

From: Neil Baker, Cabinet Member – Highways and Transport
Simon Jones, Corporate Director – Growth Environment and Transport

To: Environment and Transport Cabinet Committee – 19th September 2024

Subject: **Highways Term Maintenance Contract 2026 Award**

Decision No:

Classification: Unrestricted

Past Pathway of report: None

Future Pathway of Paper: For Cabinet Member decision

Electoral Division: All

Summary: Kent County Council (KCC) as upper tier Authority is the Highway Authority for highways maintainable at public expense and has such duty to maintain highways county wide in accordance with S.41 of the Highways Act 1980.

Many of these services are currently delivered through the Highways Term Maintenance Contract (HTMC) with Amey Highways Ltd being the provider. This contract was originally awarded in 2011 to Enterprise AOL who were acquired by Amey and the contract has not been commercially re-tendered since.

The current contract with Amey Highways Limited expires on 30 April 2026 and a new contract will need to be commercially tendered and awarded in order for KCC to deliver highways maintenance services and meet its statutory obligations as Highway Authority.

This report provides the Environment and Transport Cabinet Committee with a summary of the work undertaken to date to commission the new Highways Term Maintenance Contract (HTMC) and a timeline of the next steps as we move towards a new contract.

Recommendations:

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

- (i) APPROVE the procurement and contract award of a zero value Highways Term Maintenance Contract.
- (ii) DELEGATE authority to the Corporate Director of Growth Environment & Transport, to take relevant actions to facilitate the required procurement activity;

(iii) DELEGATE authority to the Corporate Director of Growth Environment & Transport in consultation with the Cabinet Member for Highways and Transport, to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, as necessary, to implement the decision; and

(iv) DELEGATE authority to the Corporate Director of Growth Environment and Transport, in consultation with the Cabinet Member for Highways and Transport, to award extensions of the contract in accordance with the relevant clauses within the contract as shown at appendix A.

1. Introduction

- 1.1 Kent County Council (KCC) is the statutory Authority responsible for the delivery of highway services for the residents of Kent (excluding Medway). The Highway Term Maintenance Contract (HTMC) is delivered by Amey Highways Limited, and the contract is managed by Highways and Transportation (H&T) as client.
- 1.2 Under Section 41 of the Highways Act 1980 the council has the legal duty to maintain its highways and all highway assets (e.g. bridges, tunnels, drainage etc). This duty includes responsibility for maintaining, managing and where necessary improving sections of the network and to keep the highways safe for the travelling public. These contractor services need to be commissioned externally to ensure the Council meets its statutory obligations and that service continuity is maintained.
- 1.3 In 2011 following a procurement process a contract was awarded to Enterprise AOL Ltd and this was for the highways maintenance element only. A separate contract was procured for design and consultancy works with Amey being the sole provider. During 2013 Amey plc acquired Enterprise AOL hence they became our service provider through this acquisition process. This contract with Amey has been extended on a number of times over the period for various reasons including Brexit, the effects of Covid, the war in Ukraine and the ensuing market volatility with regard to price increases and availability of resources.
- 1.4 The market remained unsettled for a period and to ensure that we obtained a best value tender and sufficient time to effectively commission a new contract a short term contract was awarded to Amey Highways via the existing Highways Civils Framework. This contract commenced on 1st September 2023 and will end on 30th April 2026.
- 1.5 This current HTMC contract with Amey Highways cannot be extended any further. New contractual arrangements must be in place from 1st November 2025 to allow time for implementation and mobilisation and to ensure service continuity from the 1st May 2026. Failure to commission services beyond this date will put KCC at risk in failing to deliver its statutory obligations to maintain the Highway, as the Highway Authority.

2. Background

- 2.1 There are around 5,400 miles of local roads in Kent (616 miles of A roads, 279 of B roads, 1172 of C roads and 3378 of unclassified roads), making it one of the largest and most heavily trafficked local authority networks in the country. It includes a high-speed road network of around 119 miles which has a bespoke annual maintenance programme.
- 2.2 Our local highway network is the most valuable asset we own in Kent, with a replacement value of around £24 billion. Our road assets make up around £10.2 billion of that and play a vital part in delivering council objectives set out in Framing Kent's Future by enabling safe and reliable journeys around and through the county.
- 2.3 Within Highways & Transportation there are a number of contracts commissioned to the external market. While a number of the contracts are asset specific (e.g. streetlighting, traffic signals, road asset renewal etc.) the Highways Term Maintenance Contract (HTMC) delivers in the main for the H&T maintenance services but also offers the availability of services across wider GET and KCC teams such as flood risk management and KCC infrastructure teams for construction, maintenance and engineering works.
- 2.4 The core services to meet our statutory obligations provided by this contract include
- Winter Service Provision – i.e. gritting/salting of the road network during freezing conditions including ploughing during snow events.
 - Drainage Maintenance and Capital Projects – i.e. cyclical highway drainage cleansing, emergency response during storm events and capital drainage repair schemes.
 - Structures – i.e. bridge repairs and maintenance, tunnels maintenance and management and construction of new structures. Barrier repairs, maintenance and replacement.
 - Highway patching and small- to medium-scale road asset renewal works – i.e. pothole repairs and larger surface defect repairs of the highway.
 - Pavement asset preservation services – i.e. carriageway and footway life extension treatments such as surface dressing.
 - Emergency Response – i.e. respond to emergencies across the network due to weather, emergency services support, vehicle collisions and structural asset failure both in hours and out of hours, 24/7/365.
 - Highway Improvement Scheme Delivery – i.e. construction of schemes for crash remedial measures, engineering and traffic schemes and S.106 agreements work.
- 2.5 On 21 August 2023 the Cabinet Member for Highways and Transport took a decision (23/0058 refers) to:
- Award a new contract to Amey Highways for 32 months.

- Delegate to the Corporate Director of Growth, Environment and Transport in consultation with the Cabinet Member for Highways and Transport to take relevant actions including but not limited to entering into contracts and other legal agreements, as necessary to implement the decision.
- Agree to the proposed procurement timeline for the replacement contract.

2.6 The report to this committee on 11th January 2024 explained the position with the HTMC and went on to identify a number of lessons learnt that were ratified at that committee and are as follows:

Members Highlighted:

- The need for active participation in the commissioning process to ensure wider consideration (residents, businesses, locations) were considered during the process.
- The need for opportunity to explore and shape how the service could be delivered in the future.
- The duration and performance framework expected for a contract of this type. When would contract reviews be undertaken and the type and scale of operational contract measures and performance indicators. How can residents be better served and informed.
- Opportunities to consider the various contracting arrangements and the scale of work that could be undertaken under the contract. There was a real desire to explore and understand the various delivery models. How to better incentivise operational services.
- Confirmation that this contract would be recommissioned and not extended again.
- The timeline for the commissioning process, the regularity of Member sessions/workshops and whether a dedicated member group should be set up. Alternatively, whether this could be routinely achieved within Cabinet Committee.

The service promised to return in this (January 24) Cabinet Committee with further information.

2.7 In order to address the lessons learnt and to move the commissioning programme forwards a number of actions have taken place since January 2024 and progressed in accordance with the commissioning timeline.

2.8 A Project Team has been established with senior managers from within H&T to manage and co-ordinate the necessary project actions to progress the commissioning plan.

2.9 Dedicated resource from the corporate Commercial and Procurement team has been provided and works in a fully integrated way with the H&T project team.

2.10 The appointment of expert consultants through the H&T Professional Services Framework with regard to project management, business planning and cost analysis (QS) have been put in place to support the project teams and progress

the commission within the tight timescale.

2.11 A Programme Board has been established to oversee the project as whole ensuring that the commission moves forward with the key elements for a successful delivery and meeting all necessary governance processes. Members of the Board include colleagues from within KCC in relation to Audit (including risk), Finance, Legal and Procurement. The Board is chaired by the Director of Highways and Transportation.

2.12 To specifically address the lessons learnt a number of Member Engagement sessions have taken place to discuss the relevant topics. These sessions were held on the following dates.

- 22 February 2024 – with an agenda that covered project update, project aims, current contractual arrangements, the project team, progress to date, timeline for the commissioning process and key risks. Members feedback.
- 26 April 2024 – with an agenda that covered project update including market engagement sessions, operational performance review and new measures presentation, social value, members feedback.
- 9 May 2024 – session with the Leader of the Council, Deputy Leader, Deputy Cabinet Member for Finance and Cabinet Member for Highways and Transport.
- In addition to specific meetings regular updates on progress have been provided to members in the newsletter of the Cabinet Member for Highways and Transport that precedes ETCC.

2.13 With regard to the specific lesson learnt item “*Confirmation that this contract would be recommissioned and not extended again*” - the recommendations of this report will formally address this item to ensure the commencement of the procurement with the external market providers by 4th October 2024. Also, that the required delegations are in place to award the contract to the successful bidder at the appropriate time.

2.14 As further progress is made with regard to the Full Business Case another round of member engagement sessions will be arranged over the coming months. It is also the intention to bring an update report to this committee in the near future following consultation with the Cabinet Member.

3. Programme Timeline and Next Steps

3.1 The commissioning programme is currently on track to meet programme requirements. The timeline diagram below identifies the key activities of the programme that have taken place and those that will commence in due course. A more detailed plan on a page of activities can be found at appendix 1.



3.2 The formal procurement of the contract will comply with the requirements of Public Contract Regulations 2015. The Supplier Questionnaires (SQ) will be published to the market by no later than 4th October 2024 in line with the programme timeline.

3.3 The estimated contract cost for the contract is above Public Contract Regulations 2015 (PCR15) threshold for Services (£214,904, inclusive of VAT) and Works (£5,372,609 inclusive of VAT). The proposed route to market will be using a Competitive Procedure with Negotiation (CPN). The negotiation stage available within a CPN is considered critically important to help deliver value for money, and an effective schedule of rates; so, whilst optional, it is anticipated that this stage will be utilised

3.4 The Full Business Case first draft will be finalised by early October for further discussion before final sign off and prior to the invitation to submit initial tender.

3.5 Further Member Engagement and update sessions will be arranged in discussion with the Cabinet Member for Highways and Transport.

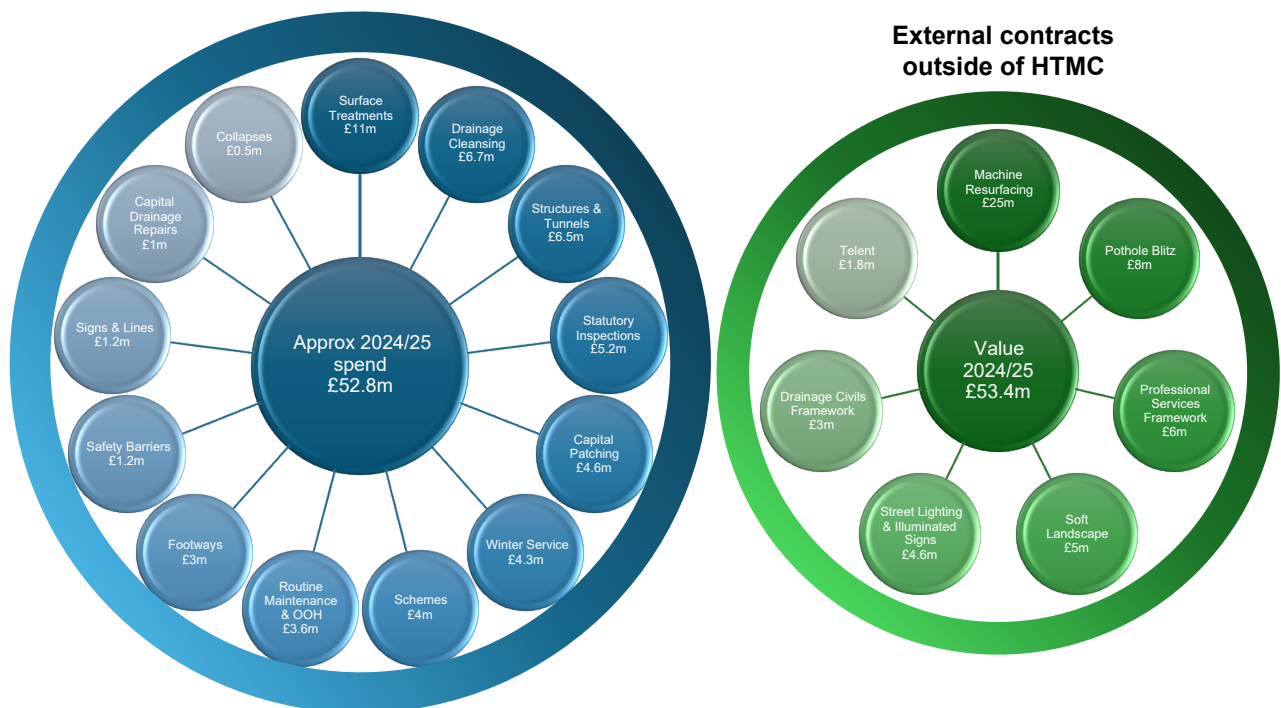
4. Financial Implications

4.1 This paper is seeking to update committee members on our intended approach to commissioning the next Highways Term Maintenance Contract and is not seeking to make any specific policy decision. It therefore does not have direct financial implications.

4.2 We spend between £50m and £60m per annum through the HTMC dependent on revenue and capital base budget allocations. There can also be spend dependent on any government or other grant funding received in year that may not be known at base budget setting. Whilst there is uncertainty around future government capital grants for maintenance, we would expect a similar level of annual spend going

forward. As the contract will be a zero-value contract any changes to KCC base budgets or grant funding will impact financial throughput to revised budget levels.

- 4.3 Additionally base budgets do not take account of attending to weather events such as flooding, high winds (fallen trees), prolonged snow and ice conditions above budgeted levels. These will be met from reserves and/or met from underspends elsewhere in the directorate/across the Council, and will be above base budget spend levels thus increasing overall spend through the contract.
- 4.4 The diagram below identifies the current spend through each of the highways maintenance activities that make up this contract. Also, for information the other H&T contracts that are in place delivered outside of the HTMC.



5. Legal and procurement

- 5.1 As Highway Authority, Kent County Council is responsible for highways maintainable at public expense and has such duty to maintain highways county wide in accordance with S.41 of the Highways Act 1980.
- 5.2 The delivery of highway maintenance works is a vital part of our carefully considered approach to highway maintenance, as set out in KCC's Highways Asset Management Plan for 2021/22-2025/26, ([Asset Management in Highways \(kent.gov.uk\)](https://www.kent.gov.uk/asset-management-in-highways)) which helps us to demonstrate that we are a competent highway authority and are fulfilling our duty under the Highways Act 1980 to maintain a safe network.
- 5.3 The procurement of the contract will comply with the requirements of Public Contract Regulations 2015. The Commercial and Procurement Division are fully

engaged in all related matters.

6. Equalities and Data protection implications

6.1 An Equalities Impact Assessment has been undertaken. There are no equalities implications.

6.2 There are no data protection implications as there is no processing of personal data,

7. Governance

7.1 Delegated authority is to be given to the Corporate Director of Growth, environment and Transport Infrastructure, in consultation with the Cabinet Member for Highways and Transport to take relevant actions to facilitate the required procurement activity and to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, including contract extensions as necessary, to implement the decision

8. Conclusions

8.1 The current HTMC contract will end as of 30th April 2026. A new contract is required to be in place as of 1st November 2025 to allow for implementation and mobilisation for commencement of delivery as of 1st May 2026. This contract enables KCC to undertake highway maintenance works to meet our statutory obligations contained within the Highway Act 1980 and fulfil our duty as Highway Authority.

9. Recommendations

9.1 The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision to:

(i) APPROVE the procurement and contract award of a zero value Highways Term Maintenance Contract.

(ii) DELEGATE authority to the Corporate Director of Growth Environment & Transport, to take relevant actions to facilitate the required procurement activity;

(iii) DELEGATE authority to the Corporate Director of Growth Environment & Transport in consultation with the Cabinet Member for Highways and Transport, to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, as necessary, to implement the decision; and

(iv) DELEGATE authority to the Corporate Director of Growth Environment and Transport, in consultation with the Cabinet Member for Highways and Transport, to award extensions of the contract in accordance with the relevant clauses within the contract as shown at appendix A.

10. Appendices and Background Documents

- Appendix A – Proposed Record of Decision
- Appendix B – Equality Impact Assessment
- Appendix C – KCC Plan on a page (POAP)

11. Contact Details

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