

WIRRAL COUNCIL

REGENERATION AND ENVIRONMENT POLICY AND PERFORMANCE COMMITTEE

3 FEBRUARY 2015

SUBJECT:	MONITORING OF THE HIGHWAYS TERM CONTRACTS
WARD/S AFFECTED:	ALL WARDS
REPORT OF:	KEVIN ADDERLEY, STRATEGIC DIRECTOR, REGENERATION AND ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	CLLR STUART WHITTINGHAM, HIGHWAYS AND TRANSPORT
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report sets out the Directorate's response to the request by the Regeneration and Environment Policy and Performance Committee of the 3rd December with regard to monitoring of the Highways contracts.
- 1.2 The report provides details of the management arrangements and expected outcomes for the new contract and its mobilisation from 1 April 2014, following completion of the previous contract.
- 1.3 Details are provided of the demobilisation of the previous contract and any outstanding matters.
- 1.4 The maintenance of highways is a statutory duty.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 It was resolved by Cabinet on the 14th March 2013 for the Strategic Director for Regeneration and Environment to proceed with the development and procurement of a single strategic contract for highway services to be effective from 1st April 2014 [Minute 229 refers].
- 2.2 The scope of the service provided would remain the same as the then existing Colas contract.
- 2.3 The contract duration of four years plus up to two years extension subject to meeting the requirements of the contract performance indicators.

- 2.4 The procurement of the new contract coincided with the launch of a new procurement and model contract documents as part of the government-sponsored Highway Maintenance Efficiency Programme (HMEP). The contract is based on the NEC Term Service Documents. HMEP also have developed a suite of documents to enhance the existing standard documentation published by the Department for Transport, with the focus being on maintenance of local road networks.
- 2.5 The contract was procured using the Restricted Contract Procedure with the estimated total value being in the range of £30 to £33 million over the full six year contract term.
- 2.6 Three companies completed tenders by the closing date of 14th October 2013.
- 2.7 BAM Nuttall were awarded the contract as detailed in the Cabinet report of 7th November 2013 [Minute 96 refers].
- 2.8 The award was subject to a standstill period in accordance with the Public Contracts Regulations 2006.
- 2.9 A number of procedural questions were received from unsuccessful tenderers during the standstill period which delayed contract award to 30th January 2014.

2.10 Colas Contract

Following the decision by Colas Limited not to consider the extension to their existing contract, they were aware the service provision would cease on the 31 March 2014.

- 2.11 In October 2013 Colas submitted a demobilisation plan, and worked closely with Officers to ensure that all operational risks were managed.

3.0 NEW CONTRACT MOBILISATION

- 3.1 Following the award to BAM Nuttall a number of meetings took place to develop and implement a mobilisation plan and risk register.

- 3.2 The key tasks identified in the mobilisation plan were:-

- Transfer of staff (TUPE)
- Operational Depot
- I.T. and Communication links
- The risk of winter weather at handover

3.3 Transfer of staff

Following an initial 3-way meeting facilitated by Officers, regular meetings took place between BAM Nuttall and Colas with regard which staff would transfer, their working conditions and Pension arrangements.

Further meetings took place between BAM Nuttall and transferring employees of the contractor and trade unions in groups and then one to one to explain the

vision of the new contract, employment matters and for BAM Nuttall to gain understanding each person's role within the old contract.

In addition to these meetings, medicals took place which demonstrated the good working relationship between BAM Nuttall and Colas that these were undertaken jointly; reducing costs and speeding up the process.

Committee should note that all these tasks were completed before the 1st April ensuring all staff had been consulted in the process and were ready to provide the service from the start date. A full induction of all transferring employees between contractors was carried out by BAM Nuttall ahead of that start date, and the Council's lead Officer also gave a presentation to all BAM Nuttall and transferring employees regarding the Council's vision for the service and its needs from the Contract.

3.4 Operational Depot

Conditions of the contract required BAM Nuttall have an Operational Depot on the Wirral.

Due to the delay in the contract award BAM Nuttall had only nine weeks to the start of the contract to find and mobilise a depot. Colas had an extension to their depot to the 30th April.

Discussions took place between BAM Nuttall and Colas over shared use of the Colas Prenton Depot but agreement could not be reached.

Given the limited time available the Council Salt Barn depot was made available. This within a very tight time line created into an Operational Depot to deliver the Service on the 1st April 2014, and BAM have subsequently entered into a long term agreement with the Council for the commercial lease of the Salt Barn Depot site.

3.5 I.T. and Communications Links

To facilitate the new contract the existing instruction systems had to be remodelled, to take into account the new prices and price list whilst the existing system remained fully operational to continue the service via Colas.

Council officers from both Highways and Finance (IT) worked jointly to create the new system which ran parallel with the system operating for Colas.

This system was created, tested, staff trained and in operation by the 16th March so work could be gathered ready to issue 1st April.

Due to the Depot having no internet connections discussions took place with BAM Nuttall and agreement made which ensured instructions could be issued and payments made.

Mobile connections were also created which provided visibility of the system to BAM Nuttall.

All these tasks were completed within a seven week time constraint which ensured the contract commenced on the 1st April with no break in service and therefore no risk to the Council.

3.6 The risk of winter weather at handover

The Council had to plan for the eventuality that ice and snow would be present on the date of the handover, and in order to deliver continuous service to the public and meet its statutory duty to keep roads clear of ice and snow. BAM Nuttall were instructed to make short term interim arrangements to ensure that there was no risk. In the event, those arrangements were not needed.

4.0 COLAS DEMOBILISATION

- 4.1 The Council and Colas agreed an approach, from the outset of the final year of the contract, to manage work planning and ordering such that risk were minimised regarding excess stock or the overrun of projects beyond the planned end of the contract.
- 4.2 The Colas demobilisation plan required all planned works to be completed by the 31st March 2014, a provision of all reactive services inclusive of Street lighting, Drainage and Winter Maintenance while at the same time reduce stock make staff available for consultation with the new contractor without any loss of performance.
- 4.3 All payments needed to be up to date and any issues quickly resolved to avoid payment delays.
- 4.4 This was within a background of a large amount of Transportation schemes to deliver in the third and fourth quarters of the financial year.
- 4.5 An action plan was developed with a risk register which identified the key actions and dates for works delivery. Dates were also agreed for when certain works would cease being issued. Such works ranged from installation of new lamp columns, vehicle crossings and road markings.
- 4.6 During the last month of the contract no planned work was issued and reactive work planned inspections were held off till the end of March, this ensured the new contractor had a number of planned works and provided a low risk of such works falling out of date and exposing the Council to liability claims.
- 4.7 The excellent communication and work co-operation during this transition period between BAM Nuttall, Colas and Council officers ensured the demobilisation plan worked, ensuring a minimum risk to the Council and despite the very short mobilisation period provided an almost seamless transition from the old contract to the new.

- 4.8 During this period of high work activity it was also essential that payments were made to Colas and accounts closed down as quickly as possible.
- 4.9 The Demobilisation plan provided key dates when final accounts would be submitted and the period of accounts to be closed within three weeks after the contracted end date.
- 4.10 The appropriate total value of the contract from 2009 to 2014 was £36.1 Million with some £7.7 Million value of orders being undertaken in the last year.
- 4.11 For the final month's work in March 2014 an invoice of £425,540.16 was paid in early April, this was followed up by a second invoice picking up the outstanding reactive works in May 2014 of £40,393.31.
- 4.12 This left a total of £215,893.76 as the maximum amount of accruals. The majority of these payments were for Transportation schemes which needed joint measures to agreed final accounts.
- 4.13 During a six week period after the contract end date Colas closed their Depot on Prenton Way and undertook various remedial works.

5.0 COLAS CONTRACT OUTSTANDING MATTERS

- 5.1 From the end of April 2014 Colas had no presence on the Wirral. Their Quantity Surveyor is working in the Birmingham area with the Contracts Manager operating from Newcastle.
- 5.2 Although there has been commitment by Colas, the displacement of Colas staff to the Wirral has prolonged the closing of accounts.
- 5.3 During the summer various joint inspections have been made to reach agreement on all the outstanding measures.
- 5.4 This work allowed for a payment to Colas in November 2014 of £80,754.51.
- 5.5 The only outstanding accounts are now on a small number of Transportation schemes, and these accounts will be closed by the end of March 2015.
- 5.6 A list of remedial works requiring Colas' attention is ready for being carried out during the summer months.

6.0 RETENTION AND GUARANTEES

- 6.1 The Contract with Colas provided for retention at the rate of 2.5% to be held during the final two years of the contract and repaid after twelve months.
- 6.2 The final twelve months will be paid as the planned remedial works are completed. The remaining amount due for release is approximately £210,000.

- 6.3 In addition, all surface treatment processes carried out by Colas are subject to 2 year guarantees, and a number of guarantees from the final two years of the contract remain in place.

7.0 NEW CONTRACT DELIVERY

- 7.1 As detailed in the Cabinet report dated 14th March 2013 approval was given for the procurement of a single strategic contract for highway services (minute 12.1(11)).
- 7.2 Adopting the Highways Maintenance Efficiency Programme (HMEP) form of contract, as described in paragraph 2.4, allowed the Council to be at the forefront of Highway Maintenance Contract procurement and have a contract which provided flexibility to respond to future changes, as well as managing current risks.
- 7.3 The contract's pricing Options A for standard price list itemised work and Option C for agreed target costs for larger schemes, provided mechanisms for competitive pricing, but also the opportunity to develop further savings using Option C pain/gain share where the contractor can deliver below the agreed target cost.
- 7.4 The Council have identified a number of objectives for its Highway Services:
- Support for Regeneration strategies
 - Customer focused
 - Underpins Asset Management principles
 - Sustained efficiency savings
 - Appropriate client control
 - Value for money
 - Best practice
 - Performance managed, benchmarked services
- 7.5 It is the intention with the procurement of this new contract and working with our new partner BAM Nuttall that the Highway Service will achieve these objectives.
- 7.6 Support for Regeneration Strategies: BAM Nuttall are a large multi-national company with links and experience in working with various regeneration agencies, and are well placed to support the Council.
- 7.7 Customer Focus: BAM Nuttall have already registered the contract with Considerate Constructors' Scheme (CCS) which are an independent external body which monitors the appearance of the sites, the impact on the public and workforce. The early audits by CCS have provided good benchmark performance scores in compliance with CCS' Code of Considerate Practice. BAM and the Council are planning to re-design our own customer satisfaction surveys to mirror the criteria used by CCS.

- 7.8 Community work is carried with a positive consideration to the needs of residents and business, and every effort is made to minimise construction noise and disruption at all times. In their presentation to the Committee, BAM Nuttall will provide examples of their community engagement work which has already taken place across the Borough since the contract began.
- 7.9 Safety: – works is carried out with consideration to the public and the work force, standard dress is maintained at all times and also the behaviour of site operatives. In addition to the external monitoring, BAM Nuttall will introduce customer cards so residents affected by the works can comment. To date, the contract safety record is performing better than the excellent performance achieved on the previous contract.
- 7.10 Underpins Asset Management Principles: BAM Nuttall have a long experience of working in the highway maintenance environment complying to asset management principles which assist our development of our asset management plans. The contractor will be involved early in the planning of our maintenance programmes, to ensure that their expertise in assessing the right materials for the right location and conditions is taken into account in preparing the Structural Maintenance Programme.
- 7.11 Sustained efficiency savings:- the use of the HMEP contract and the option C element will encourage our contractor to develop improved methods of working which will provide efficiency savings. The contract also makes provision for appointment of joint efficiency advisors, from outside the day to day contract relationships, in order to challenge both parties including and the contractor's supply chain, in order to drive further efficiencies.
- 7.12 Appropriate Client Control: The HMEP contract provides for full Council control with the main element of work carried out on measured work. In addition, the contract is drafted to ensure that risk are owned by the appropriate partner and include:
- Pensions Fund risks associated with contractor employees who have transferred under TUPE have been fully addressed in the contract agreements in order to provide a fair and affordable balance of risks.
 - The Council retains budgetary and workload flexibility since there is neither guaranteed minimum workload nor exclusivity right in the contract.
- 7.13 Value for money: although there has been an increase in the prices from the previous, loss-making contract, BAM Nuttall have brought with them a strong focus of work quality with a new management team with experience in highway maintenance.
- 7.14 Best Practice: The HMEP contract and work with the efficiency team actively encourages the adoption of best practice methods. BAM Nuttall's management team on Wirral are also experienced in researching best practice. The contract, and any sub-contracts in place, include a Fair Payment Charter.

- 7.15 Performance Managed – bench marking:- The contract has a number of key performance indicators which are regularly monitored to ensure improved contractor service. The adoption of the HMEP contract also provides for further bench marking with other Highway authorities who utilise the new contract.
- 7.16 In addition to the delivery of the aforementioned objectives highway officers and BAM Nuttall are developing new methods of working incorporating different materials to improve the network at reduced costs. The video presented to this Committee on 3 December 2014 is an example of the innovative approach being adopted.
- 7.17 Progress is also being made to interface the BAM Nuttall Works 2 system, with the Council 1 Business Field Service module which provides the majority of the works instructions.
- 7.18 The Works 2 system has been developed by BAM Nuttall utilising their experience from previous highway contractors to create a works instruction system which manages the complete process from works complete, cost, materials and equipment used.
- 7.19 The benefits to the Council for the Contractor to use this system will be improved budget control and the ability to comply fully to the Traffic Management Act 2004 in providing street works notices for all our works.

8.0 RELEVANT RISKS

- 8.1 Regular monitoring of the mobilisation and demobilisation risk registers assessed the successful completion of the old contract and the delivery of the new.
- 8.2 From the 1st April 2014 new operational risk registers were jointly developed as part of the contract governance arrangements, which ensure all risks associated with the delivery of the service are mitigated.
- 8.3 From the award of the contract to BAM Nuttall works, programmes were put in place which enabled continuity of the maintenance service and ensure the Council delivered its structural and transportation programmes.

9.0 OTHER OPTIONS CONSIDERED

- 9.1 No other options have been considered.

10.0 CONSULTATION

- 10.1 Throughout the process of changing to the new highway maintenance service provider regular meetings took place with all the affected staff and their Trade Unions representatives.

11.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

11.1 There are no outstanding actions.

12.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

12.1 There are none arising specifically from this report.

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

13.1 The service delivery has been met by the approved revenue and capital budgets for the 2014/15 period.

13.2 BAM Nuttall have worked with Council staff which has enabled limited access and use to the Council's I.T. systems which has ensured service delivery.

13.3 Full access will be available once the necessary internet cables have been installed to the BAM Nuttall Depot.

13.4 Any necessary training will be provided by Council staff to ensure compliance to the Council's security and user requirements.

14.0 LEGAL IMPLICATIONS

14.1 The maintenance of the public highways is a statutory duty imposed on the Council as Highway Authority, under the Highways Act 1980.

14.2 The transfer of former Council employees between Colas Ltd and BAM Nuttall is governed by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

15.0 EQUALITIES IMPLICATIONS

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

(b) No because there is no relevance to equality.

15.2 Whilst there is no direct impact on the Council's services, the new service provider BAM Nuttall was required to adhere to the equality legislation and supports the Council's obligations in carrying out works and services on its behalf, including their sub-contractors as part of the procurement process.

16.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

16.1 There are no specific implications arising from this report. As part of the procurement process BAM Nuttall required to show their policies, management

systems and procedures in place for environmental protection and waste management, including sub-contractor arrangements.

17.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

17.1 BAM Nuttall will comply with all the planning requirements as a result of their leasing from the Council the old Salt Barn on Prenton Way which is now called "Prenton Brook Depot".

18.0 RECOMMENDATION/S

18.1 It is recommended that the Committee:

- (i) Note the contents of this report and the successful mobilisation of the new Highway Services Contract;
- (ii) Note the successful demobilisation of the Colas' contract;
- (iii) Endorse the objectives of the new contract outlined in Section 7.4.

19.0 REASON/S FOR RECOMMENDATION/S

19.1 Recognition of the planned, successful, mobilisation of the new contract, without significant disruption to Council highways services, together with the clear objectives for, and progress made on, the new contract, are important aspects of the Committees role in monitoring performance of this key frontline service.

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APPENDICES

None

BACKGROUND PAPERS/REFERENCE MATERIAL

Details of the Considerate Constructors Scheme can be viewed at:

<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>

BRIEFING NOTES HISTORY

Briefing Note	Date
None	

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet – Highway Service 2014 Onwards – Options Appraisal.	14/03/2013
Cabinet – Highway Services Contract 2014 – 2018: Award of Contract	07/11/2013
Regeneration and Environment Policy and Performance Committee – Scrutiny Work Programme Update	27/01/2014