

Award of contract to HW Martin Waste Ltd. for the Management and Operation of Dogsthorpe Household Recycling Centre
Councillor Gavin Eley, Cabinet Member for Waste and Street Scene
May 2017
Deadline date: N/A

Cabinet portfolio holder:	Councillor Gavin Eley, Cabinet Member for Waste and Street Scene.
Responsible Director:	John Harrison, Corporate Director Resources.
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: Yes <u>Unique Key decision Reference from Forward Plan:</u> KEY/03APR17/03
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO

R E C O M M E N D A T I O N S

The Cabinet Member is recommended to:

1. Approve the extension of contract for the management and operation of Dogsthorpe Household Recycling Centre (HRC) to HW Martin Waste Ltd for a period of up to one year from 01 November 2017. The total value of the maximum extension and an estimation of variable spend related to waste arising is £300,000.

1. SUMMARY OF MAIN ISSUES

1.1 This report seeks approval to award an extension to a contract for the management and operation of the Dogsthorpe HRC to HW Martin Waste Ltd.

2. DETAILS OF DECISION REQUIRED

- 2.1 To approve the recommendation to make a direct award of contract for the Management and Operation of Dogsthorpe Household Recycling Centre (HRC) to HW Martin Waste Ltd for a period of up to 12 months, with the option to reduce the term to align with developments and commencement of operations at the new Fengate site.
- 2.2 The HRC at Dogsthorpe is currently operated by HW Martin Waste Ltd. The current service contract was awarded in 2015 for a two year period, with an option to extend for up to six months taking the total term to 31 October 2017.
- 2.3 HW Martin has, to date, operated the service successfully with consistently high recycling performance and good customer satisfaction. The contract term was set so as to coincide with the completion of the long term replacement site at Dodson House in the Fengate area

of the city; the intention in 2016 being to procure a service provider for the management and operation of the new facility once it was up and running.

- 2.4 The existing contract has now been extended for six months, in line with existing provisions, and is therefore due to expire on 31 October 2017.
- 2.5 Soft market testing which was carried out prior to the commencement of the current arrangements in 2015 confirmed that a short term period of contract was of little interest to the market as a whole. The requirement to provide capital equipment (skips, steps, office space) was prohibitive to all non-incumbent contractors and obtaining a competitive procurement was very unlikely. This situation has not changed.
- 2.6 As the revised opening date of the new Fengate HRC is now estimated to be October 2018, a short extension of the current Dogsthorpe HRC contract is required to cover the period between the expiry of the current contract with HW Martin Waste Ltd and the completion of the new facility, a term of up to 12 months.
- 2.7 Provision of this facility and the service it offers residents is part of the council's statutory duty pursuant to its Waste Disposal Authority function and it is not permissible to fail to make adequate provision for such facilities.
- 2.8 The findings of the soft market test previously undertaken reinforce the results of the procurement exercise undertaken in 2012. That exercise showed how difficult it is for non-incumbent bidders to submit a competitive bid to provide the service over a short period of time, (1 to 2 years).
- 2.9 The value of the contract means that it should be the subject of an EU procurement. The risk of challenge that could result from not carrying out a procurement has been considered but is believed to have been reduced for the reasons set out in the body of the report.

3. PURPOSE OF THIS REPORT

- 3.1 This purpose of the report is for the Cabinet Member for Waste and Street Scene to consider exercising his delegated authority under paragraph 3.4.8 of Part 3 of the constitution in accordance with the terms of his portfolio at paragraph (a), to approve the recommendations set out above.

4. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
---	-----------	---	------------

3. CONSULTATION

3.1 Consultation has been undertaken with the council's procurement working group, with advice from the council's procurement partner Serco, confirming the route taken to secure these services under the circumstances.

4. ANTICIPATED OUTCOMES

4.1 In the event the recommendation is approved, there would be a number of outcomes, including:

- (i) the continued delivery of this very important service to Peterborough residents,
- (ii) compliance with the statutory duty to provide a recycling service and,
- (iii) a continuation of the working relationship with the incumbent supplier in the exceptional circumstances that have arisen following changes to the council's replacement HRC development programme timetable.

5. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

5.1 The council finds itself in need of a short term arrangement to bridge the gap between the end of the current management arrangement for Dogsthorpe HRC and the completion of the development of the new facility in Dodson House. The short term nature of this requirement and the results from the soft market testing and previous procurement indicated little prospect of delivering any competitive tension in the marketplace with the incumbent supplier likely to win again.

6. ALTERNATIVE OPTIONS CONSIDERED

6.1 The following options were considered.

Option	Description	Reason for Rejection
1	EU procurement	For the reasons outlined above, it is highly unlikely that a procurement exercise would result in a position that is any different from the existing one.
2	Include the interim and new management and operation under one contract	The Council has yet to let a contract to construct the new facility planned for Dodson House in Fengate and due to the capital assets already in place at Dogsthorpe with the incumbent operator it would be unwise to combine the two requirements. The development and construction of a new facility and its long term operation offer a different set of risks and rewards to those of maintaining the relatively simple operation at the Dogsthorpe site and as such linking the two procurements is likely to limit the value of bringing them together. Potentially the same capital equipment (skips, steps, office space) investment disincentive would remain at the Dogsthorpe facility.
3	Do nothing	This is not an option as the Council is obligated to provide a Household Recycling Centre under the Environmental Protection Act 1990. As the Council is a Waste Disposal Authority, it is required by statute to provide a recycling facility.
4	Award a short term contract	An option might be to award a short term contract to the incumbent supplier, (say for 5 months), and carry out a

	whilst undertaking a parallel procurement exercise to identify a service provider for the longer term	procurement exercise. This might reduce the risk of challenge however it remains that this option would be unlikely to deliver an alternative short term service provider.
--	---	--

7. IMPLICATIONS

- 7.1 The financial and legal risk of a direct award of this value is one of challenge from the market. A successful challenge could result in the contract being set aside, or an award of damages – court proceedings would however have to be instigated. The risk of challenge is mitigated because of the reasons stated in the report, including the results of the previous soft market test, the lack of appeal of a relatively short term contract and the ongoing procurement for the new facility of which the market is aware which will be for a significantly longer term.
- 7.2 Although a procurement exercise would remove the risk of challenge:
- i. it is clear from the outcome of the previous (2012) procurement as well as the recent market test, that the incumbent would almost certainly be the successful bidder;
 - ii. HW Martin has the capital advantage of owning the equipment currently installed at Dogsthorpe; they therefore also have a financial advantage;
 - iii. aside from HW Martin, there would be limited to nil market interest in a short term contract;
 - iv. albeit a direct award would result in a risk of challenge, that risk has been significantly mitigated by the market having previously been engaged in the soft market test whereby they have been informed of the Council's proposals;
 - v. the market has, in effect, given notice that it would not be interested in a contract of less than a 5 year term;
 - vi. the market is aware of the Council's current procurement exercise for a new facility. In view of that opportunity, a challenge is less likely to be forthcoming.
- 7.3 Participants who took part in the soft market test are aware that the Council is procuring a long term solution and that there is the prospect of a much longer contract on the horizon, circa 10-15 years.

8. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

None.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

None.