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## Notice of Motion at Full Council

24 March 2026

### Briefing Note

#### 1. Introduction

1.1 The Notice of Motion submitted by Councillor Georgia Taylor and Councillor Brett Wright calls upon the Cabinet to consider bringing the highways service back into Council ownership and control by 2030.

1.2 This briefing note sets out the Governance and decision-making process followed during the procurement of the current contract, and that is likely to be similarly adopted when considering the future arrangements for the Council's highways service.

#### 2. Existing Highway Maintenance Contract

2.1 The Council's current highway maintenance contract with Balfour Beatty Living Places (BBLP) is a fourth-generation outsourced contract, having first outsourced elements of its highway maintenance service in 1997. Since then, the Council has had highway maintenance contracts with Colas, May Gurney, Keir, Costain and most recently with BBLP

2.2 The current contract with BBLP, approved by Cabinet in September 2022, commenced on the 1 May 2023 and runs until 31 March 2030. The contract is for an initial six-year and eleven-month term and can be extended by up to 7 years to 31 March 2037.

2.3 The award of the contract to BBLP followed an extensive and thorough three-year procurement process that commenced in 2020. The process considered a range of options for delivering highway services, including provision of an in-house option. As the procurement process developed it provided for Member involvement through Place Scrutiny Committee and Cabinet at key junctures.

#### 3. Highways Services Re-procurement Project (HSRP)

3.1 The County Council adopted a Strategic Commissioning Approach for the re-procurement of the Highways Infrastructure Services contract, beginning with an extensive analysis phase that assessed existing arrangements, service performance, asset condition, risks, customer satisfaction, financial considerations, and future service outcomes. This analysis, undertaken in line with the HM Treasury Five Case Model, formed the basis of the Outline Business Case (OBC), which set out the methodology, findings, conclusions, and recommended options for future service delivery. The commissioning cycle then moved into the options appraisal stage, comparing alternative Service Delivery Models (SDMs), which included In House

provision, and shortlisting viable options based on value for money, affordability, and alignment with council priorities. Cabinet approved progressing Option 1 (separate contractor and designer) and Option 2 (integrated contractor–designer) into the next phase. Following this, the Council proceeded with the Detailed Business Case (DBC) phase, developing a full commercial, financial, economic, and management assessment to support the final procurement route and contract model. The DBC was produced within a Commissioning Framework, using previous re-procurement analysis, market engagement, service reviews, and consultancy input where required. Member oversight was embedded throughout via the Scrutiny Member Reference Group, which reviewed evidence and provided challenge and recommendations during business case development. The commissioning process concluded with Cabinet consideration of the DBC, enabling ESCC to proceed to tendering, contract award, and mobilisation for the new service starting in May 2023

3.2 A report on the procurement of the highways service was presented to Place Scrutiny Committee in March 2020 setting out the procurement process and timeline. This report outlined East Sussex County Council’s planned approach for re-procurement of its Highways Services contract, setting out the rationale for beginning preparations ahead of the existing contract’s expiry and emphasising the need for flexibility, improved service design, and alignment with the HM Treasury Five Case Model. It introduced the governance structure for the project, including a drafted Project Initiation Document (PID), establishment of a dedicated Project Manager, and use of established project management techniques. The report also proposed the creation of a Scrutiny Reference Group to support member engagement throughout the process.

<https://democracy.eastsussex.gov.uk/documents/s29598/Place%20Ctte%2018March%20Item%207%20-%20Highways%20Services%20Re-Procurement%20Project.pdf>

3.3 A copy of the Project Initiation Document (presented to Cabinet):  
<https://democracy.eastsussex.gov.uk/documents/s34558/Item%206%20-%20HSRP%20Outline%20Business%20Case%20-%20Appendix%202.pdf>

#### **4. Outline Business Case**

4.1 An Outline Business Case (OBC) and was presented to Cabinet in January 2021

<https://democracy.eastsussex.gov.uk/documents/s34556/Item%206%20-%20Highways%20Services%20Re-Procurement%20Project%20Report.pdf>

4.2 The Place Scrutiny Committee Review Group report to Cabinet is contained in Appendix 2 to the Cabinet report. This report set out the Review Group’s assessment of the development of the Highways Services Re-procurement Project Outline Business Case (OBC), confirming that Members had been fully engaged throughout and had received evidence from independent consultants (Proving

Services) endorsing the robustness of the work undertaken. The Review Group expressed unanimous support for the approach taken by Officers, highlighted that the OBC had been developed through a thorough and evidence-based process, and identified several areas for further exploration during the next project stages. It formally endorsed the OBC and recommended that Cabinet approve it, further supporting the progression of **Service Delivery Model options 1 and 2** into the Detailed Business Case.

<https://democracy.eastsussex.gov.uk/documents/s34558/Item%206%20-%20HSRP%20Outline%20Business%20Case%20-%20Appendix%202.pdf>

4.3 The OBC set out the findings, conclusions and recommendations arising from the first (analysis) stage of the Highways Services Re-procurement Project (HSRP). It explained the need for a new Highways & Infrastructure Services contract to replace the one expiring on 30 April 2023 and sought Cabinet approval to progress to the next stage.

4.4 The OBC was developed using ESCC's Strategic Commissioning Approach and the HM Treasury Five-Case Model. It reviewed service performance, statutory duties under the Highways Act 1980, customer satisfaction, asset condition and future demand. It drew on two technical appendices:

- Service Delivery Model Options Appraisal
- Future Options Study – Summary of Findings

4.5 In the Outline Business Case, an in-house highways delivery model was discounted because it did not meet the feasibility, capability, and risk criteria used in the options appraisal. Although 15 options were assessed, only two market-based models were shortlisted; the in-house model was discounted because the Council lacked sufficient internal delivery capacity, it carried significantly higher operational and financial risks, and benchmarking evidence showed integrated external delivery models to be more effective.

4.6 A long list of delivery models was considered (including in house, multi provider, JV, framework, and hybrid options) of which only two were assessed as viable for the next stage:

1. Separate Works Contract & Separate Designer Contract
2. Integrated Single Provider (Works + Design)

4.7 These two options were recommended for development in the Detailed Business Case (DBC).

## **5. Detailed Business Case**

5.1 A Detailed Business Case was presented to Cabinet in July 2021 prior to Cabinet approval to award the contract in September 2022

<https://democracy.eastsussex.gov.uk/documents/s45674/Cabinet%2029%20September%202022%20Highways%20Service%20Reprocurement%20Project%20PUBLIC%20COPY%20FINAL.pdf>

5.2 The DBC confirmed that other procurement options, including in house variants, were not considered further as they did not align with ESCC's ability to efficiently and economically meet its statutory highways responsibilities.

5.3 The DBC subsequently evaluated the two shortlisted options from the OBC in detail, and after full economic, financial, commercial, and management assessment, the DBC concluded that Option 2: Integrated Single Provider as the Preferred Model.

## **6. Extension of current Contract**

6.1 The current Contract with BBLP sets out the process for the Contractor to carry out a performance review during contract year 4 (2026/27) and to submit a business case for an extension of contract on or before 31 March 2027. The decision to extend the contract will be a Cabinet decision to be made no later than 1 April 2028. However, it is most likely that a Cabinet decision will be sought early in 2027/28 to allow sufficient time for procurement should the Cabinet decision be to not extend.

6.2 The business case that underpinned the decision to procure an outsourced highways maintenance service remains valid and was developed through a comprehensive process with extensive scrutiny overview including consideration of a range of delivery models and resulting scrutiny endorsement of the OBC. This included consideration of the length of contract and whether to allow extensions to the contract. However, an extension to the current contract cannot be assumed and must be considered in line with the specific requirements set out in the contract. This includes a requirement for the contractor to bring forward a business case setting out why an extension would continue to represent value for money. In line with the Council's usual arrangements, that business case would again be subject to member scrutiny, providing an opportunity for scrutiny to consider the evidence and set out their views to Cabinet on the delivery of the service before any decision is taken.

6.3 The decision whether to extend the existing contract with BBLP will be based on BBLP performance over the first four years of the contract and the criteria is set out in the contract (Appendix 1).

6.4 If the Contract is not extended the Strategic Commissioning Approach will be established to determine next steps including the option of in-house provision. This and other options would be examined in detail during the Outline Business Case stage of the procurement process, as it was in 2020/21 and be presented to Cabinet in 2027/28.

## Appendix 1 – Contract Extension Procedure

1. The *Contractor* carries out a review of annual performance and submits a performance report for each Service Year. In addition, the *Contractor* carries out a review of this contract during Service Year 4 and submits a business case to the *Client*, for the purposes of:
  - ensuring the contract remains focused on delivering the Council's Priorities and Service Outcomes;
  - providing an opportunity to complete a thorough review of the arrangements in their entirety; and
  - deciding on potential extension of the Agreement in line with ZX23.

### 2. Refresh Procedure

1. On or before 31<sup>st</sup> March 2027, the *Contractor* submits a business case for the contract extension and addresses, but is not limited to, the following aspects of the contract by:

Contract review (looking back):

- (a) doing a root and branch review of the Services, including performance data and

benchmarking;

- (b) reviewing the processes and systems used;
- (c) identifying the areas in which the contract has not worked well;
- (d) collecting customer and community feedback on service levels and Outcomes.

Contract opportunities (looking forward):

- (a) engaging with elected members to review the Service Outcomes required;
- (b) identifying the available budgets and setting new services levels (where applicable);
- (c) engaging with customers to agree where priorities are;
- (d) reviewing who does what and redesigning the organisational structure;
- (e) any necessary contract changes;
- (f) setting new targets and agreeing where any investments should be made to develop the service;
- (g) implementing mutually agreed improvements in the areas where the contract has not worked well.

2. The aspects identified in paragraph 44.1 are reported and escalated on or before 31<sup>st</sup> March 2027 to the *Project Manager* for consideration and submission to the *Client's* corporate governance processes.