



Award of Contract to HW Martin Waste Ltd. for the Management and Operation of Dogsthorpe Household Recycling Centre
Councillor Marco Cereste, Cabinet Member for Waste and Street Scene.
October 2018
Deadline date: N/A

Cabinet portfolio holder: Responsible Director:	Councillor Marco Cereste, Cabinet Member for Waste and Street Scene Annette Joyce, Service Director, Environment and Economy
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: YES Unique Key decision Reference from Forward Plan: KEY/12NOV18/08
Is this decision eligible for call-in?	NO (Waiver of Call-in Invoked)
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO Verto number:

RECOMMENDATIONS

The Cabinet Member is recommended to approve the extension of contract for the management and operation of Dogsthorpe Householder Recycling Centre (HRC) to HW Martin Waste Ltd. for the period of 01 November 2018 to 17 February 2019. The total value of this extension and an estimation of the variable spend related to waste arising is £185,000.

1. PURPOSE OF THIS REPORT

- 1.1 This report is for the Cabinet Member for Waste and Street Scene to consider exercising delegated authority under paragraph 3.4.3 and 3.4.8 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (a).
- 1.2 With the approval of the Chairman of the Growth, Environment and Resources Scrutiny Committee Urgency, Special Urgency and waiver of call-in procedures have been invoked to suspend the requirement to advertise the decision for 28 days, publish the decision for 5 days prior to publication, and to suspend the 3 day call-in period.

- 1.3 This is because until very recently, due to the nature of the construction and the potential for buried archaeology, there was some ambiguity on the exact date the replacement Fengate site would be ready to open to the public. It has only subsequently been possible to agree the terms of the extension period required and receive agreement from the operator of Dogsthorpe that they are willing to extend.

2. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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3. BACKGROUND AND KEY ISSUES

- 3.1 The HRC at Dogsthorpe is currently operated by HW Martin Waste Ltd. The current service contract was awarded in 2017 by KEY/03APR17/03 for a one year period, taking the total term to 31 October 2018.
- 3.2 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.
- 3.3 The existing contract is therefore due to expire on 31 October 2018.
- 3.4 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 on the chosen supplier 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.
- 3.5 As the revised opening date of the new Fengate HRC is now estimated to be February 2019, 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 4 months. On the commencement of the new Fengate HRC, employees of HW Martin Ltd currently operating the service from Dogsthorpe HRC will TUPE transfer to operate the new Fengate HRC.
- 3.6 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.
- 3.7 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).
- 3.8 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.

4. CONSULTATION

- 4.1 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.

5. ANTICIPATED OUTCOMES OR IMPACT

5.1 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.

6. REASON FOR THE RECOMMENDATION

6.1 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.

7. ALTERNATIVE OPTIONS CONSIDERED

7.1

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 solution proposed.
2	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.
3	Seek operation of the Dogsthorpe Site by the developer of the new Fengate HRC site.	Although the option appears sensible the incumbent operator of Dogsthorpe owns the significant elements of the equipment necessary to operate the service, e.g. access steps, waste containers, cabins and storage etc., and is not in a position to leave this equipment for an alternate service provider to use.

8. IMPLICATIONS

Financial Implications

8.1 Financial implications from this extension are limited as the contract sums are documented and tied to the period of the contract being considered for award.

Legal Implications

8.2 The 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. If a challenger took the step of commencing court proceedings. However the risk of such a challenge is mitigated because of the reasons stated in the report, including the results of the previous soft market test, and the lack of appeal of a relatively short term contract. Furthermore, the award of contract for the replacement HRC following an OJEU compliant procurement process and its imminent operational commencement operate to make such risk of a challenge even smaller.

Although a procurement exercise would remove the risk of challenge, then for the reasons set out earlier in this report: the incumbent would almost certainly be the successful (and potentially the only viable) bidder and there would be limited to nil market interest in such a short term contract.

Equalities Implications

8.3 There are no equalities implications arising from this decision.

9. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

9.1 None.

10. 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.

10.1 KEY/18APR14/03 and KEY/03APR17/03

11. APPENDICES

11.1 None.