)

No equalities or diversities implications at this stage.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Andrew Rush, Corporate Contracts Manager
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The following background documents have been relied upon in the preparation of this report:

Appendices:

Appendix 1 – Project Plan Waste Company Scenario
Appendix 2 – Project Plan Joint Tender Scenario