

WIRRAL COUNCIL

SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE

26 JUNE 2012

| | |
|-------------------------|--|
| SUBJECT: | HIGHWAY AND ENGINEERING SERVICES CONTRACT - THIRD ANNUAL REVIEW |
| WARD/S AFFECTED: | ALL |
| REPORT OF: | DIRECTOR OF TECHNICAL SERVICES |
| KEY DECISION | NO |

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update for Members on the Highway and Engineering Services contract at the end of the third year of operation. Information is provided on performance against the benefits sought and targets set.
- 1.2 The report invites Members to consider the option written into the contract to extend the contract by twelve months based on the satisfactory performance of the contract.
- 1.3 The maintenance of all aspects of the highway infrastructure, carried out through this contract, is statutory duties imposed on the Council as Highway Authority.
- 1.4 Part of the report relates to financial aspects of the contract, which are exempt from public disclosure in accordance with paragraph 3 of Part 1 of schedule 12A of the Local Government Act 1972, and this information is separately contained in **Appendix 5**.

2.0 BACKGROUND AND KEY ISSUES

2.1 Context

- 2.1.1 This report is written and presented to update Members on progress in delivering the contract in place with Colas Ltd. It is not intended to comment on issues of value for money, or other matters and recommendations which may arise from the Report in the Public Interest recently published by the Council's external auditors, the Audit Commission, but which has not been reported to Council at the time of drafting this progress report.
- 2.1.2 Nonetheless, there are recommendations within the Auditor's Report which are fundamental to the management of the contract, and the Action Plan developed in response to that Report will form part of the contract management team's priorities during the current year.

2.2 Contract Overview

- 2.2.1 On the 16th October 2008 [Minute 246 refers] Cabinet formally awarded the Highways and Engineering Services Contract to Colas Ltd. The contract commenced on 1 April 2009 and has a term of 5 years plus 3 individually awarded annual extensions and has an annual value of approximately £7 million.

- 2.2.2 Most maintenance activities are included within the contract and comprise emergency, reactive, and planned maintenance for roads and footways, structural maintenance programmes for roads and footways, maintenance of bridges, culverts and drains, coastal infrastructure, street lighting, painting and winter maintenance.

2.3 Partnership, Management and Governance

- 2.3.1 The Partnership Board led by the Director of Technical Services and Colas' Regional Director, has continued to ensure that both parties jointly manage and regularly review the risks, communications performance, customer feedback, health and safety programme, payment, innovation and operational aspects of the contract arrangements.
- 2.3.2 The day to day running of the Contract is carried out at the lowest appropriate level through weekly programme and contract meetings, supported by a monthly commercial meeting, with all parties endeavouring to solve issues together, escalating only matters which they cannot resolve through the monthly Liaison Meetings, chaired by the Deputy Director of Technical Services and then up to Board level if required.
- 2.3.3 The contract is further developed as a partnership by the joint Innovation Sub Groups, and a summary of the work carried out by those Groups during year 3 is given an overview in **Appendix 1**.
- 2.3.4 Following on from year two the high level benefits to be realised from the Contract have been reviewed again, and a summary of the performance of the service against the targets set in the Benefits Realisation Plan (BRP) is provided in **Appendix 2**. Performance issues reported in Section 2.6 below have resulted in the corresponding BRP target moving from 'green' to amber'. The unresolved dispute with Colas, as described in **Appendix 5**, has meant that the value of risk saved has not reduced significantly on the Year 2 position, and this remains at 'amber'. The cost savings identified through rationalising ICT will not be met, and this has moved from 'amber' to 'red'. This loss of this saving is more than offset by the savings made in client staffing costs, which remain well ahead of the agreed target.

2.4 Programme of Work

- 2.4.1 The third year of the Contract has allowed further development of the programme. As early as December 2010 dates were set for various types of surface treatment or surfacing works to take place with target dates set for the work instructions to be issued. This method of operation proved very successful in undertaking the works on time and ensuring improvements in communication. The work of the joint programme was also further developed by having the programme updated every two weeks and placed on the shared online portal for Wirral staff to keep track of works.
- 2.4.2 There are still issues over access to the shared portal, but steps have been taken to expand its use.
- 2.4.3 The activities carried out during the 2011/12 year are presented in table 1 below. The previous years' works are also shown, but many of the schemes are different in extent and complexity and this does not allow direct comparison of outputs.

| WORKS / SERVICE TYPE | 2011/12 | 2010/11 | 2009/10 |
|---|---------|---------|---------|
| Pedestrian Crossing (Toucan / Puffin) | 4 | 1 | 3 |
| Cycling strategy schemes | 7 | 9 | 5 |
| Local safety schemes | 8 | 14 | 12 |
| Major safety schemes | 1 | 2 | 1 |
| Safer Routes to Schools | 8 | 4 | 11 |
| Pedestrian facilities scheme | 3 | 2 | 4 |
| Street Lighting Improvement Schemes | 6 | 14 | 11 |
| Street Lighting lamp change or other repair | 19,159 | c15,000 | c19,000 |
| Road gullies cleansed | 51,759 | 53,686 | c60,000 |
| Carriageway surfacing | 40 | 76 | 37 |
| Micro-asphalt surface | 97 | 52 | 64 |
| Footway Treatment (Slurry) | 65 | 54 | 101 |
| Carriageway Retread Scheme | 3 | 3 | 18 |
| Surface Dressing Schemes | 0 | 1 | 0 |
| Footway Reconstruction | 34 | 39 | 11 |
| Major Patching Locations | 52 | 74 | 37 |
| Surface Preservation Treatment | 0 | 1 | 0 |
| Area Forum Improvements | 60 | 50 | 34 |
| Keep It Local (Locations) | 25 | - | - |

2.4.4 Further improvements had been made to the winter maintenance plan with reviews of routes and the installation of extra grit bins, installed through Area Forum funds, but which require to be maintained from within the existing winter maintenance budget.

2.4.5 The average winter in 2011/12 has reduced the impact on carriageway deterioration but there is still a legacy from the previous year's severe weather on many residential roads, which is resulting in a number of carriageways in need of urgent repair.

2.4.6 Further work on remote monitoring on street lighting equipment took place during the year, including the adoption of policy and a further roll-out on 900 columns on main roads. This work is due to take place during the summer 2012.

2.4.7 Payments to Colas for works and services in 2011/12 totalled £ 7.956 Million.

2.5 Customer Feedback

2.5.1 The customer surveys introduced during 2010/11 (Performance Measure PMF16) have continued with 22 streets undergoing surface treatment or surfacing being surveyed.

2.5.2 The annual report to the Partnership Board arising from the feedback received during the year, together with a copy of the questionnaire, is attached at **Appendix 3**.

2.5.3 The Committee will note that the average scores have all reduced from last year's Benchmark figure, despite targets to improve on last year's scores. An analysis of this disappointing trend has revealed a number of possible reasons for this:

- a) Quantitative effect of only 22 no. street surveys in year 3 compared to 37 no. in year 2.
- b) No analysis of the response rate in each location.

- c) Treatment transition from traditional plane and inlay to modern surface treatments; customer perception does not compare like for like treatments across two years.
- d) Some responses are subjective whilst others quite objective.
- e) Some responses relate to policy and service level; which are outside Colas' control.

2.5.4 The feedback is also contradicted by a significant reduction in customer complaints received by the Council which are attributable to Colas, and which have shown a 27 percent reduction over the previous year.

2.5.5 The Partnering Board has considered these matters and feels it is inappropriate to impose a financial penalty based on this raw and subjective data. It is worth noting that the scores remain in the 6.1 – 7.5 out of ten range, despite the disappointment of dropping from the very good scores achieved in year 2.

2.5.6 Further work will be carried out during the next operational year so an analysis can be made of like for like materials used, improved information given to residents on the materials and operational methods.

2.5.7 A further report will be submitted to Members in September providing information on types of materials used in surface treatments and surfacing and the economic value of modern material treatments.

2.6 Performance

2.6.1 The key performance targets set for year 3 proved to be challenging to achieve and some areas did not obtain the target while others performed exceptionally well. A summary of the performance indicator results is provided at **Appendix 4**.

2.6.2 Targets set for the delivery of following performance measures were all achieved:

Contractor performance (details in **Appendix 4**)

| | |
|-------|--|
| PMF1 | Planned works completed on time |
| PMF2 | Planned works not requiring a second visit |
| PMF4 | Priority 3 works not requiring a second visit |
| PMF4A | Priority 5 works completed on time |
| PMF4B | Priority 5 Works not requiring a second visit |
| PMF5 | Winter Maintenance – compliance with the Operational Plan |
| PMF6 | Winter Maintenance – response within 3 hours |
| PMF9A | Street Lighting – reactive repairs completed within 3 days |
| PMF9B | Street Lighting – percentage of lights not working |
| PMF10 | Health and Safety incidents |
| PMF11 | Environmental – site waste recycled |
| PMF15 | 10% reduction in customer complaints |

Note that PMF3, PMF12 and PMF 14 have been discontinued.

Client Performance

| | |
|-----|---|
| CP1 | Carry out quarterly performance reviews |
| CP2 | Ward inspections as programmed |

| | |
|------|--|
| CP3 | Issue Priority 2 and 3 works orders twice monthly |
| CP4 | Issue Structural Maintenance Programme (Carriageways and Footways) by 31 st May |
| CP5 | Issue Traffic Schemes Programme by 31 st May |
| CP6 | Issue Street Lighting Bulk Lamp Change Programme by 31 st May |
| CP7 | Issue Street Lighting Structural Programme by 31 st May |
| CP8 | Accuracy of Works Orders (item omissions) |
| CP9 | Identify Designer H&S Risks prior to Construction |
| CP11 | Liaison with Utilities to avoid trench openings in new surfacing |

Note that CP10 is not used.

- 2.6.2 For the performance failures on PMF 7 and 8, Colas failed on one emergency requiring a response within 1 hour and one Priority 1 Works to be attended to within 24 hours. Members should note that as a result of these individual failures; following a report to the Partnering Board; that a financial deduction has been imposed of £5,300. Importantly, Colas have recognised and addressed the factors which led to this unsatisfactory outcome.
- 2.6.3 All Emergency and Priority one works are closely monitored weekly to endeavour to meet the 100% target.
- 2.6.4 There has also been an issue in measuring PMF13, Final accounts on programmed works not submitted within 6 weeks of the completion notice. The target set was 80%.
- 2.6.5 Colas have failed to provide satisfactory evidence that this target has been achieved, although it should be noted that there is clear evidence that more than 80% of the value of the required payment is forwarded to the Council on time, however due to supply chain issues further low value accounts have appeared some months after the completion of the works; for example, relating to white lining work after a surfacing scheme.
- 2.6.6 This likely failure in performance does not directly affect the service and has a greater impact on Colas in the form of available cash flow.
- 2.6.7 Corrective actions have been made by Colas using new surfacing and lining contractors along with an improved payment monitoring system which will report to the partnering Liaison meeting each month.
- 2.6.8 In conclusion, whilst performance is generally satisfactory, there have been instances in Year 3 which have required corrective action. Further work is required in improving the management of customer expectations regarding programmed work, and in the analysis of feedback gathered.

2.7 Quality of Work

- 2.7.1 Reflected in the performance information, with the dip in customer satisfaction, there were instances last year of a drop in quality of the surfacing on a small number of schemes:

- due to material quality issues there were a number of failures on Dense Macadam works, for which outstanding remedial work will be carried out during the current year.
- There was a fall in quality of the HRA surfacing, again due mostly to material issues, but was compounded by equipment breakdown and a large turn over of operatives.

2.7.2 These matters had been raised with Board in December 2011 and corrective action has been taken by the contractor, which should be evidenced by improved quality of work during the 2012/13 surfacing programme.

2.7.3 There was also a problem with the sub-contractor undertaking road lining. Various issues over quality and works information, and again Colas have taken the necessary action to correct these matters; in this case through the appointment of a new sub-contractor.

2.8 Current and Future Challenges

2.8.1 The report to Committee on 26 September 2011 [Minute 17 refers] set out the challenges for the third year of the contract.

- The joint workshop focussed on re-invigorating the work of the Innovation Sub Groups, through agreement of clear priorities for the year ahead.
- The planning for the 2012/13 structural maintenance programme started in December 2011 and a great deal of work was undertaken during January to March to ensure the new programme went ahead as planned; repeating the success of delivering the bulk of the programme during the warmer, longer days
- Contradictory results from very successful customer complaints but disappointing feedback surveys provide clear steer towards improving both our analysis arrangements and customer information about modern surface treatments, and highlighting this will also feature in a report to this Committee in September 2012.
- A report to Members on significant cost changes and value for money was drafted in November 2011, but will be presented to Members to coincide with the Council's external auditors' report on the contract.
- Matters relating to the extension to the contract are reported in Section 2.9 below.

2.9 Contract Extension

2.9.1 The initial contract with Colas Ltd was for a period of 5 years, until March 2014, but there were extension options of three single years.

2.9.2 Members need to be aware that decisions must be made during the current year if the Council is to provide the option of a further year or seek to implement a new contract from April 2014.

2.9.3 Notwithstanding all other factors, Colas Ltd have indicated that they are not willing to consider an extension to the existing contract based on their tendered financial rates

within the contract, but have yet to formally confirm this, and the Council is unable to renegotiate the terms of the existing contract rates under procurement law.

- 2.9.4 The unresolved formal dispute, details of which of are exempt from public disclosure in accordance with paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 and contained in **Appendix 5**, is a significant factor also. In considering whether to extend the contract, it is not prudent to introduce an extension to the contract under the threat of escalation of the dispute, and with the financial risk of continued exposure to those aspects of the contract which are disputed.
- 2.9.5 Accordingly Members are asked to note this situation, and given the timeframe required for the provision of a new service delivery arrangement from 2014, recommend that a report to Cabinet on the options available be submitted at the earliest opportunity.

3.0 RELEVANT RISKS

- 3.1 Highway maintenance is a statutory requirement and failure to deliver the service in accordance with the Council's policies will impact on the Council's reputation, the condition of the network and claims against the Council for accidents and injury.
- 3.2 A decision not to extend the contract will require work to commence by October 2012 on the future delivery of the service.
- 3.3 Whilst a new service arrangement will need to be subject to options appraisal, business case approval and any tendering arrangements required, it is important that focus is maintained on delivery of, and improvement to, the existing contract. To that end, a comprehensive exit and handover strategy needs to be developed in collaboration with Colas Ltd, to ensure successful completion of the current contract and any handover to a new provider of the service.
- 3.4 Part of the report relates to risk associated with financial aspects of the contract, which are exempt from public disclosure in accordance with paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 and Members attention is drawn to this information which is contained in **Appendix 5**.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 This report provides an update of progress as required by the Performance Management Framework.
- 4.2 Options for extending the contract, through renegotiation of rates (if this could be demonstrated to continue to provide best value for money in comparison with other options), was considered internally only in consultation with Procurement and Legal Services and rejected as not permitted.

5.0 CONSULTATION

- 5.1 As described in the report at section 2.5, the residents affected by a sample of schemes are invited to provide numerical feedback and comments on the works carried out through the contract.
- 5.2 Colas Ltd has been consulted on their interest in extending the existing contract as described in Section 2.9.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no specific implications arising from this report.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 There are no specific implications arising from this report; but the provision of a new service delivery arrangement will result in uncertainty regarding costs of delivering the service after March 2014, until any tendering is completed.

8.0 LEGAL IMPLICATIONS

8.1 Highway Maintenance and the clearance of ice and snow are both duties placed on the Council by statute.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no specific implications arising from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no specific implications arising from this progress report.

12.0 RECOMMENDATION/S

12.1 The Committee is requested to:

- (i) Note the progress of the contract during the past year, and endorse Officers' views in the report that the performance of the contract is satisfactory.
- (ii) Recommend to Cabinet that the existing contract not be extended beyond its current 5 year term, and that the Director of Technical Services be requested to prepare an options appraisal for the delivery of highway and engineering services from 1st April 2014 in a report to Cabinet at the earliest opportunity.
- (iii) Ask the Director of Technical Services to report on progress on preparation and delivery of a comprehensive exit and handover strategy relating to the satisfactory completion of the current contract, and effective and efficient transition to the new service delivery arrangements, in his future annual reports on the contract.
- (iv) Note that officers will be undertaking actions, to be agreed by Council, in response to the External Auditors' Report in the Public Interest; specifically in relation to the management of the contract; and ask that the Director of Technical Services reports on progress in delivering those specific actions relating to the management of this contract in his annual report to the Committee in 2013.

13.0 REASON/S FOR RECOMMENDATION/S

- 13.1 The Committee's scrutiny of the progress on the contract is an important factor in developing and improving the services provided through the contract, and ensuring that service objectives are achieved.
- 13.2 Having considered the factors relevant to the decision required whether an extension to the existing contract is possible or appropriate, it is crucial that the Committee brings to the attention of the Cabinet the critical business to be conducted to a fixed timeframe, requiring their consideration and decision making.
- 13.3 Whilst the responsibility for responding to the Report in the Public Interest lies with other committees of the Council, it is important that this Committee can scrutinise progress on delivering actions which specifically relate to the management of the contract.

REPORT AUTHOR: Brian Smith
Highway Management
telephone: (0151) 606 2426
email: briansmith@wirral.gov.uk

APPENDICES

| | |
|-------------------|--|
| Appendix 1 | Innovation Sub Group Overview |
| Appendix 2 | 2011/12 Benefits Realisation Plan Progress Summary |
| Appendix 3 | 2011/12 Customer Feedback Report |
| Appendix 4 | 2011/12 Performance Summary |
| Appendix 5 | EXEMPT INFORMATION |

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|--|---------------------------------------|
| Sustainable Communities Overview and Scrutiny: Highway and Engineering Services Contract – Second Annual Review | 26th September 2011 |
| Cabinet : Highway and Engineering Services Contact – Progress Report and Gateway 5 Review | 3rd February 2011 |
| Sustainable Communities Overview and Scrutiny: Highway and Engineering Services - Annual Presentation | 14th September 2010 |

**Sustainable Communities Overview and Scrutiny:
Highway and Engineering Services Contract – Six
Month Update.**

18th November 2009