

Report Title:	Highways Maintenance Contract – Proposal and recommendation for re-procurement and future service delivery
Contains Confidential or Exempt Information	No – Part I
Lead Member:	Councillor Haseler – Cabinet Member for Planning, Parking, Highways & Transport
Meeting and Date:	24 th November 2022
Responsible Officer(s):	Alysse Strachan – Head of Neighbourhood Services Andrew Durrant – Executive Director of Place Services
Wards affected:	All

REPORT SUMMARY

This report outlines options and recommendations for the future highway maintenance service delivery model, when the current VolkerHighways contract expires on 1 April 2024.

It recommends that a procurement exercise is undertaken in order to obtain contracted services for the majority of activities and functions, and it also recommends strengthening the in-house client team by delivering highway inspections, programme management and quality monitoring ‘in house’.

The recommendation is to re-procure for 3 separate contract groupings:

- Highway maintenance
- Street cleansing (including public conveniences)
- Highways professional services

The proposals in this report support the vision of the Corporate Plan (2021-26) and the key objectives of:

- Inspiring Places: Supporting the borough’s future prosperity and sustainability.
- A Council trusted to deliver its promises.
- Quality infrastructure that connects neighbourhoods and businesses and allows them to prosper.

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Cabinet notes the report and:

- l) Approves the proposed service groupings for re-procurement and the proposal to strengthen the client team by bringing highway inspections, programme management and quality monitoring back ‘in house’.**

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options Available

Options	Comments
<p>1. Retender services to be delivered through a series of contracts set out in table 1 and bring a small number of functions in-house.</p> <p>This is the recommended option.</p>	<p>The proposed recommendation will give greater clarity to officers, residents, and members as well as better accountability and resilience for service delivery. This option provides better quality and cost control for RBWM e.g. inspection, assessment, works ordering and account checking for routine maintenance, which also strengthens RBWM's ability to defend claims.</p>
<p>2. Extend the existing contract using the provisions in the contract.</p>	<p>This is not possible as the maximum extension has been given to the contract and the Council would be at risk of a legal procurement challenge.</p>
<p>3. Retender the contract like for like.</p>	<p>The service has evolved in the last 5 years, and it has become clear through a series of reviews that more rigour is needed around control and accountability going forward. Additionally, this option would limit the ability to introduce improvements that have been identified through stakeholder engagement.</p>
<p>4 Deliver services through a partnership / shared service solution</p>	<p>Following an O&S task & finish review, on 29th April 2021 a paper was presented to cabinet and approved in relation to the current extension to the Volker contract. The paper included a review of current contracts in neighbouring authorities and potential opportunities. No contracts were directly 'co terminus' and contained the same series of services required. There is an opportunity to use Wokingham's existing contract, but this doesn't show any benefit in terms of service or cost and doesn't allow us to test the market.</p>
<p>5 Bring all the services back 'in house'.</p>	<p>The Council does not have the capacity to deliver all the services 'in house' and financially it would not be viable to do so.</p> <p>When the revised model including further outsourcing was introduced in 2017, a significant part of the saving achieved was for support functions no longer required. To bring services back in house would come with a cost and resource implication. This is particularly the case for operational and construction functions. The key areas which would need to be addressed but not exhaustive to are:</p> <ul style="list-style-type: none"> • Management support structure • Governance • I.T. • Plant /vehicle fleet/ fleet manager • HR • Finance • H&S

	<p>Bringing technical services such as design back in house would introduce financial risk as the resource level would be fixed rather than being able to flex in line with the capital programme which varies year to year.</p> <p>The small number of roles recommended to be brought back in house can be line managed within the existing structure and support services.</p>
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Background

2.1 In 2017, the Council entered a five-year highways management and maintenance contract with VolkerHighways Ltd to provide a range of services on behalf of the Council. This involved transferring some Council employees across to VolkerHighways under TUPE regulations. In 2021, they were awarded a further 2 year extension until 31st March 2024, which is the maximum that this contract can be extended.

The current commissioned service contains the following core elements:

- Highway and Bridge Inspections
- Highway and Bridge Repairs
- Drainage and gully clearance
- Winter Service
- Street Cleansing
- Project Delivery
- Tree Inspections (2017 – 2021 – optional in the contract and time limited based on funding).

2.2 The main contractor is VolkerHighways Ltd. who have sub-contracted street cleansing to Urbaser and sub-contracted scheme development and design; specialist inspections to Project Centre Ltd. Project Centre Ltd also had a direct contract with RBWM for other professional services which was separate from this arrangement and was brought back in house in 2021.

Service review

2.3 Since 2017, the requirements of the highways service and the Council's priorities have evolved. The extension of the contract has allowed the opportunity to review the highways delivery model going forward. Along with the review of current arrangements by the O&S task & finish group in 2021, feedback received from soft market engagement sessions, internal consultation, and consultation with Members, has informed the options for the future procurement and service delivery. This has given vital insight into the opportunities and challenges that are presented to the service in the future. Full details are in Appendix B, C and D, with summaries shown below.

External engagement

In July 2022 a series of soft market engagement sessions took place with 9 suppliers to review the current market and what would be the most advantageous way to procure services in the future. Appendix B details the outcomes of the meeting.

Market Testing - Summary

Reasonable contract length at least 7+ extensions to make it commercially viable

Splitting out the cleansing and professional services as not directly delivered by highways contractors

Use the New Engineering Contract – version 4 (NEC4) – widely used form of contract

Mobilisation lead in period of 3-6 months

The below scoring split for the tender was generally favoured:

40% price

40% quality

20% social value and carbon savings

Awareness that there is a long lead in time for electric vehicles and the need for additional electrical points to be installed in the depot to facilitate a full electric fleet

Basic contract highway model needs to support enough operatives to resource the winter service function

Internal engagement

Alongside the external market testing, similar meetings were held with officers that use and have experience with the current model to run their service area. Appendix C details the outcomes of those meetings.

Internal Engagement - Summary

Potential conflict of interest on some areas of the contract i.e. need to create more independence between inspection, design and works

More in-house performance monitoring and management is required

Inspections to be brought back in house, allowing the insurance process around claims to be dealt with more effectively

Specification to be reviewed to identify areas that could be improved

Street cleansing and professional services to be separate contracts as sub-contracting adds a financial uplift and no real benefit

Winter service decision making process to be brought back in house

Member engagement

A questionnaire was circulated to all Members to understand their perception of the current service and what works well along with areas of weakness. Appendix D details the questionnaire and these responses, for which we received a 33% return.

Member Engagement - Summary

Further use of recyclable materials in the contract is supported

Improve responses and information to councillors

Improve street cleansing – particularly within rural areas

More robust checking of highway work to be carried out

More attention to the borough’s pavements is required

Improved provision to tackle overgrown vegetation

Proposed recommendation

2.4 Following the review of the highways service, a series of options have been considered which include bringing the services back 'in house', retaining the current outsourced solution and a blend of both. Each part of the contracted service has been reviewed in accordance with the Council's strategies and constitution. The recommended service delivery model supports the council's commissioning approach and brings back a small but vital area of control and monitoring.

2.5 Table 2 sets out where the services sat prior to the outsourcing in 2017 and recommendations of where they should sit going forward based on the review. The rationale for bringing certain aspects back in house is to provide greater quality and cost control for RBWM. The proposal recommends that the majority of elements are delivered by external providers because they are specialist technical activities e.g. technical bridge assessments or are operational or construction functions e.g. winter gritting delivery/ road resurfacing.

Table 2

Service Areas	Pre 2017 arrangement	Current Arrangement	Recommendation post April 2024
Bridge Inspections	External	VolkerHighways	External provider
Highway Inspections	In house	VolkerHighways	'In house'
Design and project management for civil works.	In house	VolkerHighways	'In house' and external provider. See Appendix E
Reactive Highway maintenance	In House	VolkerHighways	External provider
Reactive bridge maintenance	External	VolkerHighways	External provider
Planned Highway maintenance and bridge works	External	VolkerHighways	External provider
Drainage and Gully Clearance	In house	VolkerHighways	External provider
Street Cleansing	External	VolkerHighways	External provider
Winter Service	External	VolkerHighways	External provider
Customer Enquiries	In house	VolkerHighways	'In house' and external provider. See Appendix E

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Agree to the recommendations and implement the changes for April 2024	No recommendation agreed or implemented by 1 st April 2024	Option agreed and changes introduced by 1 st April 2024	N/A	N/A	1 st April 2024

3.1 The recommendation will lead to some services being delivered directly by the Council and therefore existing staff in VolkerHighways and Project Centre may be in scope to transfer under TUPE regulations.

3.2 Any vacant positions required for in-house service delivery that are not within scope of TUPE regulations will need to be recruited to through the normal recruitment processes.

3.3 The 3 new contracts will be produced and finalised, working with the procurement team, legal services, and a specialist specification consultant. Appendix E sets out the proposed contract model and where the services will sit.

4. FINANCIAL DETAILS / VALUE MONEY

4.1 The table below shows the spend over the contract's term to give an indication of the financial value and the degree of variation each year. The variation in spend is predominantly due to varying levels of capital funding and grant allocation spent on highway projects throughout the contract term. External service providers have the ability to use their resources flexibly across contracts that would not be possible if those services were resourced in house.

Table below shows GBP amounts per year for capital and revenue:

Year	2017/18	2018/19	2019/20	2020/21	2021/22
Capital	2,548,860	5,701,506	5,560,864	7,176,472	6,159,771
Revenue	3,679,687	3,969,845	4,234,958	4,197,203	4,235,146
Grand Total	6,228,546	9,671,351	9,795,822	11,373,675	10,394,918

4.2 The core services within the contract deliver basic safety maintenance. Under this proposal the service levels remain unchanged however the way the Council will manage certain aspects of the service will alter to bring more rigor and independent review to quality and cost control in key focus areas. The cost of bringing a small number of positions 'in house', will mean these positions are no longer required in the future contracts and therefore be cost neutral.

4.3 We will work within the current budget envelope and build different cost options into the tender where appropriate. Ultimately the remaining services will go through a procurement process and the contract costs will be representative of the current market. We propose to incorporate the market feedback when selecting the type, terms, and duration of contract so that it attractive to suppliers, encouraging competitive bidding as well as providing a strong contract for RBWM. Specialist technical support has been engaged to ensure that the specifications and supporting documents are comprehensive and robust. Throughout the procurement process, we will seek to drive cost efficiencies to deliver the required services at the best market price.

4.4 A paper recommending award of the contracts is planned to be presented to Cabinet in September 2023, any cost implications can be considered in the budget setting process for 2024/25.

4.5 Pensions implications will need to be considered. Any staff in scope for TUPE who are not currently members of the LGPS would be given the opportunity to join. There is potential for this to have ongoing cost implications, and this will be established as the details of any posts are identified working closely with the Royal Berkshire Pension Fund. The cost of any additional in-house elements will need to be offset by the reduced cost requirement within the contract.

5. LEGAL IMPLICATIONS

5.1 All new contracts will be procured in line with the Council's constitution and the Public Contracts Regulations 2015. The Council's Legal Services Team are involved and will provide advice and secure external legal advice where required.

5.2 The contract is due to terminate on 31 March 2024 and therefore the council can consider alternative approaches to service delivery.

5.3 Under the terms of the current contract, the TUPE regulations may apply to employees from VolkerHighways and Project Centre. Although the obligations will mostly relate to VolkerHighways and Project Centre as the current employer, the Council will work closely with them to ensure any consultation is carried out in accordance with the regulations.

5.4 The Council will work with Royal Berkshire Pension Fund to put in place any required pension fund admission arrangements where necessary.

5.5 Under the current contract arrangements, Tinkers Lane and Stafferton Way depots are utilised by the contractor. We will work closely with the Property Asset Team to ensure that the use/ value of council assets is maximised and with Legal Services to ensure that the necessary leases and licences can form part of the tender documents.

6. RISK MANAGEMENT

Table 3 Risk management

Risks	Uncontrolled Risk	Controls	Controlled Risk
No bids are received for the new contract	Medium	The Council has carried out a series of positive external market engagements and allowed ample time to for procurement. This will give a reasonable amount of time for the contractors to price and mobilise.	Low
Delay in agreeing the recommended proposal to procure the contract	Medium	Report has been taken to Cabinet and background work has been carried out to make an informed decision. Sufficient timescale allocated to reprocure contract.	Low
Bids exceed the available budget for these services	High	A robust new service model and procurement process together with the pragmatic approach to risk sharing.	Medium

7. POTENTIAL IMPACTS

7.1 Equalities. Equality impact assessment screening has been completed. See appendix A.

7.2 Climate change/sustainability. There will be an increased emphasis around both climate change and sustainability within the new contracts to align with the councils' targets.

7.3 Data Protection/GDPR. GDPR will be adhered to throughout the service change.

8. CONSULTATION

8.1 Market, officer, and Member engagements, as detailed in Appendix B, C and D have been completed ahead of the procurement. It is proposed that a report be presented to Cabinet in September 2023 to agree the award of the new contract.

9. TIMETABLE FOR IMPLEMENTATION

Key dates are provided below.

Date	Details
24th November 2022	Cabinet for approval of re procurement and service delivery model
December 2022 - March 2023	Drafting of specifications and preparation of all other tender documents
April 2023 - May 2023	Launch of tender
31 May 2023	Tender returns
June 2023	Tender evaluation
September 2023	Cabinet for approval to award contract(s)
October 2023 - March 2024	Mobilisation period
April 1 st 2024	Start of new contract(s)

10. APPENDICES

Appendix A – EQIA

Appendix B – Internal engagement

Appendix C – External engagement

Appendix D – Member engagement

Appendix E – Proposed contract and service model

11. BACKGROUND INFORMATION

Initial contract award by Cabinet in December 2016.

https://rbwm.moderngov.co.uk/documents/s10581/meetings_161215_cab_highways.pdf

Contract extension in 2022. [Contract Extension report](#)

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Haseler	Lead Member for Transport and Infrastructure	7/10/22	11/10/22
Tony Reeves	Interim Chief Executive and Head of Paid Service	17/10/22	01/11/22
Adele Taylor	Director of Resources/S151 Officer	17/10/22	25/10/22
Andrew Durrant	Director of Place	17/10/22	18/10/22
Kevin McDaniel	Director of People Services	19/10/22	19/10/22
Alysse Strachan	Head of Neighbourhood Services	17/10/22	18/10/22
Andrew Vallance	Head of Finance	17/10/22	17/10/22
Elaine Browne	Head of Law	17/10/22	17/10/22
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	17/10/22	25/10/22
Nikki Craig	Head of HR Corporate Projects and IT	17/10/22	18/10/22
Louisa Dean	Communications	17/10/22	
Karen Shepherd	Head of Governance	17/10/22	17/10/22

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Key Decision. First entered onto the Forward Plan 17 Aug 2022	No	No

Report Author: Vikki Roberts – Principal Contract Manager Highways
Vikki.roberts@rbwm.gov.uk