



APPENDIX 1

OUTLINE BUSINESS CASE

HIGHWAYS SERVICE RE-PROCUREMENT PROJECT (HSRP)

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Document Control

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Document Summary

This document is the Outline Business Case for Project: East Sussex Highways Procurement 2021

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002	Legal Framework and Policy Review	
003	Service Delivery Model Options Appraisal	
004	Highway Asset Management Strategy	
005	Scrutiny Member Reference Group – interim report	
006	Future Options Study Summary of Findings	

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1 EXECUTIVE SUMMARY

1.1 Introduction

1.2.1 The current Highways and Infrastructure Services (HIS) Contract is delivered through an Integrated Single Provider Service Delivery Model (SDM), comprising all highways works and design services which, commenced on the 1 of May 2016. The contract was awarded for a fixed seven-year term with no extensions. The Contract incorporates a performance management framework linked to the Council's priority outcomes, and which rewards or penalises the Service Provider financially subject to their annual performance. The Service Provider's performance is measured against 24 linked Service Performance Indicators (SPIs) covering the key areas of Operational Delivery, Sustainability, Safety, Asset and Stakeholder.

1.2 Key Drivers for the project

1.2.1 The current HIS Contract is due to reach full term on the 30th April 2023 and therefore a new contract is required to be in place from 1 May 2023.

1.2.2 A project team has been established to review and select the most efficient, effective and economically viable option to maintain the highway network and associated infrastructure and ensure the Council continues to meet its statutory responsibilities from May 2023 onwards.

1.2.3 This Outline Business Case (OBC) sets out the replacement options available to the Council and recommends a shortlist of two SDMs to be developed and appraised within the Detailed Business Case (DBC) stage.

1.3 The Process

1.3.1 The project follows the principles of the Council's Strategic Commissioning Framework of analyse, plan, do, and review. The initial phase provides an OBC setting out a number of options for further detailed development in a DBC.

1.3.2 In undertaking this initial stage, the team have carried out an analysis of current service data, engaged with the current Service Provider, the highways sector market, key stakeholders (including Members), other Council teams that interact with the service and academic researchers working on behalf of the Council and other highway authorities. This has resulted in this OBC and its recommendations for future service delivery model options.

1.4 Scope of Service

1.4.1 In the last re-procurement in 2015 extensive analysis was completed to determine the project scope, and much of this analysis and therefore scope of service is still valid.

1.4.2 In compiling this OBC engagement sessions were held with the Council's other Communities, Economy and Transport (CET) teams that interface with the highways service in order to validate the previous work completed in 2015. The findings of these sessions are included in section 2.19. A number of areas for improvement were identified and will be explored in further detail within the DBC. None of the identified issues at this time suggest that provision of any wider departmental services should be included within scope of this HSRP. However further consideration as to whether any aspects of these teams services should be included within the future SDM will be reviewed within the DBC.

1.5 Options Appraisal

- 1.5.1 An options appraisal was undertaken in two stages that broadly followed the well-established HM Treasury Five Case model (Appendix 003). Fifteen options were appraised and reduced to five which were potentially best aligned to meet the Council's needs.
- 1.5.2 The Council has also worked with an independent academic consultant, Proving Services Ltd based at Cranfield University. Proving has worked extensively to develop sector-leading, research-based tools and processes which are used extensively across the private and public sector. In partnership with the Association of Directors of Environment, Economy, Transport & Planning (ADEPT), Proving host the Future Highways Research Group (FHRG), which a bench marking club of local Highway Authorities.
- 1.5.3 Soft Market Testing, engagement with other local authorities and moderation of the scores was carried out to further reduce the SDMs best suited to the Council's service aims and ambitions. The Project Team presented the findings to the Scrutiny Member Reference Group (SMRG) with support from an independent consultant. The SMRG endorsed the process that had been undertaken and supported the development of a shortlist of two SDMs to be taken through to the DBC stage for further detailed development. The SMRG interim report on their involvement so far is included in Appendix 005.

1.6 Recommended Options

- 1.6.1 Following the completion of the Options Appraisal the two recommended options to be developed in the DBC are;
- Option 1: Separate Contractor Contract & Separate Designer Contract
 - Option 2: Integrated Contractor & Designer Contract (current SDM)
- 1.6.2 These two options are further endorsed through the Options Study activity led by Proving Services Ltd. This involved eight local authorities all completing individual options appraisals for their respective future highways SDMs. Of all the scored options across the eight authorities, on average, Options 1 and 2 were ranked the highest overall.
- 1.6.3 When developing these options, it was evident from the analysis and stakeholder engagement undertaken that there is both a desire and opportunities to enhance the current SDM. There is clearly an increasing demand and expectation on our network and this, combined with likely future funding challenges, presents a significant challenge to not just maintain our highway asset but also improve it to support the economic growth of the County. Therefore, key focus areas for the DBC will include, innovation, service quality, communications and contract efficiencies, while maintaining our embedded asset management approach to highway maintenance.

1.7 Financial

- 1.7.1 The total one-off costs, to deliver the HSRP for the period 2019/20 through to 2022/23 are forecasted to be in the region of £329,000. This budget allocation is being funded through the Council's corporate reserves.
- 1.7.2 In addition to the project costs, a detailed financial appraisal of the two shortlisted options will be undertaken in the DBC, to establish any one-off set up costs, potential future service cost increases and possible savings opportunities.

1.8 Conclusions and Recommendations

- 1.8.1 In order to continue to meet our legal responsibilities as the local Highway Authority a range of different SDMs has been considered. Through the analysis carried out it is clear that there are limited SDMs that meet all of the Council's strategic requirements.
- 1.8.2 The initial evidence gathered shows that funding continues to be a challenge in improving the condition of the highways asset, against a backdrop of increasing network usage and high stakeholder expectations of the service.
- 1.8.3 Quality control, effectiveness of communications and overall service efficiencies were three of the main areas for improvement identified by Members which will be further investigated for potential solutions and improvement within the DBC stage.
- 1.8.4 The two shortlisted options present the best opportunity for the Council to successfully deliver its statutory responsibilities for highways maintenance as well as the delivery of improvements to the County's transport networks in the most efficient, effective and economic manner. It is recommended that these two options are taken forward for further assessment in the DBC to determine the best model to deliver future highway services in East Sussex.

1.9 Timescales

- 1.9.1 The key stages of the project and critical dates are:

Stage	Stage Name	Main Activities	Critical Dates
Stage 1	Outline Business Case (OBC)	The analysis & planning stage (small options appraisal - long list to shortlist)	Cabinet Approval Jan 2021
Stage 2	Detailed Business Case (DBC)	Detailed options appraisal of shortlist	Cabinet Approval June/July 2021
Stage 3	Delivery of Procurement Strategy	Issue FTS Notice	November 2021
		Tendering Period	Nov 2021 – March 2022
		Evaluation Period	June 2022 – Sept 2022
		Contract Award	Cabinet Approval October 2022
Stage 4	Prepare and engage	Mobilisation and Training	Nov 2022 – April 2023
		Contract Start	1 st May 2023

2 STRATEGIC CASE

2.1 Introduction

- 2.1.1 East Sussex County Council (the "**Council**") is undertaking a commissioning exercise to determine how the Council's highways service should be delivered when the current contract with Costain ends in 2023.
- 2.1.2 A Project Team has been established to ensure the new service arrangements are designed and approved to ensure continuity of highway's maintenance services from 1 May 2023.
- 2.1.3 This OBC is the strategic document that sets out the approach for the commissioning and procurement of the next Highways SDM.
- 2.1.4 The OBC sets out where the service is now, what different SDMs are available and what is needed to enable a new model to be implemented successfully. The options identified are evaluated against a broad assessment criterion (Table 011) which includes a range of critical success factors and the draft Service Outcomes agreed by Members.
- 2.1.5 This project provides an opportunity to build on the current service achievements, and to further develop the highways maintenance and infrastructure improvement service so that it reflects the future needs and outcomes of the Council and continues to draw from industry best practice.
- 2.1.6 The Council's commissioning framework approach is being used to clearly identify how to best meet statutory responsibilities and wider customer needs in the future. The OBC represents the analysis and initial planning stage of the framework.

2.2 Existing Arrangements

- 2.2.1 In December 2015 Cabinet awarded a third-generation outsourced contract (HIS Contract) for delivery of highway maintenance and infrastructure services to Costain Ltd. Costain Ltd established an unincorporated Joint Venture (JV) with Jacobs (formerly CH2M) to deliver the services. The HIS Contract commenced on the 1st May 2016 and is due to end on 30 April 2023. The contract is for a fixed seven-year term with no extensions included by design.
- 2.2.2 The previous commissioning project and subsequent award of the HIS Contract shifted the SDM from a multiple provider model to an integrated single provider model. Previous separate contract arrangements for Highway Works, Street Lighting, Traffic Signals, Special Structures Maintenance, as well as external design top-up services were consolidated into a single contract. In addition, a number of internal Council functions such as safety inspections, network management, design services, highway claims management and the contact centre were also outsourced to be included in the model. In total approximately 130 staff from the Council and incumbent Service Providers transferred under the Transfer of Undertakings (Protection of Employment Regulations 2006), referred to as TUPE, to the new Service Provider.

2.2.3 The current HIS contract with Costain is an end-to-end service for highway maintenance and includes the management of the following services;

Core Activities (lump sums/fixed prices)	<ul style="list-style-type: none"> • Control of vegetation
<ul style="list-style-type: none"> • Stakeholder Management 	<ul style="list-style-type: none"> • Street Lighting & Traffic Signals
<ul style="list-style-type: none"> • Network Management 	<ul style="list-style-type: none"> • Winter Service
<ul style="list-style-type: none"> • Third Party Claims 	<ul style="list-style-type: none"> • Road Markings
<ul style="list-style-type: none"> • Drainage Maintenance 	<ul style="list-style-type: none"> • Reactive & Emergency Response
<ul style="list-style-type: none"> • Service Management • Highway Asset Inspections 	<ul style="list-style-type: none"> • Structures Routine & General Maintenance
Work Activities (a range of payment options, lump sum, target cost, cost reimbursable) <ul style="list-style-type: none"> • Delivery of Capital Structural maintenance and improvement Programmes, including local transport improvement schemes • Professional Services (Design) 	

2.2.4 The annual value of the current HIS Contract is circa £35 million (dependent on the extent of the capital works programme), with core services being a fixed price of £7.7million per annum. Costain employs a direct workforce of 104 (8 of which are currently agency) staff and Jacobs employ a direct workforce of 84. These figures exclude sub-contractor resources and reach-back resources that are utilised by each organisation. The contract is managed by an Executive Client group of 35 staff (29xFTE, 5xP/T, 1xAgency) employed by the Council at a cost of £1,572,000 per annum.

2.2.5 It is anticipated that around £250million will have been spent through the HIS Contract by May 2023. Costain subcontract approximately 25-30% of this to the local supply chain and Small Medium Enterprises (SMEs). The HIS Contract SDM is referred to as an “Integrated Single Provider”. Through the outsourcing of the customer contact centre, highway stewards, claims management and network management Costain are empowered to provide an integrated end-to-end service.

2.2.6 Since the start of the HIS Contract there have been no significant concerns identified with the delivery and management of the contract and overall, the SDM is working well. However, a formal service Defect Notice was issued in September 2019 in relation to a lack of resilience within the Service Provider’s organisation and their ability to resource and deliver the service effectively particularly around management of customer queries and quality of workmanship. These concerns have now been effectively addressed through the provision and implementation of an improvement plan. The Service Provider was able to implement the improvement plan effectively due to the current SDM that is in place between the Council and a Single Provider.

2.2.7 Whilst it is acknowledged that there have been some lapses in performance and quality control under the current SDM, on the whole the Service has been successful and has performed well in delivering the Council’s outcomes and objectives. Occasional lapses in performance by the Service Provider, relating to timeliness or quality of delivery, have occurred and can generally be attributed to a slow or inadequate response to an increased demand such as a weather event or resource problems causing poor performance through lack of proper supervision, management of the supply chain or customer service staff.

2.2.8 There is an incentivisation model within the contract, which rewards or penalises the Service Provider financially subject to their annual performance achievement. This is measured across 24 linked SPIs covering the key performance areas of Operational

Delivery, Sustainability, Safety, Asset and Stakeholder. As part of the annual service planning process the targets for each of the SPIs are reviewed and amended as required to ensure the Service Provider is incentivised to deliver the service to meet the contract outcomes and deliver continuous improvement.

2.2.9 The Executive Client group was established by the Council at the time of the last contract award in 2016 to act as an intelligent client, focussed on the commercial management of the contract, the Service Provider's performance, and the management of the Council's asset. This has been successful in ensuring the Service Provider is delivering its contractual requirements and that the Council receives value for money from the service year-on-year.

2.2.10 One of the Council's key priorities is to make the best use of resources, and this re-procurement project provides an opportunity to review the current structure of the Council's Client structure to ensure it is appropriately staffed and resourced with the right skillsets and disciplines before the start of the next contract. Further detail regarding this is set out in the Management Case in section 6.4 and will be examined in detail as part of the DBC.

2.3 Scope

2.3.1 A Project Initiation Document (PID) (Appendix 001) for the HSRP was approved in January 2020 setting out the objectives, scope, timeframe and governance for the project.

2.3.2 A Project Board, Sponsor and Team have been established to develop and deliver the re-procurement strategy and new contractual arrangements. The project requires support from other service areas to ensure its successful delivery; these include but are not limited to: Human Resources, Finance, Legal, Communications, Procurement and Audit.

2.3.3 A Scrutiny Member Reference Group (SMRG) has also been established to ensure effective member engagement with the project. The role of the group is to help inform the identification of the most appropriate service delivery model and the development of future contract outcomes.

2.3.4 The project is structured in four stages:

Stage	Stage Name	Main Activities
Stage 1	Outline Business Case (OBC)	the analysis & planning stage (small options appraisal - long list to shortlist)
Stage 2	Detailed Business Case (DBC)	detailed appraisal of shortlisted options
Stage 3	Delivery of Procurement Strategy	tendering & evaluation
Stage 4	Prepare and engage	mobilisation and Training Contract Start

2.3.5 Project Deliverables

The two key deliverables of this project are:

- An SDM and arrangements in place for the 1 May 2023
- An appropriate Council Client team is established by November/December 2022 (for the start of mobilisation) to ensure an effective transition to the commencement of the SDM in May 2023.

The type of SDM and future Council client structure arrangements will be submitted to

the Project Board for acceptance and subsequently to Cabinet for approval.

2.3.6 All the services set out in the current SDM, are included within the scope of this project, namely:

Core Activities (majority of revenue spend):

- COR-001 Service Management – (including Controller of Premises duties)
- COR-002 Stakeholder Management – (including customer contact centre)
- COR-003 Network Management
- COR-004 Third Party Claims
- COR-005 Highway Asset Inspections - (including Highway Stewards)
- COR-006 Drainage Maintenance - (gully emptying and jetting, ditch and grip maintenance)
- COR-007 Control of Vegetation - (grass cutting, weed control, hedge cutting, special verges)
- COR-008 Road markings
- COR-009 Winter Service
- COR-010 Structures Routine & General Maintenance (bridges, tunnels, culverts, retaining walls etc.)
- COR-011 Street Lighting & Traffic Signals (Inspection and routine maintenance)
- COR-012 Reactive and Emergency Response - (Safety Defect and emergency response)

Work Activities (majority of capital spend)

In addition to the Core Activities the following Highway Structural Maintenance and Improvement Schemes are also within scope:

- Carriageway and footway surfacing
- Patch and repair of carriageway surfacing
- Highway and junction improvements
- Highway structures
- Safety fencing
- Traffic management and calming schemes
- Pedestrian and cycle infrastructure improvements
- Public transport infrastructure including bus stops and bus priority measures
- Accessibility and mobility improvements
- Carriageway reconstruction
- Street lighting
- Traffic signals
- Drainage Schemes
- Provision, maintenance and cleaning of road signs.
- Provision and maintenance of road markings and studs.

2.3.9 **Other Services for Consideration**

In compiling the OBC engagement sessions were held with the Council's other CET teams that interface with the highways service. The findings of these sessions are included in section 2.19. A number of areas for improvement were identified and will be explored in further detail within the DBC. None of the identified issues at this time suggest that provision of any wider departmental services should be included within scope of this HSRP. However further consideration as to whether any aspects of these teams services should be included within the future SDM will be reviewed within the DBC. These included:

- Rights of Way & Countryside Maintenance
- Transport Development Control
- Parking (On street Parking Management)
- Transport Hub Services
- Road Safety

2.3.10 Extensive analysis was completed during the last re-procurement project in 2015 to determine the project scope, and some of this analysis is still valid. There is evidence that some or parts of these services are provided through term service or professional service contracts by external providers in a number of authorities however this is not a common approach.

2.3.11 The initial assessment undertaken did not suggest any compelling case for their inclusion or not. However, further assessment and market research will be carried out during the DBC stage to determine the benefits and dis-benefits and the most appropriate method of providing these and other transport and network related services in the future.

2.4 Project Approach

2.4.1 In preparing the OBC an evidence-based approach has been used to review existing arrangements and consider options for future operating models. The best practice approach adopted is the HM Treasury's Five Case Model, which is widely used by the Public Sector as a framework for writing robust business cases. In addition to applying the principles of the Five Case Model, The Council has an internal business planning tool known as the Strategic Commissioning Framework.

2.4.2 This OBC sets out the principles and options for future services and, from the evidence and work done so far, it recommends a "shortlist" of options that should provide the best outcomes for the Council.

2.4.3 Further work will be required to explore these options in detail and ultimately determine the best outcome for our residents and network users and this will be set out the DBC.

2.4.4 An overview of both the Strategic Commissioning Approach and the Five Case Model is set out below.

2.5 Strategic Commissioning Approach

2.5.1 Strategic Commissioning is the approach that underpins the Council's business planning. It is embedded into East Sussex Highways culture through our Asset Management Strategy 2018 – 2024 and the Annual Service Planning process of the HIS Contract as set out in section 2.5.3

2.5.2 The Strategic Commissioning approach looks to secure the best outcomes for East Sussex residents by:

- Understanding need
- Matching supply with need
- Making the most effective use of all available resources, irrespective of whether services are provided in-house, or externally.

Figure 001 – Strategic Commissioning Cycle



2.5.3 The commissioning approach is a cyclical process (Figure 001) and not a one-off event, it is embedded in the HIS Contract through its Annual Service Planning process, which sets out the Council’s requirements of the Service Provider for delivery in the following Service Year, and includes for the Service Provider’s prices and programme to meet the required service levels.

The plan contains and is based on meeting:

- Confirmation of each Core Activity, or identified potential changes
- The Council’s priority-based highway maintenance sites
- The Council’s priority areas for highway asset improvement and replacement
- the Council’s objectives including required service levels,
- the Asset Management Plan, the East Sussex Local Transport Plan 2011 – 2026 and its supporting Implementation Plans, and available funding

2.5.4 In applying the Strategic Commissioning approach to the HSRP we have set out to understand the long-term need and the best approach for achieving it. The OBC focuses on the ‘analyse’ and ‘plan’ segments of the cycle. Evidence has been gathered and analysed to understand the evolving needs of all stakeholders including residents, commuters and internal customers. Future priorities and desired outcomes have been identified by the following activities:

- Obligations Review (Statutory duties, standards, guidance and local priorities)
- Review of existing service costs and risks
- Customer Engagement & Satisfaction
- Staff Consultation
- Scrutiny Member Reference Group input
- Soft Market Testing (SMT) and Market Intelligence
- Asset Management Strategy Review
- Opportunities & Collaboration
- Client Organisational Review

2.6 Five Case Model Methodology

- 2.6.1 The Five Case model is a HM Treasury recommended methodology for writing robust business cases for capital expenditure. It is recognised as a best practice approach. It has been developed over many years since 2008 to ensure capital spending decisions are taken on the basis of highly competent, professionally developed, spending proposals.
- 2.6.2 It provides a framework for thinking and a process for approval which is flexible and capable, with a range of tools that can be applied proportionally by the procuring organisation. The approach also provides a clear audit trail for purposes of public accountability and was used in the Council's previous re-procurement project which led to the successful appointment of the current Service Provider.
- 2.6.3 In applying the Five Case model through the project stages (Figure 002), each of the five 'cases' will be developed as the project progresses. In preparing this OBC, much of the information in it provides a foundation for stage two when the DBC is developed. Through the application of project governance, each of the business cases will be reviewed and approved by the Project Sponsor and Project Board prior to submission to the Council's Cabinet.

Figure 002: Overview of Project Stages and Five Case Business Case Structure.

		Key Activities of the Project				
Stages - Project Structure	Stage 3 &4 Delivery of Procurement Strategy & Prepare and Engage	Review and minor changes & implications	Confirm Value for Money	Procuring the service delivery model Contracting for the deal	Confirm financial implications and financing	Ensuring successful delivery (i.e comprehensive mobilisation plan)
	Stage 2 Detailed Business Case	Review any significant changes and implications	Determine Value for Money	Confirm Procurement Strategy	Confirm Funding & affordability	Plan for successful delivery
	Stage 1 Outline Business Case	Ascertain the strategic fit Make the case for change	Develop a long list of options and agree a short list	Outline Procurement Strategy	Estimate Costs (revenue & Capital for shortlisted options)	Project Management Approach Proposed Management Arrangements of Contract
		Strategic Case	Economic Case	Commercial Case	Financial Case	Management Case
		The Five Cases - Business Case Structure				

2.7 Organisational Overview

2.7.1 Core Offer

2.7.2 As a consequence of austerity and the requirement to make £138m of savings since 2010, a Core Offer was developed in 2019 by the Council to outline its minimum reasonable service offer to residents, and to ensure resources were directed to areas of highest need. As a result, identified savings will ensure the Council is providing its minimum core service offer by 2022/23. Alongside this, the current COVID-19 pandemic has resulted in additional roles, duties and expectations for the Council and changes in demand for some existing services.

2.7.3 The Core Offer was subsequently reviewed and reapproved by Cabinet in October 2020. The review included whether the activities within the current Core Offer, and the volumes of those activities, were regarded as core to meeting residents' needs. The review considered where local need for services and prioritisation of services have diverted from

our current Core Offer as a result of the pandemic and whether the offer should be amended to include these in the longer term.

2.7.4 The review has shown that the Core Offer remains largely appropriate. It continues to reflect our statutory responsibilities, core functions and the range of services required to meet local needs. It includes a commitment to delivering good value for money in all we do. However, in many areas the way in which services are provided has changed and may continue to change, and demand has already increased in some areas, affecting the volume of activity needed to deliver the Core Offer. The anticipated increase in demand for some services in light of the pandemic and the associated pressures on resources are reflected in updated financial planning.

2.7.5 The revised Core Offer will be published here in due course:

<https://www.eastsussex.gov.uk/yourcouncil/about/keydocuments/coreoffer/>

2.8 The Council Priorities Outcomes

2.8.1 The Council has four overarching priority outcomes that were reviewed by Cabinet in October 2020 at the same time as the Core Offer review;

These are:

- driving sustainable economic growth;
- keeping vulnerable people safe;
- helping people help themselves;
- making best use of resources

2.8.2 Full proposed changes to the Council Priority Outcomes can be viewed here:

<https://democracy.eastsussex.gov.uk/documents/s32751/Appendix%20%20-%20Current%20Outcomes%20with%20proposed%20changes%20Cabinet.pdf>

These are due to be submitted to Full Council in February 2021 for approval.

2.8.3 For each priority outcome there are specific delivery outcomes, as set out in the Council Plan 2020/21 can be viewed here:

<https://www.eastsussex.gov.uk/yourcouncil/about/keydocuments/councilplan/>

2.9 Climate Change Emergency

2.9.1 In October 2019 the County Council declared a Climate Emergency and set a target of achieving carbon neutrality from its activities as soon as possible and in any event by 2050, in line with the new target for the UK agreed by Parliament in 2019. The Council then agreed a Climate Emergency Action Plan in June 2020, which can be viewed here:

<https://www.eastsussex.gov.uk/media/15770/escc-climate-emergency-plan-june-2020.pdf>

2.10 Social Value Act 2012

2.10.1 Social value became a legal requirement through the Public Services Act in 2012 requiring suppliers to local authorities to devote a certain percentage of their resources from a gained contract to improving the social value of that local authority area. Such social value could be in improving the environment, supporting local community groups, or helping to develop the local economy by supporting employment and skills initiatives. Such commitments for employment and skills include the employment and training of local people, careers-related activities in schools and colleges, and the offer of work experience placements.

2.10.2 The current HIS Contract has Social Value requirements embedded in it through the Performance Framework and Employer's Incentivisation Scheme, where subject to performance levels being achieved, the Service Provider is required to make a Social Value financial contribution.

2.10.3 It is intended that the new SDM will deliver measurable social value benefits, including the delivery of employment and training opportunities and local spend and recruitment targets. The Project Team will work with the Council's Social Value lead during the development of the DBC to ensure the obligations of the Council are included.

2.10.4 The future SDM will need to contribute to the delivery of the Council's Priority Outcomes, the Core Offer and the Climate Emergency Action Plan. The future strategies for this will be developed as part of the DBC.

2.11 Local Transport Plan 2011 – 2026

2.11.1 As the local transport authority, East Sussex County Council has a statutory duty to produce a Local Transport Plan (LTP). The County's third LTP sets out our vision and objectives, and the strategy for the 15-year period from 2011 to 2026.

2.11.2 The LTP is supported by a series of five-year Implementation Plans showing how the strategy will be delivered in particular through our ongoing programmes for maintaining our highways and bridges/ structures, integrated transport and road safety schemes and improving the rights of way network.

2.11.3 The review and update of the County's LTP is planned to start next year to reflect the changes in policies and strategies at a local, sub national and national level over the last 10 years. The maintenance and improvement of the highway network in the County that will be delivered through the new highways contract will be an integral part of the updated LTP strategy particularly in terms of supporting sustainable economic growth but also needing to meet the climate change agenda and the Council's commitment to net zero carbon emissions by 2050.

2.12 Service Analysis Activities

As part of the development of the OBC a number of service reviews have been undertaken to help identify areas for improvement and change. These are summarised and expanded in more detail below:

- Review of Asset Management
- Review of Current Performance Framework & Employer's Incentive Scheme
- Review of Future Service Outcomes
- Review of Compliance Audits
- Review of Customer Satisfaction Data
- Review of Business Needs
- Review of Business Needs – Areas of Enhancement
- Review of Soft Market Testing (SMT) activities

2.13 Review of Asset Management

2.13.1 The Council has an established Highway Asset Management Strategy (Appendix 004). This Strategy sets out how the highways service will deliver against the Council's key priorities, taking into consideration customer needs, asset condition and best use of available resources.

2.13.2 The Council is committed to the development of good practice and continuous improvement. The current Highway Asset Management Strategy is for the period 2018 - 2024 and will be reviewed as part of the DBC stage.

2.13.3 By taking an asset management approach to works, the Council continues to increase the value achieved in road maintenance, improving network resilience and reducing the burden on revenue budgets through the delivery of effective programmes of planned preventative maintenance.

2.13.4 Corporate Council Road Condition Targets

2.13.5 As part of the Council's corporate performance monitoring of its services, road condition targets are agreed annually in relation to the highways service. A summary of the results and targets are included in Table 001. Since the start of the current HIS Contract in May 2016, road condition results have achieved all the annual set targets for all three classifications of road. The biggest improvement against the set targets has been in the condition of unclassified roads reducing from 25% requiring maintenance in 2013/14 to 14% requiring maintenance in 2019/20, following a period of targeted investment.

Table 001: Council Road Condition Targets and Results

Internal ESCC Corporate Targets and Actual Results						
Year	Road Condition Target for Principal Roads (%)	Road Condition Results for Principal Roads (%)	Road Condition Target for Non-Principal Roads (%)	Road Condition Results for Non-Principal Roads (%)	Road Condition Target for Unclassified Roads (%)	Road Condition Results for Unclassified Roads (%)
2013/14	8	7	9	9	18	25
2014/15	8	5	9	9	24	22
2015/16	8	5	9	6	22	22
2016/17	8	5	9	6	21	19
2017/18	8	4	9	7	20	14
2018/19	8	5	9	7	20	9
2019/20	8	5	9	5	15	14
2020/21	8	TBC	9	TBC	15	TBC

2.13.6 Asset condition of principal roads

Asset condition has improved since the baseline of 2013/14, as shown in Table 001. It has met the Council's targets in each year of the HIS Contract. For Principal Roads the percentage requiring maintenance fell from 7% in 2013/14 to 5% in 2018/19. As shown in Table 002 the national average was 3% in 2018/19. The Council's national ranking in that year was 116 out of 147. This has been fairly stable over the past seven years. The national ranking in 2019/20 (table 002) is yet to be published.

Table 002: Percentage of 'A' roads where maintenance should be considered.

Year	East Sussex Percentage	National Average Percentage	East Sussex Ranking nationally out of 148 highway authorities (note not all authorities participated)
	(%)	(%)	
2013/14 (%)	7	4	105 out of 150
2014/15 (%)	5	4	100 out of 151
2015/16 (%)	5	3	106 out of 149
2016/17 (%)	5	3	103 out of 149
2017/18 (%)	4	3	90 out of 148
2018/19 (%)	5	3	116 out of 147
2019/20 (%)	5	TBC	TBC

2.13.7 Asset condition of non-principal roads

Table 003 shows the results for non-principal roads where the percentage requiring maintenance fell from 9% in 2013/14 to 7% in 2018/19. In 2018/19 it was very close to the national average of 6%. The Council's national ranking in that year was 119 out of 147. This has slightly worsened over the past seven years. The national ranking in 2019/20 (table 003) is yet to be published.

Table 003: Percentage of 'B' and 'C' roads where maintenance should be considered

Year	East Sussex Percentage	National Average Percentage (%)	East Sussex Ranking nationally out of 148 highway authorities (note not all authorities participated)
	(%)		
2013/14 (%)	9	8	99 out of 150
2014/15 (%)	9	7	114 out of 150
2015/16 (%)	6	6	107 out of 150
2016/17 (%)	6	6	107 out of 147
2017/18 (%)	7	6	122 out of 147
2018/19 (%)	7	6	119 out of 147
2019/20 (%)	5	TBC	TBC

2.13.8 Asset condition of unclassified roads

For unclassified roads, as shown in Table 004, road condition was better than the national average in both 2017/18 and 2018/19. The percentage improved from 25% in 2013/14 to 14% in 2019/20. The national ranking in 2019/20 is yet to be published.

Table 004: Percentage of unclassified roads where maintenance should be considered (Course Visual Inspection)

Year	East Sussex Percentage	National Average Percentage (%)	East Sussex Ranking nationally out of 148 highway authorities (Provisional)
	(%)		
2013/14 (%)	25	18	110 out of 130
2014/15 (%)	22	18	109 out of 136
2015/16 (%)	22	16	104 out of 124
2016/17 (%)	19	17	85 out of 128
2017/18 (%)	14	16	52 out of 119
2018/19 (%)	9*	16*	25 out of 118*
2019/20 (%)	14	Tbc	Tbc

*2018/19 was carried out using a different survey method and cannot be directly compared with other years.

2.13.9 The key findings of this review are as follows:

- Good understanding of most of our assets as well as the investment needed to maintain-an accurate and up-to-date asset
- Knowledge of asset location and condition for drainage is not complete, but following best practice will be increased following a risk-based approach
- Ongoing development of Asset Management Approach
- Council road condition targets have continually been exceeded for each Service Year of the current HIS Contract.

2.14 Review of current Performance Framework & Employer's Incentive Scheme

2.14.1 A robust performance management framework was implemented for the current HIS Contract. The performance of the current service is specifically targeted to deliver the following service outcomes:

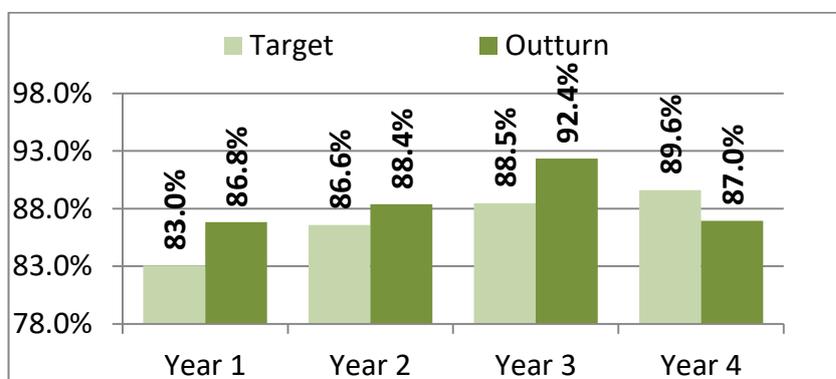
- To have the best network condition for the investment available (principle requirement) and:
 - Improve asset condition
 - Promote economic growth
 - Reduce the level of third-party claims
 - Provide value for money
 - Promote local engagement, and
 - Improve customer satisfaction and communication

2.14.2 Service Performance Indicators (SPIs) have been developed to align to the achievement of the above service outcomes. A total of 24 SPIs measure a number of performance areas:

- Operational Delivery
- Sustainability
- Safety
- Asset
- Stakeholder

2.14.3 A summary of the annual targets and Service Provider's results for Service Years 1-4 is included in Figure 003.

Figure 003: Bar chart of Service Provider's annual performance in comparison to annual target



2.14.4 The Service Provider's performance improved consecutively in Service Years 1-3. In Service Year 4 performance dropped, mainly due to a change in the Service Provider's organisational structure which had an impact on customer responsiveness and the overall quality of service delivery, which was further compounded by severe weather during the operational winter period.

2.14.5 Employer's Incentive Scheme

2.14.6 The Employer's Incentive Scheme financially rewards the Service Provider in any Service Year for achieving levels of overall performance that meet or exceed the Council's requirements. However, if the annual level of performance is not achieved the Service Provider may be penalised financially. The Service Provider earned a gainshare (financial reward) payment in both Service Year 1 and Service Year 3 by achieving the required annual performance level and all 24 SPIs being within 10% of their respective individual targets. However, gainshare was not earned in SY2 as three of the 24 SPIs did not meet their minimum targets nor in SY4 as six of the 24 SPIs did not meet their minimum targets.

2.14.7 The key findings of this review are as follows

- The Performance Framework is robust, and some individual targets are stretching
- The Employer's Incentive Scheme appropriately influences the Service Provider's approach to service delivery
- Overall annual performance improved for the first three Service Years of the HIS Contract
- Some SPIs need a more in-depth review than others as some consistently meet and/or exceed their respective targets whereas some are more inconsistent
- A full review of the Performance Framework and Employer's Incentive Scheme will be completed when developing the DBC. This will include the following:
 - What changes need to be made to the SPIs in order to meet the Council's Strategic Priorities and the new contract service outcomes
 - What new SPI's need to be introduced
 - How can the SPIs be reported more efficiently
 - Which SPIs should be linked to the Employer's Incentivisation Scheme in the future

2.15 Review of Future Service Outcomes

2.15.1 In preparing this OBC, a draft set of future service outcomes for the delivery of highway services in East Sussex have been produced in conjunction with Scrutiny Member Reference Group as follows:

Table 005: Comparison of proposed new service outcomes and current service outcomes

No.	Council Key Priority Outcomes	Proposed new Highway Service Outcomes	Current Highway Service Outcomes
1	Making best use of resources (15)	Support initiatives that deliver carbon neutral services, schemes and incentives	New
2	Driving sustainable economic growth (2)	Optimise and improve performance for all users and support the local growth agenda	To have the best network condition for the investment available & Improve asset condition
3	Making best use of resources (14) & Driving sustainable economic growth (2)	Enhance the local economy through network expansion and improvement	Promote economic growth
4	Making best use of resources (13)	Sustain a financially resilient service that delivers best value with the resources available.	Provide value for money
5	Making best use of resources (11 & 12)	Engage effectively to understand and meet the needs of our citizens and communities	Improve customer satisfaction and communications
6	Making best use of resources (13)	Embrace best practice, innovations and new technologies	New
7	Making best use of resources (12)	Develop and sustain collaborative partnerships that deliver the objectives of all partners	Promote local engagement
8	Driving sustainable economic growth (1 & 3)	Attract, develop, empower and retain the best people	New
n/a	n/a	n/a – this was a specific issue for the Council when the current contract was being developed. This is no longer the case, as the outcome has been achieved.	Reduce 3 rd Party Claims

2.15.2 These draft service outcomes were produced with input from the SMRG via a workshop that was facilitated by Proving Services Ltd. A final set of proposed service outcomes and specific operational and contractual key performance indicators will be produced during the DBC stage.

2.16 Review of Compliance Audits

2.16.1 The HIS Contract Performance Framework is underpinned by an audit process as set out in the contract, which includes the provision for the Council to undertake three different types of audits. A rolling audit programme and sample-based approach has been conducted throughout the duration of the service. Table 006 sets out an overview of the number of audits completed to date.

Table 006: Internal Compliance Audits Completed

Audit Type	SY1	SY2	SY3	SY4
Performance Audit	8	7	6	10
Works Delivery Audit	0	2	1	1
Non-Performance Audit	0	0	0	0
Total	8	9	7	11

2.16.2 In addition to the 35 internal compliance audits that have been undertaken, a number of audits have been completed by the Council's Audit department, as well as commissioned audits by 3rd parties. Details of these are set out below:

2.16.3 ESCC Internal Audit

- 1. A review of the proposed New Highways Contract was completed in 2015:**
 - This audit found full assurance with the proposed contract management.
- 2. A review on the Highway's Contract Management July 2017**
 - This audit found reasonable assurance in respect of the contract management controls being in place.
 - An action plan for improvement was agreed and has been implemented.
- 3. A review of Cultural Compliance – Highways Contract Management Group May 2020**
 - The audit found partial assurance in respect of compliance with relevant Council policies and procedures.
 - An action plan for improvement was agreed and has been implemented.

2.16.4 Independent 3rd Party Audits

- 1. Touchstone Renard Review of the CMG October 2017;**
 - Focussing on the Council's Contracts Management Group structure, governance and effectiveness;
 - Touchstone Renard are an independent management consultant
- 2. Red Ray audit into Highways Infrastructure Service April 2018;** The purpose of the review was to identify issues that present a risk to the Employer, particularly with regard to Service year-end outcomes. RedRay Ltd are an independent business management consultant.

2.16.5 The key findings of this review are as follows

- The completion of audits is a robust approach for identifying areas for improvement.
- The audits have demonstrated that there have been improvements each year
- Any audit issues identified will be reviewed within the DBC stage.
- There needs to be consideration at the DBC stage to have greater alignment of compliance activities and performance (SPI's).
- The DBC will review the current audit regime and consider proposals for inclusion within the next contract.

2.17 Review of Customer Satisfaction

2.17.1 It is recognised that one of the most significant challenges the service has faced during the current contract has been the successful implementation of a customer focused ethos.

2.17.2 Reviewing the results of the relevant SPIs, and the feedback from key stakeholders during engagement exercises as part of the HSRP, it is clear that over the last four years customer satisfaction has not improved and has either remained static or declined.

2.17.3 Table 007 highlights the results of the Council as part of the national NHT Survey since 2016. This demonstrates the sentiment that satisfaction with the service has not improved. Although it is worth noting that this is a similar trend across the Country with the national average also declining and may therefore demonstrate a more widespread dissatisfaction with the road network.

***Table 007: NHT Customer Satisfaction Data (% satisfaction)**

KBI number	High level resident satisfaction indicators	East Sussex 2016	East Sussex 2017	East Sussex 2018	East Sussex 2019	East Sussex 2020	National average (2020)
KBI25	Street Lighting	61.9	60	59	61	59	64
KBI18	Management of Roadworks	53	51	53	54	50	50
KBI26	Highway Enforcement / Obstructions	48.3	50	45	49	44	45
KBI24	Highway Maintenance	48.8	50	47	49	45	50
KBI23	Condition of Highways	28.7	27	23	27	22	36

2.17.4 With regard to the Customer Satisfaction SPI 20, under the HIS Contract, the results for this have steadily declined since the commencement of the service, with the SPI being one of the six that failed in Service Year 4. It is also recognised that since the start of the current HIS Contract, the demands of customers and stakeholders have changed, with a need for more immediate response particularly with the development of social media channels. There is a greater need for more innovative ways to manage increasing customer expectations in the future.

2.17.5 Key Findings of this review

- Customer satisfaction of highways services (Table 007) has continually decreased since 2016, this is part of a national trend
- There needs to be a more consistent approach to customer relations and communications for all those using the service, as well as ensuring the department is complying with the Council's Customer Charter.
- Need to improve timeliness and consistency of communications
- Customer Contact Centre resources need to be resilient to deal with seasonal changes in correspondence volumes.
- Quality of customer responses remains a high priority. Ethos should be right-first time and on time.
- Table 001 shows the Council road condition targets are continually being met whereas customer satisfaction of the condition of highways (Table 007) is on a downward trend.

2.18 Review of Business Needs

2.18.1 Business needs are the strategic reason(s) why the HSRP exists, without these reasons the HSRP would not be needed. Essentially the business needs are the main drivers of the HSRP There are two key external drivers and one internal driver. These are as follows:

- **Statutory Duty** – The Council as the Highway Authority has a statutory duty to maintain and manage the highway network in a safe and usable condition. This principle should be applied to all decisions affecting policy, priority, programming and the implementation of highway works.
- **Contract Expiry** - The current contract ends in April 2023; a new arrangement must be in place by this date to ensure adherence to Council's Procurement Standing Orders and continuity of service delivery.
- **Best use of Resources** - A key Council priority remains making the best use of resources. This is to ensure the most efficient and effective service delivery that provides maximum value for money.

2.18.2 A high level review of the Council's statutory duties has been completed, (Appendix 002). This aspect of analysis looked at the current statutory and legal obligations on the Council as the Highway Authority, in respect of managing and maintaining the network.

2.18.3 In broad terms the Council has a statutory duty to maintain the highway network at public expense in a safe and usable condition. This is strengthened and supported by other legislation and regulations around the environment, health and safety and other guidance and standards such as Well-Managed Highway Infrastructure Code of Practice (2016).

2.18.4 A full review of the of the statutory requirements (Appendix 002) and what they mean in terms of outcomes and obligations for the Council will be explored future in the DBC.

2.19 Review of Business Needs - Identified Areas of Enhancement

2.19.1 To fully understand potential areas of change, four engagement exercises as set out below have been delivered with staff across both the Service Provider and the Council, as well as with County Councillors who are part of the Scrutiny Member Reference Group. These are as follows:

2.19.2 The first engagement exercise was delivered with the Council's CET departmental teams who regularly interact with the Highway Service. The exercise involved carrying out SWOT (Strength, Weaknesses, Opportunities and Threats) analysis, and provided an opportunity for the teams to share their experiences of the service. Upon analysing the information, the following areas of focus were identified;

- A need for all departments to work more collaboratively and share best practice more proactively.
- Clear service levels agreed from the outset of the contract for those other Departments which engage regularly with the service, with clear accountability over roles and responsibilities.
- Service Provider will need to develop their understanding of the Council as a whole and set out a clear plan on how to work with its other departments
- Potential to develop department specific performance indicators

2.19.3 The second engagement exercise was delivered with the Council's existing Contracts Management Group for the Highways Service. The exercise involved each team formulating a record of what lessons they believe have been learnt over the life of the contract. Upon analysing the information, the following areas of focus were identified;

- Ensuring all works are delivered as instructed and that the quality is of a good standard.

- Where works aren't delivered as expected, ensuring there is a robust process in place to rectify and address the issues identified.
- Effective relationship management, ensuring a quality service is consistently provided to key stakeholders such as Councillors and other Local Authorities.
- Service Provider needs to ensure all their staff have detailed understanding of the Contract, and that an effective training plan (joint if applicable) is in place to maintain this.
- Improve and streamline commercial processes, in particular for final accounting of works.
- Ensure an effective Asset Management system is in place to store information about the highway network and the Council's assets.

2.19.4 The third engagement exercise was delivered with the Service Provider's staff. The exercise involved sending out a survey asking for views on the current arrangements, and the impact the arrangements have had on them successfully delivering their jobs. Upon analysing the information, the following areas of focus have been identified;

- In the next contract there needs to be greater alignment between the ethos of the Service Provider and the Council.
- Needs to be greater clarity over roles and responsibilities between those that work for the Service Provider and those for the Council is needed.
- A more detailed and robust training programme on the contents and requirement of the contract is needed, at a much earlier stage.
- It is felt that processes are admin heavy, and that in the next contract these need to be reviewed and made more efficient, to improve the timeliness of the service being provided.
- Ensure it is clear from the outset what level of staff resources are needed to ensure the service remains resilient throughout the year
- There needs to be a review of the current SPI process and what is required by the Service Provider to evidence their performance.

2.19.5 The fourth engagement exercise was a workshop delivered with the Scrutiny Member Reference Group for the Re-procurement Project. The session involved discussing Members' experiences with the service, and what they felt needed to be included. Upon analysing the information, the following areas of focus have been identified;

- More consistency with communications, with a more proactive approach to sharing key information with Members and Town/Parish Councils
- Quality management needs to improve, with the Service Provider taking more of a proactive approach and managing the quality of works more closely.
- Taking a more innovative approach to repairing the network and looking at how the department can further help to support communities.
- Timeliness of communications and delivery of works needs to improve, and clear timelines need to be provided to all stakeholders
- Ensuring resilience within the Service Delivery Model to deal with those times where there is an increase in demand for the service.
- Encourage the right behaviours and working culture for the contracting parties
- Review the delivery of cyclical services, in particular grass cutting and the timing of these works.

2.19.6 Considering the results of the four engagement exercises it has been determined that the following are the priority areas of change in the next contract:

- Having a strong Customer ethos, truly putting them at the centre of everything the departments does. This will include building really strong relationships with Members, taking a proactive approach to the service being provided to them
- Develop a robust quality management approach which ensures from cradle to grave it is clear what is expected and what service level is required.
- Review of current SPIs, ensuring they drive the right behaviours across the service
- Ensure efficiency across all work processes, and that all staff have a detailed understanding of the contract and its requirements.
- Develop a working environment where innovative thinking is engrained, and staff are constantly seeking to explore other ways of working more efficiently.

2.20 Review of Soft Market Testing (SMT) activities

2.20.1 The objectives of the SMT are:

- Gauge market interest in the provision of services on behalf of the Council
- Identify the most appropriate procurement option
- Seek industry views in respect of how potential Councils/partners might approach the delivery of the service having regard to local circumstances, national performance indicators, relevant legislation and the Council's aims
- Identify external influences and constraints on the market
- Identify optimum operational processes/working practices
- Identify new technologies/innovative working practices that would lead to improvements in cost, speed, dependability, flexibility and quality of service delivery

2.20.2 An overview of the planned SMT activities is set out below:

Activity Number	Description of activity	Status
Activity 1: Proving Solutions Ltd market engagement	This stage of the pre-market engagement exercise was initiated by Proving Services Limited on behalf of East Sussex County Council and the other six participating authorities. Thirteen private sector providers were interviewed, including director level representation from each organisation. All participants provided honest, open and constructive views.	Complete
Activity 2: Information Sharing	Following on from activity 1, we reviewed the findings and noted that a number of providers have made a number of statements as well as posing a number of questions. Based on the current stage of our re-procurement project we provided outline answers to these questions and issued a follow up questionnaire to the thirteen providers.	Complete
Activity 3: PIN & OBC engagement	Following the publishing of the OBC in January 2021. We shall be carrying out some form of engagement regarding our shortlisted options. It is likely a Prior Information Notice (PIN) will be issued and the engagement activities will be offered to the whole market.	Planned
Activity 4: DBC engagement	As a final activity prior to formally launching the procurement process. The exact scope and purpose of this activity will be confirmed nearer the time.	Planned

2.20.3 The key findings of Activity 1 & 2

- Service Providers may become increasingly selective in which contracts they bid for in the future.
- Service Providers are seeking to work with authorities that are willing and able to build truly collaborative and strategic partnerships; based on trust, and for the benefit of all parties.
- An outcome-based contract is preferred compare to prescriptive based specifications
- An integrated or small number of single providers, working as a collaborative partnership, provides the best opportunity to realise efficiencies, exploit innovation and new technologies, and access specialist skills and additional capacity.
- The length of contract, ideally 8-10 years. The longer the contract the greater the opportunity and incentive to invest in innovation that improves outcomes and reduces costs.
- There is genuine interest in working with ESCC and participating further in SMT.

2.21 Benefits

2.21.1 A full benefits realisation plan will be developed as part of the DBC. This will establish and identify benefits based on the Council's priorities and objectives as well as specific highways needs and requirements. Potential strategic benefits to be realised upon project completion are as follows:

- Increased value for money without a drop in service quality, whilst effectively maintaining the road network and its associated infrastructure
- Increase in efficiency and effectiveness of delivery to achieve the Service outcomes
- A robust contract enabling all parties to work productively and cooperatively
- Improve the current performance of the Highways Service where the SPIs evidence that change may be needed
- Ensure ESCC remains an attractive client to the market
- Increase stakeholder satisfaction with the road network
- Delivering best practice

2.21.2 There will be a clear emphasis on developing a model that contributes to the wider corporate aims of improving efficiency when delivering core services. The new SDM will be designed to ensure flexibility and enable effective management of any unforeseen events that may arise during the life of the contract.

2.22 Key Risks

2.22.1 The project has identified the key business, service and external risks through the development of a project risk register. The register is being monitored by the Project Board, with each of the potential risks being ranked by scale of impact and probability of occurrence. Mitigation measures are robustly managed to reduce the scale and impact of risks, and the register will be maintained throughout the life of the Project.

2.22.2 A further risk assessment and mitigation plan will be developed in the DBC. This register will focus on the future SDM and will ensure the appropriate transfer of risk to the organisation best placed to manage it.

2.22.3 The Strategic Risks that remain for the HSRP are contained with the following table:

Table 008: List of Strategic Risks

Risk Ref. No.	Topic	Description of Risk	Impact (expected)	Revised Risk Rating 1 = Low; 4 = High			Status	Proposed or actual Countermeasure(s)
				Impact	Likely	Result		
3	Price	Change in market conditions from previous tender (fee, inflation, strategic pricing)	Potential jump in rates compared to current provider Reduced competition for TSC & Professional Services	High	Moderate	9	Active	Affordability modelling needs to be undertaken at the DBC stage once budgets are also known. Engage in soft market testing to ensure maximum level of competition. Outline to market as early as possible the preferred service delivery model and ask them to consult on it at both OBC & DBC stages to ensure that the market can deliver the preferred service delivery model Ensure stakeholders are aware of potential rise in prices
2	Continuity between bid team and delivery team	Disconnect between bid team who have understood Employer requirements and the proposed approach (tender submission Price & Quality) to meeting them and hand-off to delivery teams who derive their own interpretation. Future SDM is not embedded and benefits are not realised	Promises made within tender submission are misinterpreted or are not delivered Contractor perceives rates tendered are not sustainable, Contractor looks for immediate cost savings	High	Likely	9	Active	Develop an approach that can be included within the tender that sets our expectations / needs and consider quality questions regarding this area / mobilisation plan & transition plan Consider Employer involvement in appointment of key people / delivery team during the procurement phase
1	Brexit	There continues to be uncertainty over the finer details of the agreement and what this could mean for East Sussex.	Impact traffic and customs in Newhaven Possible impact on the supply chain and their resources. Potential aggregate delivery issues	High	Likely	9	Active	Very little input that ESH can have on this risk, other than to follow government advice and when necessary produce contingency plans when needed.
4	Operational Delivery	Withdrawal of Service Provider at preferred bid stage	Delay to project Potential failure to deliver the service Increased costs of putting alternatives in place	High	Moderate	6	Active	Implement emergency protocols, which in some circumstances would result in bypassing CCT procedures to procure works to undertake statutory obligations e.g. winter maintenance, emergency repairs. Commence TUPE arrangements to bring workforce back in, seek specialist advice on this and ensure contract clauses allow for this to happen at earliest opportunity
5	De-mobilisation	Failure to ensure continued service delivery during contract switchover or without a change in service provider	Loss of productivity could result in reputational damage to the Employer. General poor efficiency and value for money from both client and JV staff during times of uncertainty	High	Moderate	6	Active	Continue dialogue with current contractor and ensure contract de-mobilisation plan is executed. Ensure effective mobilisation plan is in place and contract training on the contract changes for TUPE staff when appropriate
6	Covid	Further lockdowns / prolonged (long term) safety measures in place regarding COVID	Delays to the project programme and longer term impacts on contract costs	High	Moderate	6	Active	Robust project management of the project timeline, regular monthly updates. Forecast cost increases to be included within the OBC, but also have been reported corporately.

2.23 Constraints

2.23.1 Highways authorities are constrained in their responsibilities for Highways Maintenance Services as set out in statutory legislation. In preparing the OBC we are not aware of any changes to legislation that would impact on the successful delivery of the project.

2.23.2 The Department for Transport (DfT) have not yet confirmed how highway authorities will be funded in the future, with the current arrangements coming to an end, a new announcement is expected to be made in the New Year. Any new funding arrangements will need to be reviewed in the context of our obligations and legislation, and this will be actively completed within the DBC stage.

2.24 Dependencies

2.24.1 The HSRP is not part of any other Council programme so there are no internal dependencies. However, depending which SDM is selected at the DBC stage, a change in the Council's client management team could be needed to deliver the SDM effectively and meet all the service outcomes.

2.25 Summary of Strategic Case:

Key Strategic Drivers

- **Statutory Duty** – The Council as the Highway Authority has a statutory duty to maintain and manage the highway network in a safe and usable condition. This principle should be applied to all decisions affecting policy, priority, programming and the implementation of highway works.
- **Contract Expiry** - The current contract ends in April 2023; a new arrangement must be in place by this date to ensure adherence to Council's Procurement Standing Orders and continuity of service delivery.
- **Best use of Resources** - A key Council priority remains making the best use of resources. This is to ensure the most efficient and effective service delivery that provides maximum value for money.
- **Carbon Reduction** – to contribute to achieving the targets set out in the Climate Emergency Action Plan June 2020
- **Asset Management** – continue to deliver the service in accordance to the Council's Asset Management Strategy, to ensure the Council attracts future funding opportunities.

Opportunities to Improve

- **Current Success** - There is evidence that the existing arrangements are working well and meeting the Council's Strategic Priorities and the Service Outcomes. The HSRP provides an opportunity to build upon and enhance the current performance levels.
- **Customer satisfaction** - remains low and aspects of current performance indicate the need to improve to ensure all elements of the Council's Customer Promise and Customer Values are consistently delivered. There needs to be a focus on channel-shift as set out in the Council's Core Offer towards self service delivery for stakeholders.
- **Quality Control** – greater consistency for total service area not just Works Activities (schemes).
- **Innovation** – willingness and flexibility to invest and /or accept innovation ideas in partnership with the Service Provider. This includes technology, materials and other best practice processes.
- **Assurance** – provide ongoing assurance to Members with regard to service performance levels.

Strategic Challenges

- **Funding** – long-term funding sources post 2021 from DfT. Insufficient to deliver longer term asset enhancement.
- **Brexit** – unknown at this stage but could impact funding, supply of materials and/or labour.
- **Covid** – unknown at this stage but could result in adapting to new working practices, impact on funding, future demand on network due to modal shift.
- **Public Perception** – managing increased and/or changing expectations of the service.

3 ECONOMIC CASE (OPTIONS APPRAISAL)

3.1 Overview of Approach

- 3.1.1 The purpose of the options appraisal is to identify possible SDMs in which the Council can deliver its future highways maintenance service beyond April 2023. It assesses the relative advantages, disadvantages and risks of different service delivery models. The long list of options is appraised with a shortlist of two options being taken forward for consideration and further development within the DBC.
- 3.1.2 Using assessment criteria set out in Table 011 an assessment has been carried out (see Appendix 003 for more details) against fifteen different options.

3.2 Options Considered

- 3.2.1 The fifteen options that were considered cover a range of the different types of SDMs that are utilised by the majority of local highway authorities. The top five ranked options evaluated at Stage 2 are defined in Table 009.

Table 009: Top 5 ranked Service Delivery Models Definitions

Service Delivery Model Type	Option	Service Delivery Model Variation	Definition
Single Provider	1	Contractor + Consultant (designer) (Separate)	<ul style="list-style-type: none"> • Single external Contractor providing all blue-collar services (either directly or managing a supply chain) with separate single external consultant providing design services. • No legal contractual relationship between the two.
Single Provider	2	Integrated (Contractor + Designer)	<ul style="list-style-type: none"> • Single external Contractor providing all blue collar and design services. (either directly or managing a supply chain) • Single legal contract
Teckal	9	Arms-Length Company	<ul style="list-style-type: none"> • Wholly owned local authority company limited by shares or guarantee.
Mixed Economy	12	Best Option by Function/Service	<ul style="list-style-type: none"> • Each function contracts separately with the best provider; this may be internal or external. For the purposes of this exercise at least one function must be contracted out and at least one function provided in-house (the contracted in function is traditionally the design function).
Joint Venture (JV) Company	7	JV	<ul style="list-style-type: none"> • Two or more arrangements coming together to form a separate legal entity for commercial purposes. For the purposes of this exercise it assumes a public to private JV, with a least one entity being the local Service Provider.

3.3 Summary of top 5 Options

3.3.1 Option 1 – Single Provider Contractor (Works) and Single Provider Consultant (Designer).

There would be a single external Service Provider providing all works services (either directly or managing a supply chain) with separate single external consultant providing design services. This is the fundamental difference of this option compared to Option 2, the works and design accountability is shared between two separate Service Providers. There would be no legal contractual relationship between the two, the Council would manage each contract separately.

This option would require additional resources within the Council Client Team to manage each contract.

Risks associated with this option include potential limitations on the Council to provide an integrated, and consistent approach to service delivery. Having two separate contracts and relationships could make it more challenging to identify responsibility and accountability, and there would need to be detailed risk management plans in place to mitigate this and additional resources.

3.3.2 Option 2 – Integrated Single Provider (Contractor and Designer)

This model is a continuation of the current SDM. The option scores the highest in terms of achievability critical success factors. The transition to this option would be the easiest out of the five options, it would be the least complex to set up and manage and is affordable in terms of the cost of transition. Various opportunities for improvement can be easily identified and some mitigations considered and implemented through the further development of the existing contract documentation.

With this option the Service Provider would be accountable for both design and works delivery which generates economies of scale and enables smarter risk mitigation between design and construction.

Some potential issues with this model include the effectiveness of risk transfer. This will depend on the specific terms of the contract and the nature of the Council's retained contract management function. There would be no ongoing competition between service providers to encourage lower pricing with this option, where self-delivery is provided. However, it is acknowledged that there will be ongoing competition where supply chain resources are utilised.

This option would have the least amount of impact to the service and aligns the closest to the current arrangements.

3.3.3 Option 9 – Teckal

This is where a company wholly owned by the Council would be set up and provide services back to the Council, as a single provider. The common form of corporate vehicle utilised is a private company limited by shares and may be created with a shareholder's agreement that will include a business plan.

This new company would be exempt from the Public Contract Regulations 2015 (as amended) if it satisfies the requirements of the 'Teckal Exemption' as set out in Regulation 12 (1):

- a) More than 80% of activities must be performed for the controlling local authorities;
- b) There cannot be any private sector ownership;
- c) The Teckal company's primary purpose must not be commercially orientated; and
- d) The controlling local authorities must exercise decisive influence over the strategic objectives and significant decisions.

It would not need to be procured by the Council.

Some positive aspects of this option are that the Council would not pay any 'profit' element or a 'risk transfer premium'. The Council would have the ability to respond to reduced budgets or changing priorities and be flexible, without financial liability or commercial renegotiation.

Some potential negative aspects could include that the Council would need to fund/resource the establishment of the arrangement. This is likely to be significantly more

expensive than the other options and the financial and service delivery risks would ultimately remain with the Council.

3.3.4 Option 7 – Joint Venture (public to private)

This option is where a Joint Venture (JV) organisation is created between the Council and a private sector entity (or entities). This would be established by a competitive procurement exercise and the JV once created, as a separate legal entity, would operate as a single provider. With an investment and representation in the joint venture the Council would have additional rights of control and potential return, but it would carry some risk in the delivery of works and services.

Some positive aspects include the private sector may bring a profit motive and focus on efficiency. Any benefits would be shared, and the Council would retain roles as client; shareholder; and in the appointment of directors. This combination offers considerable control.

Some potential negative aspects include difficulties in matching public and private sector cultures in one vehicle for the efficient provision of services (as the JV will be funded by the council through its payments for works and services). Unless the private sector provides extra finance (at a cost) for which it may want a greater share of returns, the Council would continue to hold some financial risk for service performance in the JV.

3.3.5 Option 12 Mixed Economy – Best Option by Function/Service

A key feature of this model is that the provision of function/service is delivered by those that are best placed to do so; this may be internal or external. For the purposes of this exercise, at least one function must be contracted out and at least one function provided in-house (the contracted in function is traditionally the design function).

A series of providers would be procured, and contracts entered into to deliver the various highways related services. This is a simpler version of the framework option as the providers would be procured to deliver particular packages of works and/or services. This provides the opportunity for specialist suppliers to deliver the relevant discrete highway maintenance service elements that they are best placed to deliver.

The Council would retain a team to manage the contracts with the various providers and the interfaces between them.

Some positive aspects of this option include the Council would not pay an overhead to a single provider to manage multiple providers (supply chain) as they would undertake this function themselves.

Some potential negative aspects include reducing the ability for the Council to deliver an integrated service and consistent approach to service delivery; the Council bearing the risk of any interface or inter-dependency issues if performance is poor; and the Council requiring a larger multi-skilled client contract management team.

3.4 Options Appraisal Summary of Methodology

3.4.1 Included within Appendix 003 are the detailed methodology and findings. It is based on work that was undertaken by an independent consultant, Proving Services Ltd, as well as additional considerations based on discussions with other local highway authorities that have adopted some of the different types of SDMs, and an assessment of the Council's local context. The initial Options Appraisal is formed of two key stages:

3.4.2 Stage 1

3.4.3 **Objective** – the objective of Stage 1 was to reduce the long list of fifteen options down to a shorter list of more feasible options to be appraised in further detail at stage 2.

3.4.4 Methodology:

- A workshop was held that identified the potential future strategic outcomes for the next contract which formed part of the options appraisal assessment criteria.
- Once the strategic outcomes were identified, each of the fifteen options were scored against the pre-set evaluation criteria using the Proving Options Analyser Tool, which is a best practice options appraisal toolkit.
- Two further workshops were carried out to appraise the fifteen options against the thirteen Critical Success Factors (CSF's), as set out in Table 010. These CSF's are a combination of those recommended by the HM Treasury Five Case Model methodology and also those pre-set using the Proving Options Analyser Tool.

3.4.5 Outcome:

- Following the three workshops a ranked options list 1 to 15 was produced.
- A recommendation was made to the Highways Service Re-procurement Project Board and the Scrutiny Member Reference Group to reduce the long list to a smaller list of feasible options (5 in number) for further analysis at stage 2. This was accepted by both and the long list was reduced to five.
- The ten options not taken forward to stage 2 were discounted from the project.

3.4.6 Stage 2

3.4.7 **Objective** – reduce the list of five options to a shortlist to be taken through to the DBC stage to then be further developed and appraised in more detail.

3.4.8 Methodology:

- The remaining five options were validated by the Project Team with support from Proving Services Ltd. This included extra evidence gathering and amendments to some scores from the Stage 1 workshops.
- The additional evidence gathered included data and information from other local highway authorities who use the respective service delivery models, market research and evidence gathering from the service.

3.4.9 Outcome:

- Following the validation and moderation of the scores, the final five options were ranked.
- Three of the five options had potential critical barriers to implementation identified against them, as set out in the results section 3.8.
- A recommendation was made to the Highways Service Re-procurement Project Board and the Scrutiny Member Reference Group to discount the 3 options with critical barriers to implementation identified against them, leaving a short list of two options.
- This recommendation was accepted, and the final two options referred to as the "shortlist".

3.5 Table 010: List of Assessment Criteria

Assessment Criteria	Broad Description	Total Number of factors Assessed
Strategic (fit & business needs)	How well the option: <ul style="list-style-type: none"> • Meets the investment objectives, related business needs and service requirements • Provides holistic fits and synergy with other strategies, programmes and projects 	8
Economic (potential Value for Money)	How well the option: <ul style="list-style-type: none"> • Maximises the return on the required investment (benefits optimisation) in terms of economy, efficiency and effectiveness • Minimises associated risks 	4
Management (potential achievability)	How well the option: <ul style="list-style-type: none"> • Is likely to be delivered in view of the organisation's ability to assimilate, adapt and respond to the required level of change • Matches the level of available skills which are required for successful delivery 	6
Commercial Supply-side capacity & Capability	How well the option: <ul style="list-style-type: none"> • Matches the ability of the service providers to deliver the required level of services and business functionality • Appeals to the supply side 	2
Financial potential Affordability	How well the option: <ul style="list-style-type: none"> • Meets the sourcing policy of the organisation and likely availability of funding • Matches other funding constraints 	1

3.6 Table 011: Shortlisted five Options

		Option 2	Option 1	Option 9	Option 7	Option 12
Business Case	Assessment Criteria	Integrated Single Provider (Works & Design) Current SDM + lessons learned	Single Provider Works Single Provider Design	Teckal	JV (Public to Private)	Mixed Economy (Best Option Function)
Strategic (Strategic Fit & Business Needs)	Improvement & Development of the Highway Infrastructure (optimise)	66	66	100	100	100
	Improvement & Development of the Highway Infrastructure (Enhance)	100	66	100	100	66
	Customer Focus	66	33	100	100	33
	Make Best Use of Resources	66	66	66	66	66
	Collaboration	66	100	100	100	66
	Innovation & Technology	100	66	100	66	66
	People	100	66	100	100	66
	Carbon	66	66	66	66	66
Economic (Potential VFM)	Economy	66	66	33	33	66
	Effectiveness	100	100	100	100	100
	Stakeholder Value	100	33	100	66	100
	Efficiency	66	33	100	100	66
Management (potential achievability)	Complexity (Inherent Risk)	100	66	33	33	33
	Capability & Capacity	100	66	33	33	33
	Authority Readiness	100	66	0	0	33
	Governance & Reporting	100	100	66	33	66
	Partner Management	100	100	66	66	66
	Cultural Alignment	100	100	0	0	0
Commercial (Supply-Side capacity and Capability)	Provider Readiness	100	100	33	0	66
	Sector Success Stories	100	100	33	0	66
Financial (potential affordability)	Affordability	100	66	0	33	33
Strategic Total		79	66	92	87	66
Attractiveness Total		83	58	83	75	83
Achievability Total		100	85	29	22	44
Overall Totals (%)		87%	70%	68%	61%	64%
		1st	2nd	3rd	5th	4th

Options 3,4,5 (0's in red) have critical barriers to implementation

3.7 Options Appraisal Results

- 3.7.1 The full results of the scored fifteen options are set out in Appendix 003. A summary of the results of the top 5 options that were validated at Stage 2 is in Table 011.
- 3.7.2 The assessment shown in Table 012, was scored against the assessment criteria in Table 010. This has taken account of the critical success factors for the project and the service outcomes set out in Table 005.
- 3.7.3 Each assessment criteria were scored against predetermined evaluation criteria as set out in Appendix 003, the scoring matrix is 0,33,66,100. Where 0 is not scored, or for this option, this factor is a critical barrier to success and 100 is where this option would be equally as good or better than the current arrangements.
- 3.7.4 The critical success factors (assessment criteria) that have been identified as critical barriers to implementation are highlighted in red above.

3.8 Options Discounted at stage 2

3.8.1 Options 9,12,7 have some potential critical barriers to implementation and therefore should not be taken forward to the DBC. Further detailed evidence and the assessment criteria is included in Appendix 003, in summary these critical barriers are as follows:

- **Option 9 Teckal**
 - Affordability: Estimated an extra £1m in set-up costs
 - Authority Readiness: Low or unknown Political appetite
 - Cultural Alignment: Council's organisational cultural alignment is low
- **Option 7 – Joint Venture (JV)**
 - Sector Success Stories: There is no evidence of this in the market
 - Provider Readiness: There is low appetite from the market to form a JV.
 - Authority Readiness: Low or unknown Political appetite
 - Cultural Alignment: Council's organisational cultural alignment is low
- **Option 12: Mixed Economy (best option by function/service)**
 - Cultural Alignment: Council's organisational cultural alignment is low

3.9 Shortlisted Options

3.9.1 The following options were identified to be taken forward together through development of the proposal. These two options represent the best opportunity for value for money for the future delivery of highways services.

- **Option 1 Single Provider Works and Single Provider Design**
- **Option 2 Integrated Single Provider (Works & Design)**

3.9.2 The assessment of the five options as set out in Table 011, shows that Options 1 & 2 are ranked the highest and subject to high level affordability modelling within the Financial Case (Section 5), these should be taken forward to the DBC for further development.

3.10 Options Assurance

3.10.1 The two shortlisted options are further endorsed through the Options Study activity led by Proving Services Ltd, which comprises of eight local authorities all completing individual options appraisals for their respective future highways SDMs. Of all the scored options across the eight authorities, on average, Options 1 and 2 were ranked the highest overall. Table 012 gives a summary of the average ranking, with a detailed report provided by Proving Services Ltd included in Appendix 006.

Table 012: Service Delivery Model average ranking for all 8 authorities.

Option Number	Service Delivery Model	Overall Ranking Position	Ranking at Individual Authority Level
Option 2	Contractor + Designer (Integrated)	1 st	1, 2, 3, 3, 3, 3, 5, 6
Option 1	Contractor + Designer (Separate)	2 nd	1, 1, 2, 2, 3, 5, 7, 8
Option 12	Best Option by Function	3 rd	1, 1, 2, 4, 4, 7, 7, NS
Option 4	Function Orientated Provider	4 th	1, 2, 2, 4, 4, 4, 6, 7
Option 15	Primary Design + Add On	5 th	1, 1, 1, 3, 5, 6, 6, 9
Option 9	Joint Venture	6 th	3, 6, 7, 7, 8, NS, NS, NS
Option 11	Cyclical & Reactive In-House	7 th	4, 4, 5, 5, 8, 8, 10, NS
Option 9	Arm's Length Company	8 th	2, 5, 5, 8, 9, 10, NS, NS
Option 14	All In-House	9 th	5, 6, 6, 8, 12, NS, NS, NS, NS
Option 3	Multiple Providers	10 th	2, 7, 8, 9, 10, 10, 12
Option 6	4 Year Framework	11 th	3, 6, 9, 9, 10, 11, 11, 12
Option 16	Shared Service	12 th	7, 8, 9, 10, 11, 11, NS, NS

3.10.1 The overall ranking position is comparable with the individual assessment completed by the Council.

3.10.2 The study concluded:

- The top five options were consistent across the majority of authorities although there were some exceptions. No single option, however, scored consistently highly across the assessment criteria (Strategic Fit, Attractiveness and Achievability). It is likely therefore that some authorities will look to procure a blend of options when they go to market.
- The top ranked options overall are, Integrated Contractor and Designer and Separate Contractor and Designer. Given the majority of participants currently work with only a small number of significant partners under their current arrangements, the transition to these models for these authorities was deemed to be relatively straightforward. This outcome may be somewhat different therefore, for authorities with significant in-house or multiple provider arrangements currently.

4 COMMERCIAL CASE

4.1 Form of Contract

- 4.1.1 The Council's current form of contract for delivering its Highway services is a NEC3 Engineering and Construction Contract (ECC), with modifications to include for the delivery of the design and outsourced service functions.
- 4.1.2 The NEC forms of contract are a family of contracts, based on sound project management principles and clear risk transfer that demand close cooperation and active management from both the client and service provider and are thus ideal for term maintenance and service contracts.
- 4.1.3 During the term of the Council's contract the NEC has published the fourth edition of its suite of contracts, commonly referred to as NEC4. The new form of contract will be based upon the latest published NEC4 forms.
- 4.1.4 The Council will use the most appropriate contract(s) from the suite of NEC standard forms, but to achieve the flexibility required, the standard form will be amended to incorporate best practice, local requirements and the new operating model being proposed.
- 4.1.5 The Form of Contracts being considered are:
- **Option 1 – Single Provider Works & Single Provider Design**
 - Works Contract – NEC4 Engineering and Construction Contract or Term Service Contract
 - Design Contract - NEC4 Professional Service Contract
 - **Option 2 – Integrated Single Provider (works and design)**
 - NEC4 Engineering and Construction Contract or Term Service Contract
- 4.1.6 The Contract(s) will include several payment options (see 4.4) as appropriate to, and dependent upon, the risks and complexity associated with each work or service type.
- 4.1.7 The various payment options will ensure that both the Council and Service Provider have the flexibility to drive and deliver efficiencies and continuous improvement, whilst maintaining a level of return for the Provider.
- 4.1.8 A full review of the appropriateness of the proposed contract forms and payment options will be undertaken as part of the DBC, including any decisions regarding its duration and extensions.

4.2 Specification (Scope)

- 4.2.1 The existing model has shown that a mix of outcome and output specifications have provided both the Council and Service Provider with the flexibility to deliver the complexities of the highway service effectively. A detailed review of the existing specifications will be undertaken, and appropriate amendments made in order to secure the best service possible from the next contract.

4.3 Sourcing options

- 4.3.1 The Council continues to maintain its relationship with its neighbouring highway authorities and continually seeks to maximise any opportunity to secure best value service delivery through collaboration.
- 4.3.2 Due to misalignment of respective contract periods between authorities, there are limited opportunities at present for any joint procurements for the delivery of this service. However, the required public notice of the procurement will be written to allow other local authorities to access any future contractual arrangements. (The public notice will appear in the new government e-notification service called "Find a Tender.")

4.4 Payment Mechanisms

4.4.1 The existing arrangement of a mixed economy, utilising standard NEC payment options A, C and E, determined by work type and funding stream has enabled appropriate risk apportionment to be applied for various works and service types, whilst providing suitable costs and budget certainty.

- **Option A – Priced Contract with Activity Schedule (Model option 1 and 2) Lump sum Core works activities**

This is a fixed price arrangement with the financial risk of carrying out the works at the agreed price being largely borne by the Service Provider. The Service Provider prices the works or services from information provided by the Council and undertakes to deliver the works or services for that price. This mechanism is best applied to works and services where the scope can be established at the outset with certainty and with clearly defined outcomes.

E.g. Winter service, gully cleaning, highway inspections (Core Services)

- **Option C – Target Contract with Activity Schedule (Model option 1 and 2) Priced Works, Schemes**

This is a target price arrangement in which the outturn financial risks are shared between the Council and the Service Provider in agreed proportions. The Service Provider prepares a target price for the works or services from information provided by the Council. If the works or services are then completed for greater than or less than the target price, the liabilities or savings are shared in accordance with the proportions defined in the contract. This mechanism is best applied to works or services where the Service Provider can best drive efficiencies through innovation and best practice, resulting in cost savings.

E.g., Strategic Economic Infrastructure schemes, carriageway reconstruction and resurfacing etc.

- **Option E – Cost Reimbursable Contract (Model option 1 and 2) Emergency/unplanned works**

This mechanism is generally used when the details of the works or services required are difficult to define sufficiently for other pricing mechanisms to be used. The Service Provider is paid their actual costs. This mechanism will generally be used for works that are either of a temporary or urgent nature, difficult to quantify in advance, or require a level of investigation before details can be finalised e.g. emergency works, drainage investigation works.

4.5 Risk Allocation & Transfer

4.5.1 As part of the previous procurement the Council embarked on a transformational journey with regard to its Highway Service provisions, including the outsourcing of a number of services that were traditionally considered to be functions of the Client, such as Highway inspections and Network management. Additionally, a number of separate contract provisions such as highway design, street lighting and traffic signals were brought into the overall single provider service.

4.5.2 Both forms of contract (Options 1 and 2) provide for an outsourced provision of the services and therefore, we can consider that the service risk is no greater than that experienced with the existing arrangements. Indeed, we can foresee a reduction in risk as we now have a fuller understanding of the outsourced service provision.

4.5.3 However, it is worth considering that there are potential new risks that may materialise on the selection of Option 1.

- Two contractual relationships to be maintained, whilst seeking to achieve the overall Service objectives,
- Different and/or conflicting objectives (multiple Service providers),
- Performance management, Employer incentive scheme difficult to administer,
- Risk transfer, design or construction liability issues.

4.5.4 Contract risk allocation is clear and transparent within the NEC forms of contract being proposed for either Option 1 or 2.

4.6 Contract length

4.6.1 The market has suggested that the longer the contract the better it is. Whilst this may be true from a Service Provider's perspective, it may not best serve the needs of the Council and therefore a full review of the contract length including any extensions will be undertaken in the DBC.

4.7 Personnel

4.7.1 The sourcing of the Highways service is a continuation of a service delivery that is the principle responsibility of the Council, therefore all current employees involved in the service, including those provided by the supply chain will be eligible for TUPE transfer to any new provider(s).

4.7.2 The eligibility of staff to transfer to the new provider, does not necessarily mean that all the existing staff will be present in any new arrangements as staff may be offered opportunities within the wider employment of the current service provider.

4.7.3 The future client structure is yet to be determined, section 6.4 sets out an illustration of a potential functional based structure to be further developed at the DBC once the preferred SDM is known.

4.8 Choice of procurement method

4.8.1 The Public Contracts Regulations 2015 (PCR 2015) set out the legal framework for public procurement. They apply when public authorities seek to acquire supplies, services, or works through a contract whose estimated value exceeds published thresholds. PCR 2015 set out procedures which must be followed before a so-called "contracting authority" awards the contract. ESCC is a contracting authority..

4.8.2 The estimated value of this procurement is above the published threshold of £4.7m and therefore the procedural rules set out in the Public Contracts Regulations 2015 (PCR2015) will apply.

4.8.4 Where the estimated value of a works contract exceeds the applicable value thresholds, then these services must be procured using an advertised, competitive procedure that is open, fair and transparent, ensuring equality of opportunity and treatment for all tenderers.

4.8.3 There are four main types of procurement award procedure provided for under the PCR2015; namely, the open, restricted, competitive dialogue and competitive with negotiation procedures. There are no restrictions in the legislation on the use of the open and restricted procedures however the competitive dialogue and negotiated procedures can only be used in certain specified circumstances as set out below.

4.8.4 A detailed review of the procurement routes, considering the benefits and dis-benefits of their use for the Highway Services has been undertaken. This is set out below:

4.8.6 **Open:**

An Open Procedure is suitable for those procurements where requirements can be clearly defined. There is no need for a pre-qualification of bidders, and it is open to all. It means there is a possibly of a significant number of suppliers bidding. Bidders may be less keen to participate in an open procedure if the contract is more complex, and as a result the tender documents require high levels of resource. The cost of preparing a full tender can be a disincentive to participation where the likelihood of success is lower due to the high level of competition.

4.8.7 **Restricted Procedure:**

A Restricted Procedure is where suppliers are required to submit to a pre-qualification assessment based on their technical, financial and professional capabilities. This limits the number of those who are able submit bids and is suitable when you are purchasing services which can be clearly defined at time of tender.

4.8.8. **A Competitive Dialogue:**

A competitive dialogue procedure allows for the flexibility to modify the scope incorporate innovations and negotiation with bidders including the winning bidder (provided this does not modify the essential aspects of the contract or procurement or amount to a distortion of competition). ESCC may use this procedure if one or more of the criteria set out at Regulation 26(4) of the 2015 Regulations are met. These are as follows:

- the needs of the contracting authority cannot be met without adaptation of readily available solutions; or
- the requirements include design or innovative solutions; or
- the contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attaching to them; or
- the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference.

4.8.9 **Competitive Procedure with Negotiation:**

A competitive procedure with negotiation allows the contracting Authority flexibility around whether to negotiate - it is possible to reserve the right (by stating this in the required public notice) not to negotiate and to simply award the contract based on initial tenders submitted. This reservation is not possible in the competitive dialogue procedure. It is also not possible to negotiate following submission of final tenders if you are using the Competitive Procedure with Negotiation.

4.8.10 **Procurement Route Type Summary**

Confirmation of which procurement procedure is recommended will be included in the DBC.

5 FINANCIAL CASE

5.1 Background

- 5.1.1 Works instructed under the current HIS Contract are split into two key categories, namely Core and Works Activities. Core Activities represent the day-to-day roles and responsibilities of the Service Provider in maintaining the service and are priced on a lump-sum basis. Works Activities relate to planned maintenance/improvement works and are instructed at market rates using payment options A, C or E (depending on their nature and complexity), also taking into account the risks associated with both their design and delivery. Note, Works Activities also include the commissioning of professional services (design) and any pre-works site investigation and/or studies as required.
- 5.1.2 The current HIS Contract delegates certain statutory functions of the Council to the Service Provider in relation to both Network Management duties and Third-Party Claims. Both of these functions are separately defined Core Activities for which the Service Provider is paid a lump-sum to undertake.
- 5.1.3 In respect of Network Management, in return the Service Provider manages the South East Permit Scheme for Road Works and Street Works and also collects and maintains fees from parties that are in breach of the duties and functions required of them in, on and about the highway network in East Sussex, undertaking any enforcement as appropriate in executing such duties. All fees and charges recovered are retained by the Service Provider.
- 5.1.4 With regard to Third Party Claims, the Service Provider manages, handles and validates claims arising from an event on the highway network. These are categorised as either Red Claims (claims by third parties against the Council arising out of the condition of the network or performance of the works) or Green Claims (claims by the Council against third parties for damage to the Council's highway assets). The Service Provider is liable for and indemnifies the Council for costs and liabilities incurred as a result of a Red Claim (subject to exceptions) and for Green Claims arranges for any damage to be repaired, recovering their costs from either the perpetrator (where known) or the Council (where unknown). Through a coordinated Highway Asset Inspection, Reactive Maintenance and Third-Party Claims management regime the Service Provider is thereby empowered to reduce the level of third-party claims by maintaining the best network condition within the available investment.

5.2 Current Costs

- 5.2.1 A detailed analysis of costs will be undertaken within the DBC, including a full review of extra in year spend on Core Activities which are not included within the lump sum.

5.3 Cost increases

5.3.1 Inflation

5.3.2 A review of the impacts of inflation has been undertaken, Table 013, based upon the last 20 years of market data. It can be seen that the current prices may increase in the range of 9.5 -18.5%, which represents a cost increase of between £730k and £2.3m per annum, taking the current core service provision from £7,685,473 up to £10,056,633.

Table 013: Inflation

	Price Fluctuation Indices			
	RPIx	RPI	All Engineering	Civil Highway Maintenance
Average annual	2.65%	2.56%	1.72%	1.36%
Forecast to 2023 (7-year contract term)	18.5%	17.9%	12.0%	9.5%
Cost Increase	£2.3m			£0.73m

5.4 Savings

5.4.1 Significant budgetary savings were made in the last procurement, much of which was one-off cashable (£1,404,455, including £1.1m reduction in revenue costs set out in the Council's Medium Term Financial Plan). Therefore, there is very limited scope to secure further savings of this nature through the future service delivery model, however there are further potential savings to be realised within the service provision. The following Table 014 indicates potential changes in base prices dependent upon the option chosen.

Table 014: Potential change in cost.

	Option 1 (Separate)	Comments	Option 2 (Integrated)	Comments
Highway Maintenance - Core Activities	0%	Minimal or no change in operational delivery between two options	0%	Minimal or no change in operational delivery between two options
Highway Maintenance - Works Activities (Schemes)	+10% (+£2-3m per Service Year)	Delivery of design by others resulting in additional risk pricing by Contractor. Minimal opportunities for early contractor involvement. Innovations in design and delivery likely to be limited.	0%	Collaboration and efficiencies in Service Delivery – Joint ownership and common objectives
Professional Services (Design)	+10% (+£0.5-1m per Service Year)	Design rework due to buildability issues. Delays in design completion affecting operational delivery of works	-5% (-£0.25-0.5m per Service Year)	Improved management and monitoring of need and cost by ESCC

5.5 Financial risk

5.5.1 At the time of writing this OBC, there are three significant risks that could affect the affordability of any future highway delivery model,

- The financial impact of COVID-19
- DFT have yet to announce their future funding allocations
- Annual departmental funding cycles and commitments

This OBC is being developed based upon the knowns at the time of writing. Due consideration will be given to the financial risks, as part of the affordability modelling exercise to be undertaken in the DBC.

6 MANAGEMENT CASE

6.1 Project Initiation Document (PID)

6.1.1 The HSRP has been organised into 4 stages as identified in the PID (Appendix 001), which was approved at the first Project Board meeting in January 2020. The PID sets out the objectives, scope, timeframe and governance for the project.

6.1.2 The project is structured in four stages:

Stage	Stage Name	Main Activities
Stage 1	Outline Business Case (OBC)	the analysis & planning stage (small options appraisal - long list to shortlist)
Stage 2	Detailed Business Case (DBC)	detailed options appraisal of shortlist
Stage 3	Delivery of Procurement Strategy	tendering & evaluation
Stage 4	Prepare and engage	mobilisation and Training Contract Start

6.2 Project Governance

6.2.1 A Project Board, Sponsor and Team have been established to develop and deliver the re-procurement strategy and new contractual arrangements.

6.2.2 A Scrutiny Member Reference Group (SMRG) has been established to ensure effective member engagement into the project.

6.3 Project plan

6.3.1 This has been developed by the project team and is responsibility of the project manager to report progress of the plan to the Project Board. The plan covers all four stages of the project however Stages 3 and 4 cannot be fully developed until the DBC is approved which would include the determination of the preferred SDM and also the procurement route to market.

6.4 Potential future client model to deliver highway services

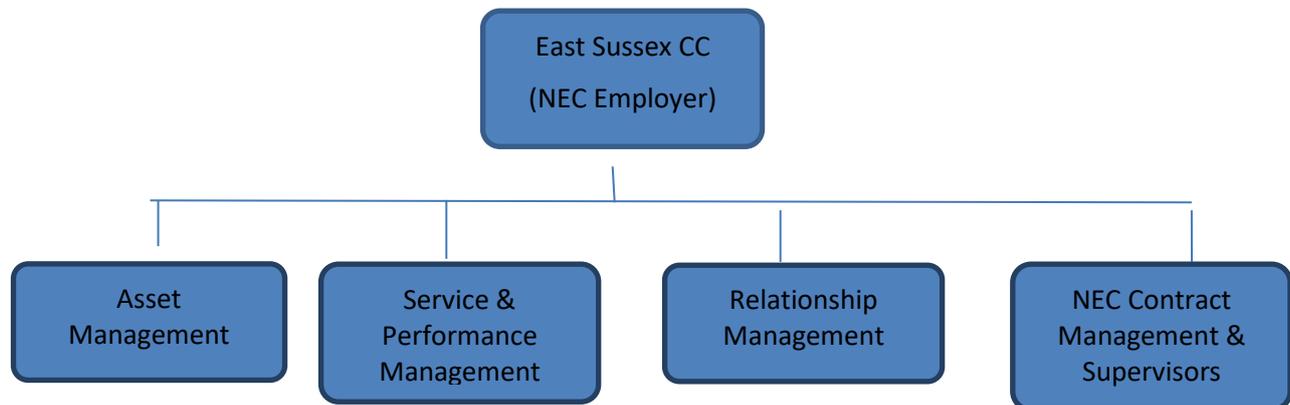
6.4.1 The need to get the best possible value from public spending will always remain a constant for those making spending decisions. The scope of this project does not just focus on the procurement process up to contract award, it also includes the need to ensure that the Council has adequate controls and contract management arrangements in place to manage the future service delivery model.

6.4.2 One of the Council's key priorities is to make the best use of resources, and this re-procurement project provides an opportunity to review the current structure of the Council's highways Contract Management Group structure to ensure it is appropriately staffed and with the right skills before the start of the contract. This is a key lesson from the previous re-procurement. There may be considerable change to how services are provided and therefore the client team needs to be established and trained on the future contract mechanisms, ready to work with the incoming provider(s) during the mobilisation phase.

6.4.3 In preparing this OBC a number of engagement activities has been carried out. A number of stakeholders have identified potential areas where there are opportunities to further develop our contract management capabilities to provide an improved service. Within the next stage of DBC, once the “preferred” service delivery model is known, a client maturity assessment will be carried out to better understand how the Council’s needs can be met.

6.4.4 In preparing this OBC, a future functional based client shape has been developed by the project team to illustrate the critical functions that are required to manage a future Service Delivery Model.

Figure 004: Functional Based ESCC client structure



6.4.5 An overview of the rationale for each of these four functions is set out below.

6.4.6 **Asset Management**

6.4.7 The Asset Management Strategy (AMS) which has been in place for a number of years is robust and effective that the team can move towards a more strategic focus in the next contract. The function will need to maintain and develop a “Whole Life Cost” model for maintenance as well as considering strategic infrastructure growth requirements. The function will be responsible for developing the AMS further to meet the Council’s wider objectives. The Team will also be responsible for managing and updating the Council’s relevant Highway Maintenance Policies through the life of the next contract.

6.4.8 **Service and Performance Management –**

6.4.9 Through the life of the HIS Contract the Council has developed a greater understanding of efficient performance and compliance management and that there is an alternative approach which should be taken when overseeing the quality of the service delivered. This being the case, by focusing our approach and realigning responsibility, a Service and Performance Management function will not only be responsible for the monitoring of the performance framework but will oversee both business case and people development and lead on innovation, carbon neutral projects, and wider service enhancements.

6.4.10 This will include identification and implementation of service improvement initiatives in conjunction with other client functions and the wider Council departments to ensure the Service outcomes are achieved. Business analysis and benchmarking will be essential to ensure the Council can deliver best practice service delivery and demonstrate continuous value for money, whilst maintaining excellent customer service.

6.4.11 **Relationship Management**

6.4.12 It is recognised that over the last five years there have been some inconsistencies in customer service. This is therefore a key area of focus for the next contract, and a Relationship Management function will be responsible for leading on this aspect. Their focus will be the management of Member enquiries and other departmental/corporate communications. They will also need to be an increased focus on overcoming any

relationship issues that develop through the life of the next contract and will develop relationships outside the Council with those key stakeholders who have regular contact with East Sussex Highways. They will support other functions, within highways and the Council's wider CET department, and their relationships will ensure a transparent and collaborative approach is taken whilst working with other Local, District, Borough, Town and Parish Councils in the future.

6.4.13 **NEC Contract Management & Supervisors**

6.4.14 This function is critical to the successful day-to-day delivery of the contract(s) and ensuring overall contract compliance, governance and administration of the contract. The function will fulfil the NEC Project Manager duties which include approving payments, management reporting, claims and dispute resolution and programme management / acceptance. It is recognised that a new Service Provider is likely to be commercially astute in order to achieve their respective profit margins. With this in mind, the Council's NEC Contract Management function needs to be equally skilled and resourced to ensure the Council continues to receive value for money for the commissioned services.

6.4.15 As set out in Appendix 005, where Scrutiny Reference Group Members outlined their areas of improvement, it is recognised that a more robust approach is needed to the ongoing management of the quality of the works being delivered. As such, there will be dedicated NEC Supervisor with additional resources to focus on the quality of works being delivered and address any trends or issues identified. They will be able to provide assurances to Members and other key stakeholders that the future Service Provider(s) are delivering the services to the requisite quality and in line with the requirements of the Service.

6.5 **Risk Management Strategy**

6.5.1 The project manager maintains a detailed Risk Register for the HSRP which is reviewed regularly, and changes reported to the Project Board. The Risk Register has been prepared using the Council's corporate risk template and best practice from the HM Treasury Five Case Model. Each identified risk is categorised as set out in Table 015:

6.5.2 The key risks at this stage of the HSRP are set out in Table 008.

Table 015 Risk Categories

Risk Categories	Description
Business Risks	These are the strategic risks which remain (100%) with the Council regardless of the sourcing method for the project (proposed spend). They include political risks
Service Risks	These are risks associated with the design, build and financing and operation (DBFO) of the proposed spending. They can be shared with the business partners and service providers.
External environmental risks	These risks affect all organisations regardless of whether they are public or private sector.

6.6 **Post Implementation Review**

6.6.1 The HSRP has a post project evaluation strategy, which has two main purposes:

1. To identify areas of improvement through the HSRP lifecycle, through the development of the PID to contract commencement of the new SDM. To achieve

this a series of post project engagement sessions will be completed and a report completed to the Project Board.

2. To appraise whether the HSRP has delivered its anticipated improvements and benefits. To achieve this a mobilisation audit will be completed and at the end of Service Year 1 and an independent 3rd party audit will be commissioned. Additionally, an internal audit can be completed by the Council. In preparing the DBC the detailed post implementation review requirements will be finalised.

6.7 Scope & Objectives of Stage 2 the Detailed Business Case (DBC)

6.7.1 The following is a summary of the key activities and tasks to be completed during the DBC process which will complete the planning stage of the commissioning approach:

- Affordability, benefits & efficiencies of the shortlisted options
- Design the Council's future client structure in relation to either option
- Review the technology options and determine the technology requirements
- Complete Soft Market Testing Activity 3
- Review provision of Core Activities
- Review other areas for inclusion in scope
- Review areas for improvement and make suggestions for improvement
- Design the future contract form and payment options
- Start to prepare the Pre Qualification Questionnaire (PQQ) and Invitation to Tender (ITT) documents including evaluation criteria and assessment panels
- Clarify the future contract budgets and test affordability and scalability
- Assess future demand on the network
- Complete the statutory legislation review
- Develop the future contract performance management regime
- Review Employer's Incentivisation Scheme

7 CONCLUSIONS AND AND RECOMMENDATIONS

- 7.1 In order to continue to meet the Council's legal responsibilities as the Local Highway Authority a range of different types of SDM have been considered. Through the analysis carried out it is clear that there are limited SDMs that meet all of the Council's strategic requirements.
- 7.2 In the last re-procurement in 2015 extensive analysis was completed to determine the project scope, and much of this analysis and therefore scope of service is still valid.
- 7.3 In compiling the OBC engagement sessions were held with the Council's other CET teams that interface with the highways service in order to validate the previous work completed in 2015. The findings of these sessions are included in section 2.19. A number of areas for improvement were identified and will be explored in further detail within the DBC. None of the identified issues at this time suggest that provision of any wider departmental services should be included within scope of this HSRP. However, further consideration as to whether any aspects of these teams services should be included within the future SDM will be reviewed within the DBC.
- 7.4 The initial evidence gathered shows that funding continues to be a challenge in improving the condition of the highways asset, against a backdrop of increasing network usage and stakeholder expectations of the service delivery.
- 7.5 Quality control, effectiveness of communications and overall contract efficiencies were three of the main areas identified by Members which will be further investigated for potential solutions and mitigations within the DBC stage.
- 7.6 Following the completion of the Options Appraisal the two recommended options to be developed in the DBC are;
- Option 1: Separate Contractor Contract & Separate Designer Contract
 - Option 2: Integrated Contractor & Designer Contract (current SDM)
- 7.7 These two options present the best opportunity for the Council to successfully deliver its statutory responsibilities for highways maintenance in the most efficient, effective and economic manner.