

## **MAIDSTONE BOROUGH COUNCIL**

### **RECORD OF DECISION OF THE LEAD MEMBER FOR ENVIRONMENTAL SERVICES**

Decision Made: Wednesday 17 August 2022

#### **Mid Kent Waste Contract Extension**

##### **Issue for Decision**

- 1.1 During the Competitive Dialogue with Bidders as part of the retendering of the Mid Kent Waste Contract, it has been identified that the planned mobilisation period is insufficient for current vehicle manufacturer lead-times.
- 1.2 An urgent decision is required by the Mid Kent Partnership, which includes Maidstone Borough Council within 5 days from the 17 August 2022, to enable the contract procurement to continue and to secure the extension of the current contract. Without this, it is highly likely that the Council will not be able to provide statutory waste collection services from October 2023.
- 1.3 The options for addressing the issue had to be considered prior to the Invitation to Submit Final Tender to ensure the procurement process can be completed successfully.

##### **Decision Made**

An extension of the existing Mid Kent Waste Collection Contract until March 2024 as set out in 4.1 of the report, be agreed.

##### **Reason for Decision**

- 2.1 The Mid Kent Waste Contract commenced in April 2013 for the collection of waste and recycling in Ashford, Maidstone and Swale. The contract was awarded to Biffa Municipal Limited for a term of 10 years at a total value of approximately £100m. The contract is due to expire on 21 October 2023.
- 2.2 Maidstone Borough Council's Communities, Housing and Environment Committee previously decided to continue in partnership with Ashford and Swale Borough Councils and retendering of the contract started in September 2021.
- 2.3 The procurement of the contract is being led by Ashford Borough Council with Legal support provided by Mid Kent Legal Services. The OJUE Notice was issued in December 2021 and a three-stage competitive dialogue process commenced.
- 2.4 During the second stage (Invitation to Submit Refined Solutions), bidders highlighted the growing risk of vehicle supply as manufacturer lead-times have significantly increased in the past 12 months predominately due to COVID and supply chain issues. Current lead-times suggested are between 32 and 40 weeks for refuse collection vehicles, dependent on specification.

- 2.5 It has now become apparent that the standard 10-month mobilisation period within the procurement timetable is no longer sufficient to ensure that a full fleet can be provided from October 2023. Whilst the incumbent has the benefit of its existing fleet, this would not offer a fair and equitable process for competition and would not be compliant with the current requirement for bidders to have a new fleet from contract commencement.
- 2.6 To maintain a fair and transparent process, the bidders have suggested an extension to the existing contract to enable a 14-month mobilisation period. This would enable all bidders to meet the specification requirements and deliver a compliant bid at Final Tender.
- 2.7 The incumbent has agreed to extend the existing contract for a period of 5 months and 2 days to take the contract to 23 March 2024. However, this is at a significant increase in contract value as set out in Exempt Appendix 1.
- 2.8 Other options have been explored including whether the incumbent would consider making its fleet available to the Partners or other bidders, however they have declined this option as the fleet is their asset.

### **Previous Consultation and Policy Advisory Committee Feedback**

- 3.1 The Communities, Housing and Environment Committee was previously consulted on the retendering of the Mid Kent Waste Contract and Member Briefings were held to shape the specification including consideration of changes to the waste and recycling services. The Committee agreed to remain within the Mid Kent Partnership and to continue with the current service provision.
- 3.2 Due to the decision's urgency, the Communities, Housing and Environment Policy Advisory Committee was not able to be consulted. This is in accordance with the Council's Constitution, Part A2, 7.6.2 (g).

### **Alternatives considered and why rejected**

- 4.1 Option One: The Council could decide to extend the existing contract until 23 March 2024 to enable the mobilisation period for the new contract to be increased to 14 months enabling sufficient lead-time for the purchase and delivery of new collection vehicles.

The Lead Member for Environmental Services is asked to note that depending on the service's requirements, the Partners may be asked to extend the contract by further 3-month periods if required. However, there is a risk that the Council could open itself up to challenge if it exceeds 10% of the Contract Value. This would follow the standard governance process.

This option ensures that the procurement process can continue, and all bidders have a fair and equitable opportunity to tender for the contract. The cost for the extension is also likely to be lower than the new contract costs due to use of existing vehicles. Although all costs are estimated to be substantially higher than the existing contract value. It further provides the greatest mitigation of risk to the Partners, reducing the likelihood of not being able to provide the statutory waste and recycling services from October 2023.

4.2 Option Two: The Council could decide not to extend the existing contract and continue with the current timetable. However, it is likely that this option will favour the incumbent and open the Partnership up to future challenge as other bidders would be disadvantaged and unable to bid. Without competition, this is likely to drive up contract costs. There would also be a risk that should all bidders withdraw from the process, there would be insufficient time for the Partners to deliver the service themselves.

4.3 Option Three: The Council could decide to extend the contract by more than 5 months; however, this may take the cost beyond 10% of the contract value which could pose a risk of legal challenge. A longer extension may also be excessive as current lead-times are around 32 to 40 weeks.

### **Background Papers**

None.

I have read and approved the above decision for the reasons (including possible alternative options rejected) as set out above.

Signed: \_\_\_\_\_  
Lead Member for Environmental Services – Councillor Martin Round.

Full details of the report for the decision and any consideration by the relevant Policy Advisory Committee can be found at the following area of the [website](#).

**Call-In Waiver:** This is an urgent decision is due within 5 days from the 17 August 2022 to enable the contract procurement to continue and to secure the extension of the current contract. The decision will therefore not be subject to call-in and will be implemented immediately