

SURREY COUNTY COUNCIL

CABINET

DATE: 26 JULY 2022



REPORT OF CABINET MEMBER: NATALIE BRAMHALL, CABINET MEMBER FOR PROPERTY AND WASTE

LEAD OFFICER: KATIE STEWART, EXECUTIVE DIRECTOR FOR ENVIRONMENT, TRANSPORT & INFRASTRUCTURE

SUBJECT: OUTLINE BUSINESS CASE FOR THE RE-PROCUREMENT OF WASTE TREATMENT AND DISPOSAL SERVICES

ORGANISATION STRATEGY PRIORITY AREA: ENABLING A GREENER FUTURE

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Purpose of the Report:

Surrey County Council (the Council) is the statutory Waste Disposal Authority (WDA) responsible for the transfer, treatment and disposal of all household waste collected within Surrey. The current waste disposal contract managed by SUEZ, is due to expire in September 2024 and the Council is required to ensure continued arrangements are in place from the expiry of that contract.

This Outline Business Case (OBC) summarises the:

- **Overall aims of the contract:** what we are trying to achieve;
- **Delivery model:** whether services are delivered in-house, outsourced, or a mix of the two;
- **Contract structure:** the number of contracts and contractors - whether to have one contract and supplier as per the current situation, or to disaggregate into several smaller contracts and what those smaller contracts will consist of; and
- **Route to Market:** the procurement processes appropriate for service packages appropriate to the proposed contract structure from 2024.

Recommendations:

It is recommended that Cabinet:

1. Approve the OBC for the future re-procurement of the Waste Treatment and Disposal Services to inform the development of a Detailed Procurement Strategy.
2. Delegate Authority of approval of the final procurement route to market for services from 2024 to the Cabinet Member for Property and Waste, in consultation with the Executive Director for Environment, Transport and Infrastructure.

Reason for Recommendations:

Approval of the OBC is critical to enable the Council to continue to deliver its statutory duty seamlessly beyond September 2024. This will also be instrumental in designing the services to both maximise value for money and contribute to Surrey's ambitious environmental targets.

Executive Summary:

Background

1. SUEZ Recycling and Recovery Surrey LTD (SUEZ), on behalf of the Council, manage approximately 500,000 tonnes of waste each year (500 KT/A). The current waste disposal delivery model is a 25-year integrated Private Finance Initiative (PFI) contract which covers the transfer, treatment and disposal of all household waste collected within Surrey. This includes:
 - a. the treatment of the recyclable material for nine of the district and borough authorities;
 - b. the management of residual waste collected by all eleven district and borough authorities via five waste transfer stations and a bulking facility; and
 - c. the provision of 15 community recycling centres (CRC's).

There is also a relatively small amount (~30 KT/A) of commercial waste collected by these authorities that the Council arranges the treatment and disposal of.

2. SUEZ have also developed the Eco Park at Shepperton which comprises an anaerobic digestion (AD) plant for 40 KT/A of food waste and a gasification plant for 56 KT/A of residual waste, together with a recyclable bulking facility and CRC. The AD plant has been commissioned and is now processing all of Surrey's food waste. The gasification facility was awarded an Acceptance Certificate in March 2022 and is now processing residual waste.
3. The current contract with Suez is due to expire in September 2024. This report recommends that an overarching strategy to disaggregate services from the current PFI single contract structure should be put in place from 2024.
4. The purpose of the OBC is to provide the basis on which a disaggregated strategy can be executed from 2024. This identifies the service options which represent best value for money and will ensure necessary management arrangements are in place for delivery.
5. The OBC is included at **Annex 1**.

Strategic Policy Context

6. The Government's Resources and Waste Strategy, 2018 (RWS) was published in 2018 and has been the subject of two public consultations. Whilst the RWS has not been finalised, there are several key aspects of the national strategy which are expected, and which will impact on local government's delivery of these services, including:
 1. a target of zero avoidable waste by 2050;
 2. the phasing out of avoidable plastics;
 3. new targets for waste and recycling;
 4. a target to stop food waste to landfill by 2030; and
 5. reform of the Packaging Recovery Note (PRN) system (a current mechanism which helps fund recycling).

7. The RWS ambition for waste management is as follows, *'Rethink our current approach to waste, to create a system centred on circular economy principles that seeks to prioritise the reduction of waste creation, encouraging innovative approaches to waste reutilisation and recycling - throwing away will become a last resort'*. The targets associated with this ambition are:
1. 75% of packaging reused or recycled by 2030;
 2. 70% of all local authority collected waste reused, composted or recycled by 2030; and
 3. 0% of waste sent to landfill and 50% reduction in food waste generated by 2030.
8. The options considered within the OBC aim to facilitate delivery of solutions (either wholly or in part) to meet these targets and ambitions.

Future Service Delivery Models

9. An assessment of potential future service delivery models was undertaken through a workshop facilitated by members of SCC's Contract and Commercial Advisory Team (CCA).
10. Evidence and rationale for the assessment was sourced through Council experience with the current contract and complemented by external expertise, market engagement and detailed market assessment (including analysis of local disposal capacity and market trends).
11. The option of the Council delivering all or part of the services 'in-house' was also examined using the same criteria. This assessment concluded that this was not a viable option for any element of the service, based on the following rationale:
- **Capability:** The Council does not have the necessary infrastructure to deliver these services. The scale of the investment and resources required to design, procure, build and commission facilities is not possible within the timescale available, and would be heavily influenced by external forces such as the availability of capital, planning conditions and environmental permits.
 - **Risk and risk allocation:** The Council would be unable to draw upon a wider network of facilities in the way that a private sector provider would be able to, should capacity issues arise. Ownership of risk of failing to manage, market and dispose of waste is a critical consideration, and SCC does not have the ability to manage this risk, including contingency, resilience and business continuity.
 - **Economy:** Private contractors have access to a wide supply chain and often operate across multiple local authority contracts. This brings benefits in economies of scale, which provide such contractors:
 - Greater ability to manage movement of waste at disposal facilities.
 - Access to commercial rates for providing services not available to SCC given the volume of waste managed by private contractors.
 - Teams of centralised resources which make operations more efficient, resilient and cost effective.

12. It has also been determined that a future disaggregation of the current service into multiple contracts, from 2024, would provide the optimal solution based on the following:

- **Capability:** There are very few contractors who will be able to deliver all aspects of an integrated contract, limiting competition during procurement and potentially affecting the resilience of the contract during its term. Disaggregation of contracts therefore will mitigate these risks and may also – as an added benefit – foster greater participation by SMEs.
- **Complexity:** Smaller contracts underpinned by less complex commercial models should improve transparency of the management of those services and create an environment conducive to collaboration and at the same giving more control to SCC in managing those contracts to best effect.
- **Risk and risk allocation:** Upcoming legislation will require flexible arrangements to be built within contracts in order to adapt to change in line with future demands. Larger, integrated contracts are built on guaranteed volumes of waste delivered to facilities and focus on return on investment for the contractor. By contrast, smaller, disaggregated contracts will offer greater flexibility and controls for SCC.
- **Strategic alignment:** In light of the objective to allow contracts to be delivered by smaller businesses and SMEs a larger, integrated contract may reduce the range of opportunities that might be made available. With smaller contracts to manage distinct service areas, SCC will be better able to design services and contracts to encourage local participation.

Contract Structure

13. Work has been undertaken by officers to establish how best the service can be separated into discrete elements. Market engagement and analysis, dialogue with other WDAs and expert advice indicates that contracts for waste treatment and disposal for each individual waste stream (residual waste, dry mixed recycling, food waste etc.) would deliver the most efficient and effective response from potential providers, enabling specialist waste treatment providers to tender for contracts within their sphere of expertise.
14. The same evidence showed that combining the operation of facilities (including Community Recycling Centres (CRCs), Waste Transfer Stations (WTS) and bulking facilities) into a single contract would provide the most efficient solution, minimising risks associated with different contractors operating on a single site, especially where WTS and bulking facilities are co-located with CRCs. This would include the WTS and CRC facilities sited within the Eco Park (subject to attaining the necessary permit changes).
15. Future plans for the gasifier remain uncertain. The gasifier is operating but market engagement indicates that the private sector (excluding SUEZ who currently operate the gasifier) would be unwilling to accept any risk regarding the performance of the facility and as a result, for the time being, this element sits outside the current scope of procurement.
16. Specialist operators have expressed an interest in operating the AD facility coupled with the treatment of all of Surrey's Local Authority collected food waste and associated

haulage. However, the close integration of the AD facility with the gasifier, including shared services may mean that the operation of this facility has to be procured as part of the Eco Park facilities as a whole.

Recommended Service Packages and Procurements

17. The proposed future disaggregation of the service, from 2024, can be split broadly into two categories:

- **Complex:** services that require a higher degree of engagement with bidders to develop the right solutions through dialogue.
- **Straightforward:** services that are relatively simple to procure with no requirement to engage in dialogue to establish solutions.

18. Market engagement has established that “Competitive Dialogue” procurement processes are favoured by the market for the complex services. These have been classified as:

- **AD operation and food waste:** the facility is highly specialist and will likely require significant dialogue with potential operators.
- **CRC and WTS operations:** although relatively simple operationally, the customer service element and risks associated with volatile markets for materials deposited at the sites will need careful consideration and dialogue with bidders. It should be noted that less abundant and specialist waste streams such as bulky waste, fly-tipping and hazardous material are proposed to form part of this contract.

19. The remaining services are less complicated material disposal / treatment contracts that require the market to simply process material sent by the Council. These will require shorter procurement processes (“Restricted/Open”) with no dialogue or negotiation with bidders:

- Residual waste
- Haulage (where not combined with other elements of the service)
- Dry mixed recycling
- Green waste
- Street sweepings

20. Following approval of the OBC, further work will be undertaken that will focus on the detail of the proposed procurements. This will include:

- assessment criteria (including weightings allocated to elements such as social value, carbon and environmental management);
- whether the work within a service element will be divided into discrete packages (Lots) and the numbers of those Lots within each service element;
- contract durations; and
- detailed timelines and resources required.

21. Market engagement is on-going to refine this process.

Consultation:

22. There has been significant consultation undertaken both internally and externally on the strategy to disaggregate the contract. This includes the following boards and committees:
- Communities, Environment and Highways Select Committee
 - Major Projects Board
 - Rethinking Waste Programme Board
23. There has also been extensive consultation with the district and borough councils.
24. It should be noted that as this is a county-wide project, there has been no specific engagement with any local Members to date, although such engagement will take place once proposals for the future of the services are clearer.

Risk Management and Implications:

25. This is a high value and highly visible service that affects all residents of Surrey and requires significant collaboration with the district and borough councils. The service will need to contribute to the Council's environmental aims, including carbon reduction targets.
26. As the Council has a statutory duty to deliver these services, the risk posed by ineffective provision of these critical services is significant. In an extreme scenario, should the Council fail to make provision to deliver these services, this will likely result in:
- a. legal challenges from the district and borough councils;
 - b. increased environmental impact with waste not being processed correctly (or at all) or requiring processing at facilities much further away (including overseas);
 - c. significant financial & reputational impacts; and
 - d. in extreme circumstances, intervention by the Department for Environment, Food and Rural Affairs (Defra) to ensure services operate in Surrey.
27. The above scenario is highly unlikely to occur. However, there are significant risks posed by ineffective programme planning. A lack of planning (including allowing timeframes to slip significantly) inhibits the Council's ability to rigorously assess its options, with insufficient evidence gathered to inform key decisions. The logical result of ineffective planning is ineffective service delivery that does not provide value for money.
28. However, Council officers started planning for the provision of services following the expiry of the current contract well in advance of what a reasonable procurement timetable would suggest is necessary in order to provide as full an engagement with stakeholders and the market for the service from 2024. Therefore, the OBC is the product of robust consideration and consultation. It is acknowledged that there is a significant amount of work needed to facilitate service contracts that deliver value for money following expiry of the current waste services contract. The OBC maps out the considerations, consultations and decisions that have been taken to date.

Financial and Value for Money Implications:

29. The reprocurement programme is currently estimated to cost £1.8m, which includes external specialists (technical / legal etc). The revised cost is higher than previously estimated and reflects a review taking into account the potential increase in concurrent activity to meet a September 2024 deadline. Costs will need to be met from the existing Medium Term Financial Plan, including Transformation funding where appropriate. Reprocurement of the waste contract is expected to result in a reduction in costs as the contract will not include infrastructure development and capital repayment and there will be a reduction in margins as a result of moving away from a PFI risk profile.

Section 151 Officer Commentary:

30. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.
31. The cost of the re-procurement programme will need to be met from existing budgets. The Council will continue to take specialist advice from its legal and financial advisors as part of the re-procurement. The re-procurement strategy is designed to deliver a value for money solution, and the outcome will be factored into the Council's future Medium Term Financial Strategy. As such the Section 151 Officer supports the recommendations.

Legal Implications – Monitoring Officer:

32. The procurement approaches set out in this report are as advised by Council procurement officers following engagement with the market and are compliant with The Public Contract Regulations 2015 ("PCR"). Ongoing advice and support will be provided from the procurement and legal teams throughout the course of the procurement.

Equalities and Diversity:

33. The OBC sets a direction of travel for the reprocurement of waste services, and at this stage, there is nothing that would suggest any impacts for residents, other people who use services, such as residents or staff with protected characteristics. As we move to a more detailed stage of the procurement, it is very likely that Equality Impact Assessments (EIAs) will be required for some elements of the service, particularly the operation of community recycling centres.

Other Implications:

34. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Environmental sustainability	Environmental sustainability and net zero contributions are central pillars of this programme and will form a key part of the evaluation criteria for the procurement of services.
Compliance against net-zero emissions target and future climate compatibility/resilience	

What Happens Next:

35. The next steps are as follows:

- Conclusion of market engagement in July 2022;
- Continued development of the appropriate procurement routes to market for services from 2024, to be approved the Cabinet Member for Property and Waste, in consultation with the Executive Director for Environment, Transport and Infrastructure.

Report Author:

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Consulted:

- Natalie Bramhall, Cabinet Member for Property and Waste
- Communities, Environment & Highways Select Committee
- Major Projects Board
- Rethinking Waste Programme Board
- Contract and Commercial Advisory Team
- Surrey district and borough councils through the Surrey Environmental Partnership

Annexes:

- Annex 1: Outline Business Case
 - Appendix 1: Initial Business Case
 - Appendix 3: Strategic Options Appraisal
 - Appendix 4: Reprocurement D&B engagement
 - Appendix 5: Engagement with other WDAs
 - Part 2 Report
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