

Executive Advisory Panel Service Delivery, Performance and Customers

6th December 2021

Report Title	Extension of current contract for the Treatment and Disposal of Residual Waste
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Executive Member	Councillor Graham Lawman, Executive Member for Highways, Travel & Assets

List of Appendices

None

1. Purpose of Report

- 1.1 The purpose of the report is to request that the Service Delivery, Performance and Customers Executive Advisory Panel consider the proposed extension of the current contract for the Treatment and Disposal of Residual Waste beyond March 2023 with a view to informing the decision of Executive at its meeting on 16th December 2021.

2. Executive Summary

- 2.1 Approval is sought to extend the contract for the Treatment and Disposal of Residual Waste (Lot 3) (the "Lot 3 contract"). The Lot 3 contract is currently due to expire on 31st March 2023. Within the terms and conditions of the Lot 3 contract, the Council has the sole discretion to extend the contract up to 31st March 2025.
- 2.2 The Lot 3 contract covers the geographical area of North Northamptonshire Council (NNC) and the residual waste arisings from all nine Household Waste Recycling Centres (HWRCs) across both NNC and West Northamptonshire Council (WNC). Residual waste is the term used to describe the waste that is not possible to send for composting or recycling and is sent to a treatment facility such as an energy recovery facility. A small proportion of residual waste is sent to landfill where there are not any technically or economically viable alternatives.

In 2020/21, the proportion of household waste sent to landfill across the former Northamptonshire County Council was 7.86%, or 27,914.06 tonnes.

- 2.3 The current Lot 3 contract is between the Council and AmeyCespa.
- 2.4 The costs of the Lot 3 contract are based on the number of tonnes treated under this contract. The financial expenditure is outlined in section 6 of this report.

3. Recommendations

- 3.1 It is recommended that the Service Delivery, Performance and Customers Executive Advisory Panel:
- a. Notes the requirement to make arrangements for the treatment and disposal of residual waste in North Northamptonshire Council; and
 - b. Considers the proposal to delegate authority to the Executive Member for Highways, Travel & Assets in consultation with the Executive Director for Place & Economy (Deputy Chief Executive) and the Executive Member for Finance and the Executive Director for Finance, to take decisions necessary and consequently enter into the legal agreements related to the extension in order to ensure continued service provision; and
 - c. Provides feedback to the Executive to inform their decision making at its meeting on 16th December 2021
- 3.2 Reason for Recommendations:
- The option proposed aligns most closely with local government reform and transformation outcomes noting that residual waste requiring treatment and disposal is a statutory function. The Lot 3 residual waste contract accepts waste from all North Northamptonshire Council waste collection areas (Kettering/Corby, East Northamptonshire and Wellingborough) along with the residual waste generated from all nine HWRCs; and
 - The recommended course of action is considered to be the most cost-effective; and
 - Extension of the residual waste contract allows for the accord with current legislation and allows the Council to evaluate and agree its future waste strategy and infrastructure requirements prior to the procurement of new residual waste contracts; and
 - Consistency with previous contractual extension decisions.

4. Report Background

Service Need & Overview

- 4.1 The Council, as a unitary authority, has responsibilities as a Waste Disposal Authority and has a statutory duty to make arrangements for the treatment and disposal of residual municipal waste. The primary service area function is the treatment and disposal of residual municipal waste that originates from North Northamptonshire's residents which is collected by the North geographical hubs. Other statutory duties include the provision of HWRCs.
- 4.2 The former Northamptonshire County Council (NCC) procured three contracts for the treatment and disposal of residual municipal waste. These three contracts provide local delivery points for the waste collection hubs to deposit residual waste and the onward haulage and treatment of that residual waste. The contracts use available capacity in existing waste treatment facilities run by a variety of waste management organisations.
- 4.3 Residual waste is the term used to describe the waste that is not possible to send for composting or recycling and is sent to a treatment facility such as an energy recovery facility. A small proportion of residual waste is sent to landfill where there are not any technically or economically viable alternatives. In 2020/21, the proportion of household waste sent to landfill across the former Northamptonshire County Council was 7.86%, or 27,914.06 tonnes.
- 4.4 The three waste contracts procured by NCC manage residual waste primarily within geographical areas and geographical lots:
- Lot 1 is with AmeyCespa, primarily for waste arising in South Northamptonshire;
 - Lot 2 is with Suez, primarily for waste arising in Northampton and Daventry District;
 - Lot 3 is with AmeyCespa, primarily for waste arising in the North and East of the County (i.e. the Boroughs of Corby, Kettering and Wellingborough and the district of East Northamptonshire).
- 4.5 The Lot 3 contract is also used to treat and arrange disposal of residual waste that arises from the nine HWRCs across NNC and WNC.
- 4.6 In line with the 'Future Northants' blueprint, the Council is hosting the waste management team and providing this function for both the Council and WNC. This arrangement is due to continue, at most, until 1st April 2022. The three contracts for the treatment and disposal of residual municipal waste were transferred from NCC to the Council as part of the creation of the two unitaries.
- 4.7 As this team plans to disaggregate by at least 1st April 2022, it is expected that WNC will become lead commissioner of the Lot 1 and Lot 2 residual waste contracts and, as such, WNC will make their own decisions about the future of these contracts.

- 4.8 The Lot 3 contract commenced in 2013, following procurement via the restricted procedure. The procurement was complaint with the Official Journal of the European Union (OJEU). The contract has an initial contract term of 7 years, in order to provide the Council with flexibility to take advantage of changes in waste market conditions and legislation. This contract duration has also enabled any capital investment made by the waste management industry to be written off, which means the Council did not pay inflated costs for a shorter contract duration.
- 4.9 The initial term of the contracts for the treatment and disposal of residual waste expired on 31st March 2020. All contracts are extendable within the original terms of the contract, in increments, by up to an additional five years, unto 31st March 2025. All three contracts were extended by three years to 31st March 2023 via a former NCC Cabinet decision made in February 2019.
- 4.10 This Executive paper recommends the use of the full potential extension period for a further two years covering the period of 1st April 2023 to 31st March 2025.
- 4.11 The Council spends, within its allocated revenue budget, approximately £9.1m on the treatment and disposal of approximately 78,300 tonnes of residual waste per annum. This is predominantly residual waste generated from the kerbside collection service and the HWRC sites. For a breakdown of these tonnages, see section 6.1.
- 4.6 The recommendation to extend the Lot 3 contract has been considered in light of any potential changes in legislation, market forces and with regard to preparing a longer-term strategy for treatment and disposal of residual waste.

5. Issues and Choices

- 5.1 The Lot 3 contractor acknowledges that extension of the contracts is at the Authority’s sole discretion.
 - 5.1.1 The Lot 3 contractor has noted the financial position of the Council and the difficult waste market conditions. They have concluded that they cannot improve on the current contractual terms.
 - 5.1.2 The Lot 3 contractor has indicated they will continue to provide the same delivery points for the collection hubs of Kettering and Corby, Wellingborough and East Northants.
 - 5.1.3 The Lot 3 contractor can accommodate an extension of a further 2 years from 31st March 2023.

5.2 Different extension periods have been considered:

Option 1	Extend for 2 years with current contract terms
Benefits	<ul style="list-style-type: none"> • Provides stability for the Waste Management Service (seamless continuation of contract, including delivery

	<p>points for collection hubs of Kettering Corby, Wellingborough, East Northants and HWRCs).</p> <ul style="list-style-type: none"> • Secures waste treatment capacity. Previous work has indicated that there is likely to be a significant shortfall in the availability of spare capacity in existing waste facilities (estimated at 15mt per annum) with Brexit being a contributory factor (due to less waste being exported for treatment within European Facilities). As a result, there are significant risks that treatment capacity may not be available in the short term and, if it can be secured, the cost of treating waste using existing facilities is very likely to increase. • This extension timeline allows for the expiry of the HWRC contract, which is currently a contract held by the Council, which provides these services to WNC. • This option gives time for the Council to consider their preferred long term waste strategy and time to procure new contracts. • The HWRC contract runs until March 2025.
Disbenefits	<ul style="list-style-type: none"> • No opportunity to explore the market.
Option 2	Do nothing - allow current contract to expire in 2023 - reprocure
Benefits	<ul style="list-style-type: none"> • This would enable the council to fully test the market through a procurement exercise and determine the option that presents the highest value for money.
Disbenefits	<ul style="list-style-type: none"> • Based on analysis of the waste market, as explained above, it is expected that the costs of a new contract will be greater than the current contract prices. • The timescales would not allow the development and agreement of a long-term waste disposal strategy for the Council before commencing procurement. This may result in the Council carrying out a procurement exercise which does not reflect its long-term ambitions. • A short-term arrangement for disposal from the HWRCs would have to be put in place to support the HWRC contract which runs until March 2025.
Option 3	Extend in 1 year increments up to 2 years.
Benefits	<ul style="list-style-type: none"> • Gives the Council flexibility to consider a one-year extension in a year from now.
Disbenefits	<ul style="list-style-type: none"> • The contractors have limited certainty regarding the continuation of the contract which may cause issues

	related to securing treatment capacity and extending sub-contract arrangements.
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5.3 It has been concluded that an extension of two years is the preferred option because it:

- 5.3.1 Provides stability and continuity for the HWRCs and the waste collection hubs which rely on the residual waste disposal contract;
- 5.3.2 Secures treatment waste capacity within existing contract terms to allow for accurate future budgeting;
- 5.3.3 Allows time for a full NNC waste strategy to be developed and agreed giving sufficient time to further procure new arrangements.

Conclusion

5.4 It is proposed that the Lot 3 contract is extended for 2 years from 31st March 2023. This ensures waste disposal arrangements are in place for the waste collection hubs and the HWRC contract until its expiry in 2025. The further extension of the residual waste contract for two years (to 31st March 2025) gives surety of service provision, along with the additional benefits of:

- the same delivery points to remain in place ensuing minimal impact on the collection hubs and the HWRC service;
- value for money – since the residual waste contract was procured via competitive tendering and given the conditions within the current waste disposal market, it will be unlikely to be at a lower cost if a similar contract was procured.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 Except for any contractual inflation, the contractual costs of the Lot 3 contract will remain the same. These costs and the mechanisms within the contract are familiar and understood by the Waste Management Team and can be calculated against waste model tonnage, to ensure both the accuracy and timely inputting of finance data, as required for budget monitoring and the annual budget setting process, for the Council.

6.1.2 Contract monitoring and all resources required can continue to be managed within the Waste Disposal and HWRC team and, even when this team further disaggregates, the risk is low and no additional costs to either NNC or WNC are foreseen, beyond contracted inflationary rises and increases in overall tonnage,

6.1.3 Existing budgets are based on the current costs of the Lot 3 contract and therefore there are no budgetary implications as a result of this decision. Future

cost increases as a result of inflationary increases and the growth of residual waste tonnages are factored into the Council's Medium Term Financial Strategy. The table below provides a summary of the financial transactions relating to the Lot 3 contract:

Lot 3 Residual Waste Payments to Amey Cespa

	Current year		Forecast					
	2021/22		2022/23		2023/24		2024/25	
	Tonnage	Cost	Tonnage	Cost	Tonnage	Cost	Tonnage	Cost
Kerbside NNC	70,506.00	£8,205,689.43	71,402.00	£8,715,667.09	72,282.00	£9,254,057.83	73,141.00	£9,821,662.04
HWRC NNC	7,790.00	£931,364.42	7,893.00	£980,349.28	7,992.00	£1,031,294.38	8,089.00	£1,084,528.30
HWRC WNC	9,491.00	£1,134,762.71	9,554.00	£1,186,653.98	9,634.00	£1,243,179.54	9,711.00	£1,301,997.17
Payable to Amey Cespa	87,787.00	£10,271,816.56	88,849.00	£10,882,670.35	89,908.00	£11,528,531.75	90,941.00	£12,208,187.51
<i>Recovered from WNC</i>	<i>-9,491.00</i>	<i>-£1,134,762.71</i>	<i>-9,554.00</i>	<i>-£1,186,653.98</i>	<i>-9,634.00</i>	<i>-£1,243,179.54</i>	<i>-9,711.00</i>	<i>-£1,301,997.17</i>
Total Cost to NNC	78,296.00	£9,137,053.85	79,295.00	£9,696,016.37	80,274.00	£10,285,352.21	81,230.00	£10,906,190.34
Funding by	Existing Waste Management budget(s).							

6.2 Legal

6.2.1 As with the previous contract extension, the extension is within the original provision of services. Clause 3.3 of the Lot 3 contract states, *'the Authority, shall, at its sole discretion, have the option to give written notice to the Contractor of its desire to extend the Expiry Date by a period or any number of periods up to five (5) years (the 'Extension of Contract Period') and on the Authority giving such written notice this Contract shall remain in full force and effect upon the same terms and conditions....*

6.2.2 Legal support will be required to draft the extension notification.

6.3 Risk

6.3.1 Key Risks associated with the proposal

Risk	Mitigation	Residual Risk
Risk of challenge from other potential contractors related to the extension of the residual waste contract.	The contract will be extended on similar terms to the current contractual arrangements and in accordance with the extension provision within the contract. Any variation will be documented. Note, the risk of challenge is different from the risk of successful challenge. No challenge to the previous extension has been received.	Amber
The residual waste market gate fees might become cheaper than the current contracted treatment gate fee.	Industry knowledge is that this is not expected due to pressures on capacity to treat waste expected in the short/medium term	Amber

6.3.2 Risks associated with not undertaking the proposal

Risk	Risk Rating
The Council will not have arrangements in place for the treatment and disposal of residual waste past 31 st March 2023.	Red

6.4 Consultation

6.4.1 Senior officers representing finance, legal and the waste management service have considered the option to extend this contract. Procurement have confirmed they do not need to be involved unless a new procurement is

required. The Executive Member for Highways, Travel & Assets has been consulted whilst the options have been developed concluding with the recommendation to extend the contracts. The Service Delivery, Performance and Customers Executive Advisory Panel (EAP) were **[EAP's position to be confirmed following their meeting]** of the approach to extend the residual waste contract at the meeting on 6th December 2021.

6.5 Consideration by Scrutiny

6.5.1 These options have not previously been considered through the scrutiny process.

6.6 Climate Impact

6.6.1 The Council follows the principles and practice of the waste hierarchy which promotes the reduction of waste generation and recycling as much waste as possible before using waste treatment and disposal options for the residual waste. The continued provision of the Lot 3 contract enables the authority to ensure residual waste is managed effectively in-line with contractual performance standards and in line with the waste hierarchy.

6.7 Community Impact

6.7.1 The continued provision of the Lot 3 contract ensures the authority can continue to provide a cost-effective option for the treatment and disposal of residual waste. This waste is predominately from the collection hubs within NNC (kerbside collected waste) and continue to offer this value service to its residents.

7. Background Papers

7.1 NCC – Future Arrangements for the Treatment and Disposal of Residual Waste - 12th February 2019