



APPENDIX 1

DETAILED BUSINESS CASE

HIGHWAYS SERVICE RE-PROCUREMENT PROJECT

(HSRP)

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Document Control

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Document Summary

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

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Appendix Listing

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001	Project Initiation Document (PID)	
002	Outline Business Case	
003	Service Delivery Model Options Appraisal	
004	Scrutiny Member Reference Group report	
005	Legal Framework and Policy Review	
006	Highway Asset Management Strategy	This document is under review
007	Future Options Study Summary of Findings	

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1 EXECUTIVE SUMMARY

1.1 Introduction

- 1.1.1 This Detailed Business Case (DBC) for the Highways Service Re-procurement Project (HSRP) has been developed following approval by Cabinet in January 2021 to proceed with the recommendations of the Outline Business Case (OBC) using the Council's Strategic Commissioning approach.
- 1.1.2 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. This DBC completes the 'Analysis' stage of the Strategic Commissioning Cycle and has developed the 'Plan' stage in sufficient detail to enable the project to progress to the Procurement 'Do' stage.
- 1.1.3 The DBC sets out where the service is now, an appraisal of two Service Delivery Models (SDMs) and what is needed to enable a SDM to be implemented successfully.
- 1.1.4 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.
- 1.1.5 This document should be read in conjunction with the OBC presented to Cabinet in January 2021 (Appendix 002). Where appropriate, information contained in the OBC is set out again in this document to provide clarity and continuity.
- 1.1.6 This DBC has been developed to consider two options recommended in the OBC and approved by Cabinet in January 2021, namely:
- **Option 1: Separate Contractor Contract & Separate Designer Contract**
 - **Option 2: Integrated Contractor & Designer Contract (current SDM)**
- 1.1.7 The other options presented in the OBC have not been considered any further in this DBC.
- 1.1.8 The two options have been further analysed against revised project assessment criteria which includes a reassessment of the market and the Council's capability and capacity to deliver future highway services. These two options present the best opportunity for the Council to successfully deliver its statutory responsibilities for highway maintenance in the most efficient, effective and economic manner.

1.2 Key Drivers for the project

- 1.2.1 The current Highways Infrastructure Services (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.

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 OBC set out a number of SDMs that were appraised and started a number of the analyse and planning activities with regards to the service. The DBC has further appraised the two shortlisted SDMs (options) in more detail and completed the 'analyse' and most of the 'plan' stages.

1.3.2 In completing the 'analyse' and 'plan' stages, 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 DBC and its recommendation of a preferred SDM for the future delivery of Councils highways service from May 1st 2023.

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 DBC engagement sessions were held with the Council's, Communities, Economy and Transport (CET) teams that interface with the highways service in order to validate the work completed in 2015. The findings of these sessions are included in section 2.27. A number of areas for improvement were identified in the OBC and have been 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, should the Council wish to broaden the scope of the service in the future, the public e-notice will be drafted with sufficient scope and an estimated contract value to allow for additional services to be added.

1.5 Options Appraisal

1.5.1 An options appraisal was undertaken in three stages that broadly followed the well-established HM Treasury Five Case model (Appendix 003). Fifteen options were appraised and reduced to five, then reduced to a shortlist of two which were potentially best aligned to meet the Council's needs.

1.5.2 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 recommended SDM for future service delivery. The SMRG's report on their involvement so far is included in Appendix 004.

1.5.3 The Council has 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 is a bench marking club of local Highway Authorities.

1.6 Recommended Option

1.6.1 Following the completion of the options appraisal the recommended option for the future delivery of the Council Highways Infrastructure Services (HIS) Contract 2023 – 2030 is the following;

- **Option 2: Integrated Contractor & Designer Contract (current SDM)**

1.6.2 This SDM is 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, Option 2 ranked the highest overall.

- 1.6.3 When developing this preferred option, it was evident from the analysis and stakeholder engagement undertaken that there is both, a desire to and opportunities to, enhance the current SDM.
- 1.6.4 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.
- 1.6.5 Key focus areas for future HIS Contract 2023 - 2030 will include, innovation, service quality, communications and contract efficiencies, while maintaining our embedded asset management approach to highway maintenance. These priority areas will be further developed and integrated where possible into the next stage of the project, the delivery of the procurement strategy (stage 3)

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 £339,000. This budget allocation is being funded through the Council's corporate reserves.
- 1.7.2 Currently there are no highways related savings targets against either of the revenue or capital budgets in the Council's 2021/22 Medium Term Financial Plan (MTFP). However, one of the Council's key priorities is to make the best use of resources. This is driven by the Local Government Act general duty which sets out that a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having due regard to a combination of economy, efficiency and effectiveness.
- 1.7.3 Therefore, whilst no official savings targets are currently set in the MTFP for the highways service, the HSRP analysis completed to date seeks to ensure the Council's priority to make the best use of resources is continued to be actively pursued. This will be achieved through determination and selection of the best fit SDM, through to the specifics of the contract design, such as risk allocation, payment options and incentivisation models.
- 1.7.3 With the likelihood that service costs may continue to increase in the future as fixed prices are adjusted for inflation, and bidders fees and pricing strategies that are difficult to predict (see table 026), one of the main objectives of this re-procurement is to mitigate these increases wherever possible.
- 1.7.4 However, a full affordability assessment can only be completed once the tender evaluation has been completed.

1.8 Contract Duration

- 1.8.1 Following soft market testing and experience from the existing contract arrangement with Costain, an initial term of 6 years 11 months years + 7 years extension is the recommended option. It is one month less of a full seven years to allow for a realignment of the Council financial year and contract year.
- 1.8.2 The initial term would be for the period 1st May 2023 to 31st March 2030, with the second term extension period starting 1st April 2030 to 31st March 2037.

1.8.3 Outline Terms of Extensions

- 1.8.5 Subject to meeting the required performance criteria to be agreed, which will be set out in the Invitation to Tender documentation and by mutual agreement, the seven year extension will be awarded as a single block.
- 1.8.6 It is proposed that the award of the extension would allow the Service Provider to adjust their fee and lump sum prices by negotiation This will be attractive to the market.

- 1.8.7 Should the revised Service Providers extension offer be affordable and desirable to both parties the extension could then be awarded. Award of the extension is not mandatory or guaranteed, it is discretionary.
- 1.8.8 Should the adjusted prices not be affordable, or the parties are not in mutual agreement or the agreed performance criteria are not met, a re-procurement exercise would then need to be completed. The approval of an extension or to re-procure would be a Cabinet decision.
- 1.8.9 In order to effectively implement this type of option the decision to award the extension would need to be made by the end of Service Year 5 (March 2028), the invitation to tender documentation will set out a clear process for awarding the extension along with the key aspects of the contract that can be modified and those that cannot be modified.
- 1.8.10 A key benefit of this option, should the extension be awarded, is that the Council only pays out once for direct re-procurement project costs (mobilisation, demobilisation, internal procurement costs, bidders costs), the total of these can be between £3m-£4m.

1.9 Route to Market Procedure

- 1.9.1 A detailed review of the procurement routes, considering the benefits and dis-benefits of their use for the Highway Services re-procurement has been undertaken.
- 1.9.2 It is recommended that a targeted version of Competitive Procedure with Negotiation (CPwN) is used, with the stated intent within the contract notice to award without the need to complete any specific topics of negotiation.
- 1.9.3 The Council would reserve the right to negotiate if deemed necessary once the initial tenders have been evaluated.
- 1.9.4 If there is no need to negotiate any aspects of the tenders, the winning tender will be the highest scoring tender based on the established evaluation criteria set out within the tender documentation.
- 1.9.5 The successful bidder will be selected on the basis of the most economically advantageous tender (a combination of both price and quality).

1.10 Conclusions and Recommendations

- 1.10.1 In order to continue to meet our legal responsibilities as the local Highway Authority a range of different SDMs have been appraised through the completion of both the OBC and DBC.
- 1.10.2 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.
- 1.10.3 Quality control, effectiveness of communications and overall service efficiencies were three of the main areas for improvement identified by Members with potential solutions for improvement to be further investigated, designed and integrated into the development of the contract documentation at the next stage of the project.

1.10.4 The following are recommended for development in the next stage of the HSRP (Stage 3 – Delivery of the Procurement Strategy):

1. **The Council selects Option 2, Integrated Contractor & Designer Contract (current SDM) as the preferred SDM because it presents the best opportunity and the least risk to 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;**
2. **Select the contract duration option of an initial term of 6 years 11 months + 7 years optional extension;**
3. **Agree that a contract is developed and prepared for tendering based on NEC4 form of contract that reflects the Councils requirements and clearly defines the service requirements and the Service Provider’s responsibilities.**

1.11 Next Steps

1.11.1 The next steps are to develop the contract documents for tendering. An E-Notice will be issued in November 2021 that will flag our intention to engage the market for tender and start the formal procurement process.

1.11.2 At the same time as preparing the contract documents at stage 3 we will continue to develop the performance criteria for inclusion in the contract, refine the contract mechanisms, determine the service levels required, develop the organisational change plan and develop the asset management plan.

1.11.3 The following is a summary of the key activities and tasks to be completed in the delivery of the procurement strategy (stage 3):

- Prepare the tender documents & evaluation (SQ and ITT);
- Test the performance management regime;
- Procure the services, and
- Complete the tender evaluations

1.12 Timescales

1.12.1 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)	Completed
Stage 2	Detailed Business Case (DBC)	Detailed options appraisal of shortlist	Cabinet Approval 13 th 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 DBC has been developed following approval by Cabinet in January 2021 to proceed with the recommendations of the OBC using the Council's strategic commissioning approach.
- 2.1.4 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. This DBC completes the 'Analysis stage of the Strategic Commissioning Cycle (see figure 001) and has developed the 'Plan' stage in sufficient detail to enable the project to progress to the Procurement 'Do' stage.
- 2.1.5 The DBC 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 broad assessment criteria (Table 012) which includes a range of critical success factors and the draft Service Outcomes agreed by Members.
- 2.1.6 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.
- 2.1.7 This document should be read in conjunction with the OBC (Appendix 002). Where appropriate, information contained in the OBC is set out again in this document to provide clarity and continuity.
- 2.1.8 This DBC has been developed to consider two options recommended in the OBC and approved by Cabinet on 26th January 2021, namely:
- Option 1: Separate Contractor Contract & Separate Designer Contract
 - Option 2: Integrated Contractor & Designer Contract (current SDM)
- 2.1.9 After due consideration and evaluation the other options presented in the OBC have not been considered any further in this DBC.
- 2.1.10 The two options have been further analysed against a revised project assessment criteria which includes a reassessment of the market and the Council's capability and capacity to deliver future highways services. 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.

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 	
<ul style="list-style-type: none"> Professional Services (Design) 	

2.2.4 The annual value of the current HIS Contract is circa £40 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 £1,660,600 per annum.

2.2.5 It is anticipated that around £280million 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.

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. A detailed report setting out the SMRG involvement and support of the OBC and this DBC is set out in Appendix 004.

2.3.4 The project is structured in four stages:

Stage	Stage Name	Main Activities	Status
Stage 1	Outline Business Case (OBC)	the analysis & planning stage (small options appraisal - long list to shortlist)	Completed
Stage 2	Detailed Business Case (DBC)	detailed appraisal of shortlisted options	Cabinet Approval pending
Stage 3	Delivery of Procurement Strategy	tendering & evaluation	In progress
Stage 4	Prepare and engage	mobilisation and Training Contract Start	Not yet started

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.

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.

2.3.7 Other Services for Consideration

In compiling the OBC and DBC engagement sessions were held with the Council's CET teams that interface with the highways service. The findings of these sessions are included in section 2.27 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.

- 2.3.8 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.
- 2.3.9 The initial assessment undertaken did not suggest any compelling case for their inclusion or not. The contract E-Notice will be sufficient in terms of, scope of services and a broad contract range for the contract value, should the Council seek to explore the future Service Provider's capabilities to extend the contract scope.

2.4 Project Approach

- 2.4.1 In preparing the DBC 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 DBC sets out the principles and options for future services and, from the reassessment of the two options, it recommends a preferred SDM that should provide the best outcome for the Council.
- 2.4.3 An overview of both the Strategic Commissioning Approach and the Five Case Model is set out below.

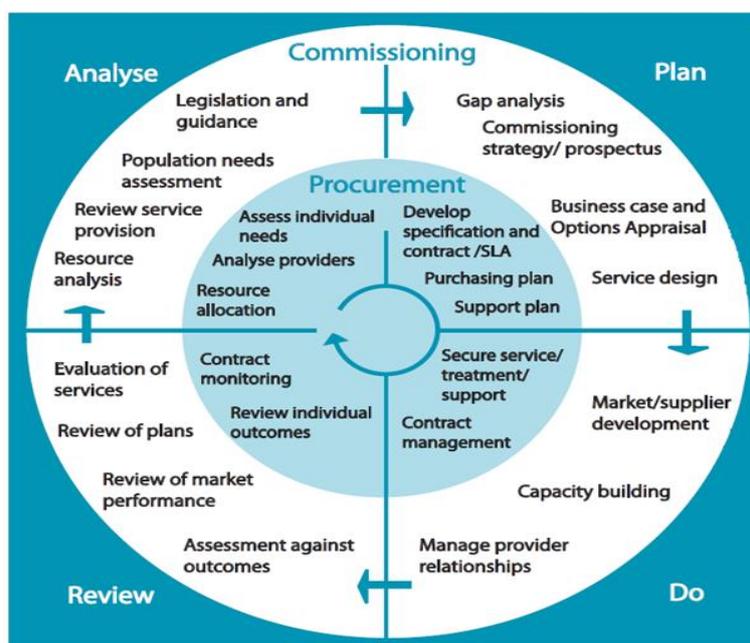
2.5 Strategic Commissioning Approach

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 DBC completes the 'analyse' and 'plan' segments of the cycle. Evidence has been gathered and analysed to understand the evolving needs of all stakeholders including

residents 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’ has been developed as the project progresses. In developing and completing this DBC much of the information from the OBC has been reviewed and refreshed. Through the application of project governance, each of the business cases has been 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	Stages 3 & 4 Delivery of Procurement Strategy & Prepare and Engage	Review any minor changes & Implications	Confirm value for Money	Procuring the solution 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 and 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 shortlist	Outline the procurement strategy	Estimate costs (revenues and capital) for shortlisted options	Proposed management arrangements
		Strategic	Economic	Commercial	Financial	Management
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 in the short and long term

2.8.2 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>. This sets an annual carbon reduction target of 13% per year.

2.9.2 To meet the annual carbon reduction target requires that all possible measures are implemented, rapidly and at scale. By far the largest part of the Council's carbon footprint is from what we procure. The highways contract is currently the Council's second largest contract by value and has a significant carbon footprint. Therefore,

it's essential that the highways contract contributes to delivering the Council's carbon reduction target.

- 2.9.3 The procurement and resulting contract needs to support the aims, objectives and targets set out in the East Sussex Environment Strategy (see: [Environment Strategy 2020 – East Sussex County Council](#)). Key challenges are to reduce carbon emissions, improve local air quality, achieve a growing and resilient stock of natural capital, and achieve a more circular economy.
- 2.9.4 Key objectives of the highways contract which will be an integral part of the specification and performance framework to be designed at the next stage of the project are:
- 1) achieve a 13% p.a. reduction in scope 1 and 2 emissions and from the use of materials. A baseline will be established at the next stage of the project or within the first year of the new contract.
 - 2) Deliver biodiversity net gain (Clear requirements as to what is being proposed for the soft estate and how net gain would be measured will be set out at the next stage of the project or within the first year of the new contract).

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, as set out in Table 023.

2.11 Social Value Successes of HIS Contract

- 2.11.1 A **Social Value Governance Board** was put in place to ensure delivery of the social value commitments made in the winning tender by Costain, throughout the life of the contract. The Social Value Board is made up of members from both Costain and the Council, to give a level of ownership on delivery across the whole contract and to ensure collaboration is encouraged.
- 2.11.2 Some of the key Social Value delivery successes delivered in years 1-5 of the contract are detailed below:
- Community Benefits Challenge: All schemes at Pre-construction stage are considered for additional community benefits e.g. handrails, cycle path, dropped kerb, that can be included where practical.
 - Keeping spend local: Over 70% of the total contract spend is with local supply chains and / or Local Small and Medium Enterprises (SME's).
 - Local Supply Chain Training Programme: Supporting the development of the local supply chain through a programme of learning and development. Over 600 individuals from multiple supply chain organisations have received Health & Safety briefings and inductions.
 - Increasing opportunities for environmental checks being carried out for works, as part of the contract's Environment and Sustainability objectives.

- Community Engagement and delivery of community initiatives: Customer Service Managers & Highways Stewards work with local communities to ensure local people have an opportunity to influence our overall programme, as well as the development of individual projects. In SY5, a total of 45 Community Engagement meetings took place, some had to take place virtually when the Covid-19 pandemic started.
- Citizenship Days: Each member of staff was allocated 2 days per year for voluntary work to support local communities.
- Multiple local Charities were supported via sponsorship, fundraising and promotion.
- Multiple community groups were supported and community projects sponsored e.g. providing traffic management at community events, funding a 'Beat the Street' fitness initiative, delivery of equipment to schools. To date, over 68 local groups have been supported with barriers, cones and any traffic management required.
- Local donations: Offering all surplus materials to voluntary and community organisations free of charge e.g. to support the renovation of local facilities
- Local Materials: Giving priority to the use of locally sourced materials. At the end of year 5, 68% of all materials were sourced locally.
- Offering work experience and traineeships to the local community, specifically targeting Not in Employment, Education and Training (NEET) young people, looked after children, care leavers and young people with learning disabilities. Over 400 hours of work experience has been offered to date.
- School Engagement: The Contractor is actively supporting a number of initiatives to promote careers in Highways and Construction, including Enterprise Advisor and Industry Champion programmes
- Apprenticeships: A successful apprenticeship programme was set up in year 2 of the contract and has delivered 41 apprentices, 5 graduates and 2 Interns to date.
- Adapted and sought out alternate options to meet the promises during Covid-19 pandemic, e.g. providing careers videos and attending online careers events in place of work experience placements

2.11.3 The aim for the next is to build upon these successes.

2.12 Our approach to delivering social value and achieving our ESCC corporate priorities.

2.12.1 The Orbis Procurement Social Value Measurement Charter (the Charter) is used by the Council to measure Social Value commitments. It uses the National Themes Outcomes and Measures (TOMS) which were updated in January 2020. The Charter has 39 social value measures which have been developed and are aligned to the Councils corporate strategy, objectives and local priorities. These measures have been grouped under four main themes: Social, Economic, Environmental, and Innovation. Each measurement has a value associated with it, which is derived from the TOMS. This allows us to quantify the value and evaluate the bids.

2.12.2 The Charter has recently been updated to reflect both the new TOMS values and feedback from the procurement team. The feedback has led to the ability to tailor the Charter to align it to a project's priorities. It will form the basis for the social value assessment and will be adapted to reflect the Council corporate priorities for the next HIS contract, as identified by the Subject Matter Experts (SMEs).

2.13 Social Value Summary

2.13.1 A draft overview of current and likely future priorities under three themes economy social and environment are included in the table 001.

Table 001: Social Value Summary of Priorities

Theme	Corporate Priorities for ESCC Highways Contract
<p>Economy: Develop a strong and competitive local economy</p> <p>(SME: Holly Aquilina & Sam Rhodes)</p>	<p>These are the current priorities and have been largely influenced by the Covid-19 pandemic's effect on the economy.</p> <p>Employment</p> <ul style="list-style-type: none"> - Increase employment opportunities for all unemployed people in East Sussex - Increase employment opportunities for 18-24-year olds - Increase employment opportunities for groups disadvantaged in the labour market <p>Support for Business</p> <ul style="list-style-type: none"> - Increase local public and private spend within the East Sussex economy <p>Building Skills</p> <ul style="list-style-type: none"> - Offer apprenticeship opportunities for local people - Offer training and qualifications to local people <p>Employability</p> <ul style="list-style-type: none"> - Offer work experience opportunities to local people, including 50 day placements to level 3 students doing "T" levels - Provide careers education support in local schools and colleges <p>We would also like to mention two projects that would welcome a partnership approach with an employer. Firstly the ESTAR project enables a supplier to embrace a whole project in a partnership approach. The support could be principally be about jobs and apprenticeships for people living in insecure accommodation, but other support could include offering work experience, reconditioned computers, volunteering time etc. In this way the supplier has a stand-alone project to support and this can provide recognition to the supplier, as well as being able to see benefits of their donations more easily.</p> <p>A second suggestion, which is not really a project but supports an important service within the East Sussex Careers Hub, is that of financially supporting an Enterprise Co-ordinator. This role co-ordinates the appointment of Enterprise Advisers (such as those from Jacobs) to schools and colleges. In the early days of the contract 2 Enterprise Co-ordinators were funded by social value from Costain.</p>
<p>Social: Support the health, wellbeing and independence of local residents</p> <p>(SME: Paul Rideout)</p>	<p>Current challenges</p> <p>The Covid-19 Pandemic has hit the Voluntary Community and Social Enterprise (VCSE) sector very hard.</p> <p>The sector has quickly adapted services to government guidance e.g. closed charity shops, moved to digital and telephone support for people asked to isolate or stay at home.</p> <p>ESCC has worked with funders to establish small grant funds for various organisations but all of them are still "feeling the pinch".</p> <p>Services providing advice on finance and employment are seeing a massive increase in service users. Extra pressure on staff in these orgs.</p> <p>Services providing food and clothing for families have been stretched.</p> <p>The VCSE sector has helped set up the Community Hubs with District and Borough Councils, supporting clinically extremely vulnerable people.</p>

	<p>During the pandemic the VCSE sector had to adapt to digital support, limit face to face support and postpone activities that bring people and communities together.</p> <p>Priorities</p> <p>To gain an understanding of the VCSE Sector in East Sussex please read the Institute for Voluntary Action report - The Contribution and value of the VCSE in East Sussex- you can read a short summary here, or download the full report.</p> <p>Understanding the needs and priorities of the VCSE sector is key to identifying the social value and community benefit that can be generated.</p>
<p>Environment: Protect and preserve the local environment and natural resources in the area</p> <p>(SME: Andy Arnold)</p>	<ul style="list-style-type: none"> • Outline Social value requirements: <ol style="list-style-type: none"> 1) Work with their supply chain to reduce scope 3 emissions (ie. carbon emissions of their suppliers). 2) Support the development of relevant green skills (eg. via apprenticeships, work placements, training).

2.14 Local Transport Plan 2011 – 2026

2.14.1 As the local transport authority, the 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.

2.14.2 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.

2.14.3 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.

2.15 Future network Demand

2.15.1 We want East Sussex to be a place that is easy for our residents, businesses and visitors to move around in and is well served by our roads as well as pedestrian and cycle networks. However, there is an ongoing and increasing demand on these networks to support this aim.

2.15.2 Supporting our economy to recover and grow is one of the Council's key priorities. Fundamental to supporting business confidence and growth is having a transport network which enables employees to get to and from work and the timely movement of goods and services. As the economy starts to recover and in time grow, more businesses will be established, greater numbers of jobs will be created and more goods and services will be traded. This will generate an increased demand for travel on our transport network in the county, particularly our road network as people and goods move around, into and out of the county.

2.15.3 In addition, our Borough and District Councils have set out their housing growth plans in their Local Plans. The delivery of this housing over the next 20 years, particularly in our growth areas around south Wealden and Eastbourne, Bexhill and Hastings; as

well as the south coast towns, will increase the transport demand on our existing infrastructure whether they are travelling on foot, by bike, by bus or in a vehicle. Therefore, the maintenance and enhancement of our transport infrastructure, and ensuring that we have a functioning transport network to meet this increased demand, will be fundamental to supporting the delivery of this housing growth.

2.15.4 With greater emphasis on decarbonising transport, the Government's focus which in turn will be reflected in our updated Local Transport Plan, is towards increasing the levels of walking and cycling as well as bus providing an enhanced role in the transport environment. This will result in increased investment in our pedestrian networks, whether new infrastructure such as new crossing facilities or wider pavements, or the maintenance of the existing asset. Similarly, there is expected to be increased Government funding available for delivering improvements to our existing cycle networks, particularly in our growth areas of Hastings/Bexhill, Eastbourne/South Wealden and the Lewes coastal towns, to encourage more local journeys to be undertaken by bike.

2.15.5 In addition, enhancing the built environment is also a key means of making East Sussex an even more attractive place and investing in place-making initiatives will create the places that people want to visit and live in and attract inward investment. Many local authorities are already investing in improving the public realm, particularly to support the regeneration of their town and village centres. This is expected to continue into the future and the need to maintain these high quality environments will be important as many of these previously retail environments evolve to reflect the changing demands on these areas towards housing, leisure and mixed use developments.

2.16 What is Transport for the South East?

2.16.1 The Council is in partnership with other local transport authorities in the South East and have formed 'Transport for the South East' (TfSE) a sub-national transport body. The partnership brings together 16 local transport authorities, five local enterprise partnerships, 46 district and borough authorities and a range of wider stakeholders from the worlds of transport, business and the environment. Together, all are dedicated to creating an integrated and sustainable transport system that makes the South East more productive and competitive, improves the quality of life for all our residents and protects and enhances our unique natural and built environment. The ambition is to become a statutory body with the powers and funding to drive our strategy forward and help the South East reach its full potential. By speaking with one voice on our region's transport priorities, we're able to make a strong case to government for the investment the South East needs.

2.16.2 Vision Statement

2.16.3 By 2050, the South East of England will be a leading global region for net-zero carbon, sustainable economic growth where integrated transport, digital and energy networks have delivered a step change in connectivity and environmental quality. A high-quality, reliable, safe and accessible transport network will offer seamless door-to-door journeys enabling our businesses to compete and trade more effectively in the global marketplace and giving our residents and visitors the highest quality of life

2.16.4 A full copy of the TfSE strategy including the latest news and the future goals, priorities and principles behind the vision can be found on the on the TfSE website [Transport strategy - Transport for the South East](#)

2.17 Service Analysis Activities

2.17.1 Building on from 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

2.18 Review of Asset Management

2.18.1 The Council has an established Highway Asset Management Strategy (Appendix 006). 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.

2.18.2 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 The Council's Asset Management Strategy is currently under review as part of the current RPP&R process to meet council priorities and resources. The updated strategy will outline our long-term strategic objectives and include the results of recent modelling exercises that are in progress. The new Asset Management Strategy 2021 – 2031 will be included with the Invitation to Tender (ITT) document set to be issued in October/November 2021.

2.18.3 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.

2.19 Corporate Council Road Condition Targets

2.19.1 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 002. 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 002: 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

2.19.2 Asset condition of principal roads

Asset condition has improved since the baseline of 2013/14, as shown in Table 002. 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 003 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 003) is yet to be published.

Table 003: 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

2.19.3 Asset condition of non-principal roads

Table 004 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 004) is yet to be published.

Table 004: 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

2.19.4 Asset condition of unclassified roads

For unclassified roads, as shown in Table 005, 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 005: 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.

2.19.5 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.
- Asset modelling that is currently in progress will be incorporated into the revised Asset Management Strategy 2021-2031

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

2.20.1 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:

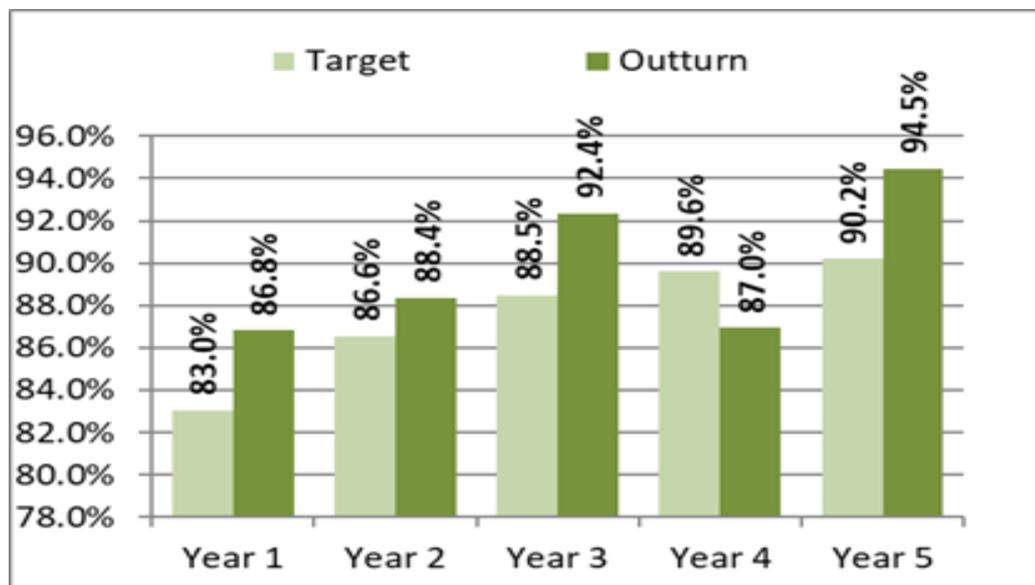
- To have the best network condition for the investment available (principle requirement) and:
 - Improve asset condition
 - Promote economic growth
 - Reduce the level of third-party claims
 - Provide value for money
 - Promote local engagement, and
 - Improve customer satisfaction and communication

2.20.2 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

2.20.3 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



2.20.4 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. While the outturn for Year 5 is not yet final, indications are it will exceed all previous levels for performance and demonstrate that an effective action plan has been implemented by Costain to improve from the Service Year 4 issues.

2.20.5 Employer's Incentive Scheme

2.20.6 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.

2.21 Review of Future Service Outcomes

2.21.1 The OBC summarised the findings from both a broad and detailed analysis of key areas of highway related service delivery including individual service area assessments of the core activities, outline analysis of current costs, market research and maturity, contract options, risks, outline affordability and client maturity modelling. From this analysis a number of new service outcomes were developed and agreed by the Scrutiny Members Reference Group (Appendix 004) summarised as:

- Support initiatives that deliver carbon neutral services, schemes and incentives
- Optimise and improve performance for all users and support the local growth agenda
- Enhance the local economy through network expansion and improvement
- Sustain a financially resilient service that delivers best value with the resources available.
- Engage effectively to understand and meet the needs of our citizens and communities
- Embrace best practice, innovations and new technologies
- Develop and sustain collaborative partnerships that deliver the objectives of all partners
- Attract, develop, empower and retain the best people

2.21.2 As the DBC has been developed through further engagement with Members (see Appendix 004) and reviewing the latest Council priorities the service outcomes have been updated and prioritised. Delivery of the outcomes will also be monitored and managed through a service performance management framework as described in Section 2.18, which will be developed in further detail during the next stage of the project, delivery of the procurement strategy. The proposed five new service outcomes are set out below, in addition to a reminder of the Council's four overarching key priorities:

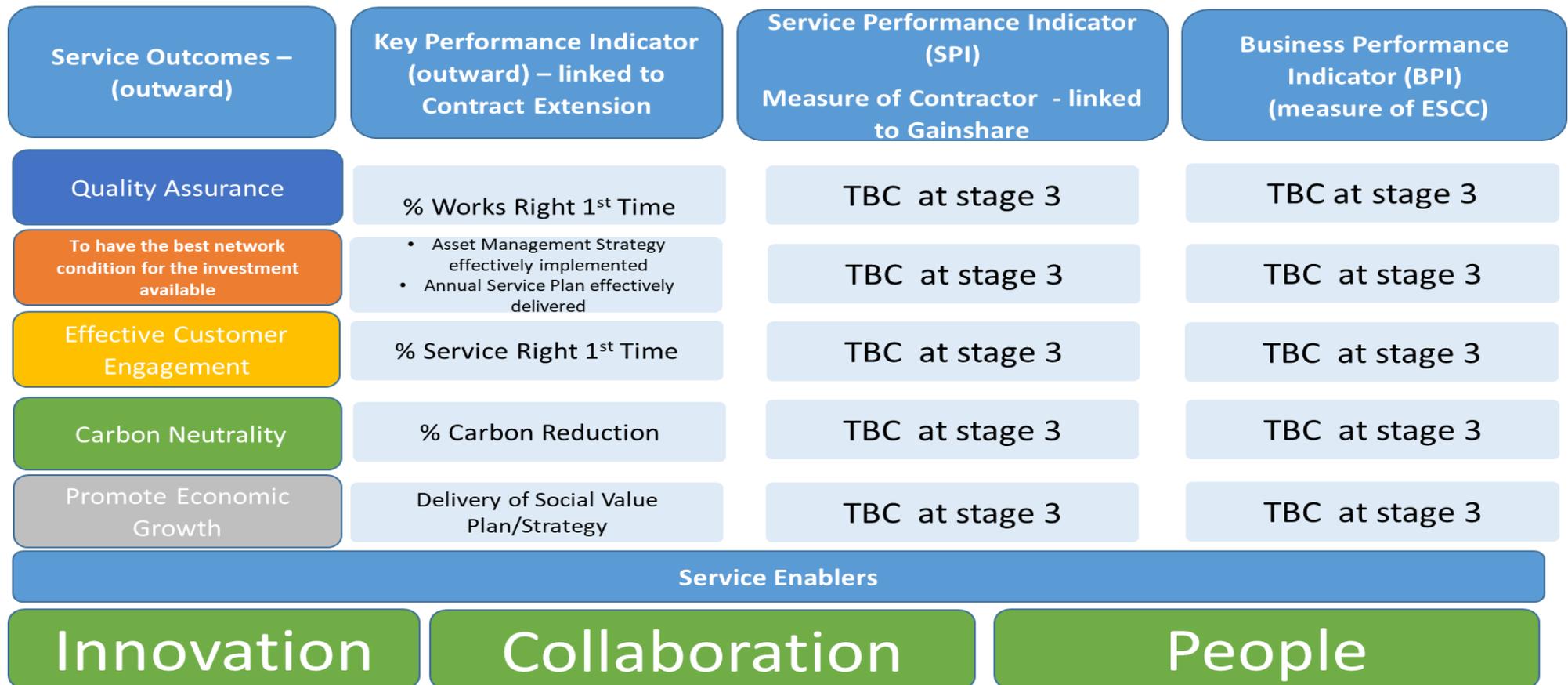
- **Overarching (Authority Level)**
 - Driving sustainable economic growth.
 - Keeping vulnerable people safe.
 - Helping people help themselves.
 - Making best use of resources in the short and long term
- **Proposed Highways Service Outcomes (Contract Level)**
 - Quality Assurance
 - To have the best network condition for the investment available
 - Effective Customer Engagement
 - Promote economic growth
 - Carbon Neutrality

2.22 Outline Future Performance Management, Incentivisation and Governance

2.22.1 Performance management will play a vital role in establishing the successful management and delivery of the service.

2.22.2 In developing this DBC a review of the performance framework has been started and will be completed during stage three of the project. In the future, the Service Providers performance may initially be measured at two levels, through a small number of specific Key Performance Indicators and larger number of Service performance Indicators. An indicative Performance Management Framework (see Figure 004) has been developed in recognition of the future service outcomes (detailed in Section 2.21.2).

Figure 004 – Outline Performance Management Framework:



2.22.3 Table 006 gives a worked illustrative example of how the SPI's will be measured and monitored. Once the the KPIs and SPIs have been further developed and completed at the stage 3 of the project, a detailed data sheet for each measure will be completed and issued to the market as part of the ITT documentation.

Table 006 An example of how the Service Provider's performance of the SPIs will be measured and monitored

KPI No.	Service Outcome	SPI Description*	SPI Criteria*	Frequency of Measurement*	Target Performance*	Weighting (a)*	Actual Performance (b)*	Weighted KPI Performance* (c) = (a)*(b)	Performance Area Weighting* (d)	Performance Area score* (e) = (c)*(d)
1	Quality Assurance	Make safe or correct Category 1a defect	Make safe the hazard or correct the defect within 2 hours of being recorded	Monthly	100%	0.5	90%	45%	0.2	9%
2	Quality Assurance	Correct Category 1b defect	Correct the defect within 5 days of being recorded	Monthly	95%	0.25	97%	24%		5%
3	Quality Assurance	Correct Category 2 defect	Correct the defect within 28 days of being recorded	Monthly	90%	0.25	80%	20%		4%
4	To have the best network condition for investment available	***	***	***	%	***	%	%	0.2	%
5		***	***	***	%	***	%	%		%
6		***	***	***	%	***	%	%		%
7	Effect Customer Engagement	***	***	***	%	***	%	%	0.2	%
8	Effect Customer Engagement	***	***	***	%	***	%	%		%
9	Effect Customer Engagement	***	***	***	%	***	%	%		%
10	Support CO2 Neutral Agenda	***	***	***	%	***	%	%	0.2	%
11	Support CO2 Neutral Agenda	***	***	***	%	***	%	%		%
12	Support CO2 Neutral Agenda	***	***	***	%	***	%	%		%
13	Promote Ecomic Growth	***	***	***	%	***	%	%	0.2	%
14	Promote Ecomic Growth	***	***	***	%	***	%	%		%
15	Promote Ecomic Growth	***	***	***	%	***	%	%		%

* information is indicative (for illustration purposes only), all information is subject to change
 ** figure is for illustration purposes only (used in the example calculation shown in Table 9)

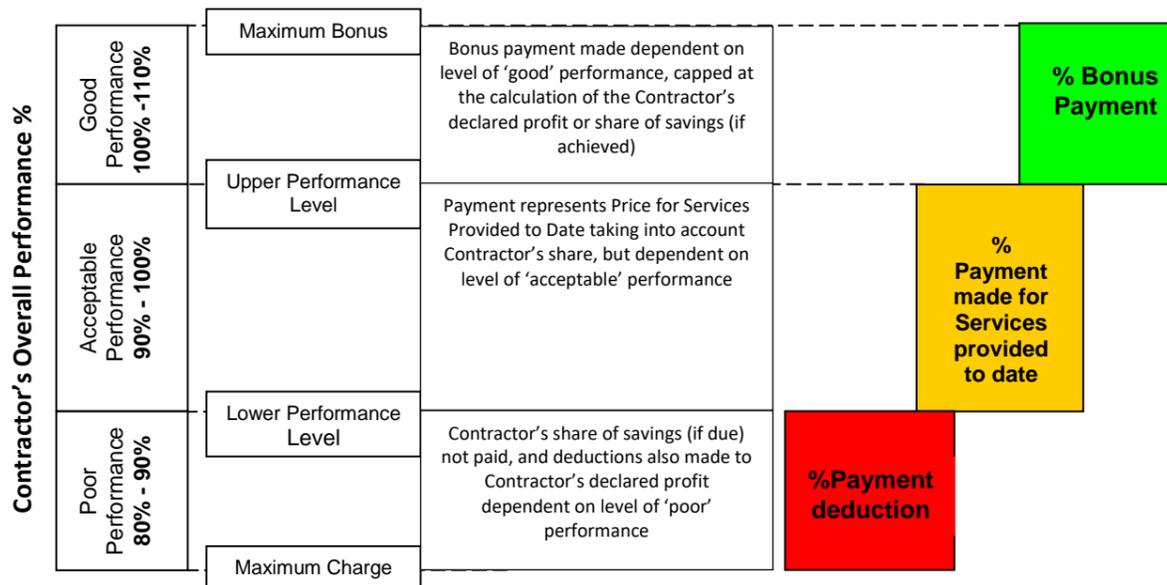
Contractor's Overall Performance	95%**
Overall 'Good' Performance range	100-110%
Overall 'Acceptable' Performance range	90-100%
Overall 'Poor' Performance range	80-90%

- 2.22.4 Overall performance against the service outcomes will be measured and reported year-on-year for trend analysis, through a combination of Key Performance Indicators (KPIs), Service Performance Indicators (SPIs) and Business Performance Indicators (BPIs).
- 2.22.5 Results will be linked directly to the incentivisation and 'penalty' mechanisms set out in the contract. It is envisaged that KPIs will be linked to a gateway process for the contract extension whereas the SPIs will more directly linked the Performance Incentivstion Scheme.
- 2.22.6 The Council's performance will also be measured against the BPIs. These will include detailed measures associated with NEC4 project manager and NEC4 Supervisor roles, such the timely response to contract communications.
- 2.22.7 The Service Provider's performance against the KPIs and SPIs can only be directly linked to the incentivisation and 'penalty' mechanism and contract extension when the Service Provider is fully responsible for the service delivery.

2.23 Outline Performance Incentivisation Mechanism

2.23.1 The Service Provider's overall performance delivery will be focused using an incentivisation mechanism as detailed in Figure 005.

Figure 005 – Performance Incentivisation Mechanism:



2.23.2 In order to demonstrate how the Contract Performance Framework is linked to the Performance Incentivisation Mechanism, a worked example is shown in Table 007.

Table 007 - Example of Performance Incentivisation Mechanism calculation (Acceptable Performance):

Overall Contracts Performance Score for Year 1 of the Contract	Example 1 95% - from Table 6			Example 2 92%		
Target Cost for Total Service Delivery for year 1	£35 million			£35 million		
Actual Cost of Services provided by the Contractor (Actual)	£34 million			£34 million		
Difference between target and actual, known as "Share Pot"	£1million			£1 million		
Contractors Maximum share from share pot (50%)	£500,000	Actual Amount Paid	£250,000	£500,000	Actual Amount Paid	£100,000
Authority's Minimum share, from share pot, to be reinvested into the service (50%)	£500,000	Actual Amount Retained	£750,000	£500,000	Actual Amount Retained	£900,000
Total Payment to Contractor	£34,250,000			£34,100,000		

- 2.23.3 When looking at the example in Table 007, should the Service Provider achieve an overall performance score for Year 1 of 95% but exceeded the agreed target cost this would result in no savings being generated, therefore no payment would be made to the Service Provider from the share pot and no money would be available for the Council to reinvest into the Service.
- 2.23.4 A poor performance score (80%-90%) will mean no entitlement to any portion of the Service Provider's share of savings (if generated) along with a reduction in the proportion of declared profit set out in the contract (normally paid as part of the payment for services provided by the Service Provider).
- 2.23.5 The maximum cost of the service cannot exceed the available budget if robust knowledge and processes are applied to agree the target cost.
- 2.23.6 Any of the Council's 'share' of the savings should be 'reinvested' to support the service outcome, to have the best network condition for the investment available
- 2.23.7 The Contractor will manage performance and keep such records as are necessary to measure and report on their performance in accordance with the contract

2.23.8 **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 met and/or exceed their respective targets whereas some are more inconsistent. A full review of all SPIs and a data sheet created for each measure will be completed at the next stage of the project.

2.24 Review of Compliance Audits

2.24.1 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 008 sets out an overview of the number of audits completed to date.

Table 008: 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

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

2.24.3 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.

2.24.4 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.

2.24.5 The key findings of these reviews 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
- There will be greater alignment of compliance activities and commercial activities within the future design of the Councils Contracts Managements Group.
- There will be a greater focus on compliances activities in the next contract that focus on the quality of works completed right first time
- Any compliance checks/audits completed must add value to both the Council and the Service Provider. An Compliance Plan will be created and reviewed quarterly.

2.25 Review of Customer Satisfaction

2.25.1 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.

2.25.2 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.

2.25.3 Table 009 highlights the results of the Council as part of the national NHT Survey since 2016. The NHT Survey is a national public satisfaction survey that in 2020 had 998 responses in East Sussex from a random sample of 3,300 (29.7%). It is a survey based on public perception only not an evaluation of the Councils interactions with the respondent. This is the tenth time East Sussex has taken part and last year, 109 authorities took part, covering most of the country.

Table 009 demonstrates the sentiment that perception of highways services and satisfaction 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 009: 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

2.25.4 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.

2.25.5 Key Findings of this review

- Based on the NHT perception based survey customer satisfaction of highways services (Table 009) has continually decreased since nationally
- 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.
- Table 002 shows the Council road condition targets are continually being met whereas customer satisfaction and perception of the condition of highways (Table 009) is on a downward trend.
- Quality of customer responses remains a high priority. Two of the new Service Outcomes, Quality Assurance and Effective Customer Engagement have been developed to specifically target improvements in customer communications.

2.26 Review of Business Needs

2.26.1 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 internal drivers and one external 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.

2.26.2 A high level review of the Council's statutory duties has been completed, (Appendix 005). 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.

2.26.3 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).

2.27 Review of Business Needs - Identified Areas of Enhancement

2.27.1 Through the development of both the OBC and DBC, 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:

2.27.2 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

2.27.3 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.

2.27.4 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.
- 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 contract period
- There needs to be a review of the current SPI process and what is required by the Service Provider to evidence their performance.

2.27.5 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
- 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.

2.27.6 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 for highways customers , truly putting them at the centre of everything the highways 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.

2.28 Review of Soft Market Testing (SMT) activities

2.28.1 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

2.28.2 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: OBC engagement	Following the publishing of the OBC in January 2021 we issued a request for information questionnaire to the whole market through the Orbis South East Shared Services Portal. 11 Responses were received.	Complete
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

2.28.3 The key findings of Activities 1,2, & 3

- 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 minimum length of contract, is ideally seven years, with optional extensions 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.

2.29 Technology Overview

2.29.1 The delivery of the current HIS contract is highly dependent on a number of diverse and business critical technology systems. The systems are shown in Figure 006 along with the key functions and uses of the systems.

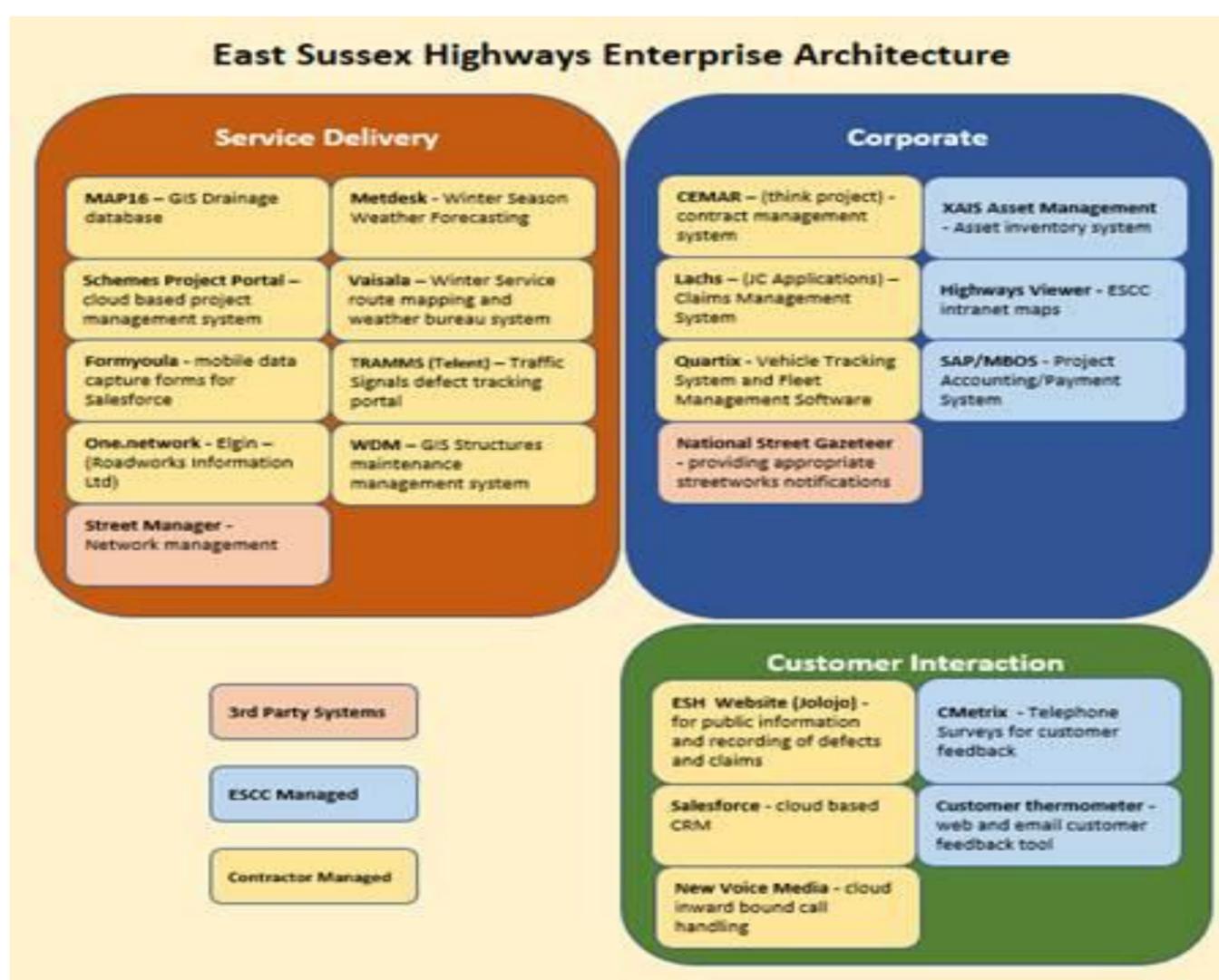
2.29.2 Current technology systems – investigation and review

2.29.3 The proprietary systems have been purchased from a number of different suppliers, generally over the duration of the current HIS contract, and are well established in a mature, but constantly evolving IT market. The use of cloud systems and cloud data storage is key for the technology systems for the next HIS contract. Most technology systems are the responsibility of Costain with a handful of others being owned by the Council.

2.29.4 Proposals and considerations for re-procurement

2.29.5 The coordination of technology systems will present one of the biggest challenges in the new HIS contract, the key issues for which will be:-

1. Mobilisation and establishment of Contractor's systems and ESCC interfaces;
2. Timely collection and communication of data and information; i.e. client reporting;
3. Security of data;
4. Reliability and connectivity of systems;
5. Transparency and visibility of data and processes;
6. Data availability to the Authority;
7. Verification and audit of systems and data;
8. Handling data input only once;
9. Managing technology systems developments, updates and obsolescence, and
10. Managing hand back/handover at the end or termination of the contract.
11. Potential integration with the Councils MBOS system



Software/System Name	Functional Use	System / Software Owner	Used by
Sharepoint	Document management System	ESCC	CMG staff only
Candy	estimate construction costs	Costain & Jacobs	Jacobs
Capture	cloud based system for reporting health and Safety	Costain & Jacobs	Costain & Jacobs
Mosaic	web based platform track mandatory training, and inductions	Costain & Jacobs	Costain & Jacobs
JCT Consultancy	LinSig traffic signals design software	Costain & Jacobs	Jacobs
ICosNet	Costain's Document Management System	Costain & Jacobs	Both CMG and Costain & Jacobs Staff
AutoCAD	computer-aided design and drafting software	Costain & Jacobs	Jacobs
ARC GIS	create, manage and modify GIS data	Costain & Jacobs	Costain & Jacobs
Projectwise	platform to manage, share and distribute engineering project content	Costain & Jacobs	Jacobs
Onwave	Geofence application – GIS based software for devices	Costain & Jacobs	Costain & Jacobs
Skedda	cloud based room booking and reservation system	Costain & Jacobs	Both CMG and Costain & Jacobs Staff
Net2	controls access to buildings	Costain & Jacobs	Costain & Jacobs
Call Handling	manages employees who are home working	Costain & Jacobs	Costain & Jacobs
Mayrise	co-ordinates and permit street works	Costain & Jacobs	Costain & Jacobs
EnterpriseOne	cloud-based Enterprise Resource Planning and supply chain management and financial and order management, and records timesheet entries	Costain & Jacobs	Costain & Jacobs
Wix	cloud-based solution that creates and manages websites	Costain & Jacobs	Costain & Jacobs
Draw.io	cloud application for building process maps	Costain & Jacobs	Jacobs
Hootsuite	Social media platform	Costain & Jacobs	Costain
Email Octopus	integrated e-commerce marketing platform	Costain & Jacobs	Costain

2.29.6 Future Technology Requirements

2.29.7 The specific technology systems and software requirements will be set out within the invitation to tender documentation following a detailed review of the current systems. It is likely the requirements will be outcome based and no specific systems will be required, it will be for bidders to make proposals as part of their tender offers.

2.30 Benefits

2.30.1 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

2.30.2 In completing both the OBC and DBC there has been 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.

2.31 Key Risks

2.31.1 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.

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

Table 010: 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.

2.32 Constraints

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

2.33 Dependencies

2.33.1 The HSRP is not part of any other Council programme so there are no internal dependencies. However, some changes in the Council's client management team are required needed to deliver the SDM effectively and meet all the service outcomes. Additionally the project involves interacting with internal departments such as ICT and Pensions, early engagement has been established to ensure effective implementation.

2.34 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 and Contract 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** - 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 the different SDMs. The long list of options has been appraised in three stages. Stages 1 and 2 were carried out within the OBC, with a shortlist of two options being taken forward for consideration and further development at Stage 3 within the DBC.
- 3.1.2 Using criteria set out in Table 012 an assessment has been carried out (see Appendix 003 for more details) against fifteen different SDM 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 within the OBC are defined in Table 011.

Table 011: 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. In this exercise it assumes a public to private JV, with a least one entity being the Local Service Provider.

3.3 Detailed 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 delivering all works services (either directly or managing a supply chain) with a separate single external consultant providing design services. This is the fundamental difference of this option compared to Option 2, where 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's Contract Management Team to manage each individual 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 as well as 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 have been identified and could be 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.

One potential issue with this model is the effectiveness of risk transfer between the Council and the Contractor, 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 JV, 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 potentially bringing a profit motive and a 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 the merging of public and private sector cultures 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 of 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 (this 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.

With this option, the Council would not have to pay an overhead to a single provider to manage the supply chain, as they would undertake this function themselves.

However the option could mean a lack of opportunity for the Council to deliver an integrated service with a consistent approach to delivery. The Council would be bearing the risk of any interface or inter-dependency issues if performance is poor; and a larger multi-skilled client Contract Management Team would be needed.

3.4 Options Appraisal Summary of Methodology

3.4.1 Included within Appendix 003 are the detailed methodology and findings for all three stages of the options appraisal. Stages one and two were completed at the OBC. Stage three was completed at the DBC stage. All three stages were based on work that was undertaken by an independent consultant, Proving Services Ltd, as well as additional considerations developed through discussions with other local highway authorities that have adopted some of the different types of SDMs including an assessment of the Council's local context. A summary of all three stages, as set out in Appendix 003, is outlined below:

3.4.2 Stage 1 – completed in OBC

3.4.3 **Objective** –To reduce the list of fifteen options down to a list of the most feasible options which would 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 Services best practice options appraisal toolkit.
- Two further workshops were carried out to appraise the fifteen options against the assessment criteria, as set out in Table 012. The assessment criteria are a combination of those recommended by the HM Treasury Five Case Model methodology and also those pre-set using the Proving Services toolkit.

3.4.5 **Stage 2 – completed in OBC**

3.4.6 **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.

3.4.7 **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.

3.4.8 **Stage 3 – completed at DBC**

3.4.9 **Objective** – Within this stage further work was undertaken to develop and appraise in more detail the two shortlisted options, to determine a preferred option for the DBC.

3.4.10 **Methodology:**

- The assessment criteria appraised were reviewed and reduced from 21 to 18, to remove three Strategic Factors (collaboration, people, and innovation) that are no longer applicable. Further detail can be found in Appendix 003
- The assessment criteria highlighted in Table 12 were reviewed and weightings inserted against the achievability factors in accordance with the latest Proving Services toolkit.
- The two options were independently scored by members of the Project Team, this included a Procurement Specialist from the Corporate Procurement Team and Team Manager from the Strategic Economic Infrastructure Team.
- A joint moderation session of scores was then completed as a workshop to agree final scores
- A validation session was then facilitated with support from Proving Services Ltd to challenge the scores, the robustness of the evidence and to confirm the final overall scores for the two options.

3.5 **Table 012: 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 	5
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-chain 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 **Options Appraisal Results Summary**

3.6.1 The full results of the scored fifteen SDM options are set out in Appendix 003. A summary of the results of the two short listed options that were validated at Stage 3 is set out in Table 015.

3.6.2 The assessment shown in Table 015, was scored against the assessment criteria in Table 012. This has taken account of the critical success factors for the project and the service outcomes set out in section 2.17.2.

3.6.3 Each assessment criteria were scored against predetermined evaluation criteria as set out in Appendix 003, the scoring matrix is 0,33,66,100, a score of 0 is a critical barrier to success and 100 is where this option would be equally as good or better than the current service delivery arrangements.

3.6.4 Table 013 sets out the fifteen different SDM’s that were appraised at each of the three different stages. Appendix 003 includes complete definitions and the overall ranking for all fifteen options that were considered.

Table 013: SDMs stages summary

Option Family	Option No.	Service Delivery Model	Stage 1	Stage 2	Stage 3
Single Provider	1	Contractor & Designer (Separate)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	2	Integrated (Contractor + Designer)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Multiple Providers	3	Multiple Providers Per Service Area	<input checked="" type="checkbox"/>		
	4	Function-Orientated Service Providers	<input checked="" type="checkbox"/>		
	5	Primary + Secondary (Risk Sharing)	<input checked="" type="checkbox"/>		
Framework	6	4-Year Framework Agreement	<input checked="" type="checkbox"/>		
Joint Venture (JV)	7	JV	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
	8	Pseudo JV (Partner + Profits Sharing)	<input checked="" type="checkbox"/>		
Teckal	9	Arms-Length Company	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Private Finance	10	PF2	<input checked="" type="checkbox"/>		
Mixed Economy	11	Cyclical & Reactive In-House	<input checked="" type="checkbox"/>		
	12	Best Option By Function / Service	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
	13	Highways Alliance	<input checked="" type="checkbox"/>		
	14	All In-House	<input checked="" type="checkbox"/>		
	15	Primary Design + Add On	<input checked="" type="checkbox"/>		

3.6.5 Stage 1 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.

3.6.6 Stage 2 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 full results within Appendix 003.
- 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”.
- The following options were identified to be taken forward from the OBC. These two options are considered to represent the best opportunity for value for money for the future delivery of highways services in East Sussex.

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

3.6.7 Stage 3 Outcome

- Following the validation and moderation of the scores, the final two options were ranked. The results are set out in table 015.
- A recommendation was made to the Highways Service Re-procurement Project Board and the Scrutiny Member Reference Group to select Option 2 – Integrated Single Provider (Contractor and Designer)
- This recommendation was accepted, and therefore the key activities that needed to be undertaken to complete the Commercial, Financial and Management cases focused on Option 2 only.
- Option 1 was discounted from any further analysis within the DBC

3.7 Summary of Option 2 Score

3.7.1 Table 015 sets out a complete breakdown of the scores for the two options against the eighteen different assessment criteria. Option 2 has an overall score of 71% compared to Option 1 that has an overall score of 50%. Each option was scored using the assessment criteria set out in table 012 and evaluation criteria in table 014. Below is a summary of some key benefits of Option 2 and some key disbenefits of Option 1. Overall Option 2 scored higher on 12 of the assessment criteria, the same score on five of the assessment criteria and lower on one of the assessment criteria

3.7.2 Strategic Comparison (5 red strategic criteria)

- While strategically both options could deliver the business needs, and are very similar, in terms of customer focus, Option 2 would offer an equal contribution to delivery of this strategic objective compared to the current delivery model as it's the same model and objective.
- Lessons learned from the current SDM can be applied to Option 2 to further enhance & improve certain aspects which would be more effective than having to re-design processes for two separate organisations (Option 1).
- In addition, with an integrated single provider (Option 2), engagement only needs to be undertaken once with customers minimising engagement fatigue.

3.7.3 Attractiveness Comparison (4 orange economic criteria)

In applying the evaluation criteria to the four economic assessment criteria, Option 2 scores higher on all four criteria, this makes Option 2 more attractive from an economic perspective. A summary of the key disbenefits of Option 1 compared to Option 2 is set out below.

- **Economy** – There is recognition that management and delivery of separate contracts (Option 1) may incur additional risk pricing and higher management fees across the two contracts. It is also likely that there would be time and cost increases across numerous aspects of the total service.

- **Effectiveness** – Option 1 would be less attractive than the current service delivery model for this factor because there would be increased hand offs between designer and service provider, resulting in potential for its delivery to be disjointed - impacting on overall quality of service.
- **Stakeholder Value** - Service users & Councillors may not observe much difference between the two options as they will see the service being delivered by 'Highways' at ESCC. The Project team view and value Option 1 slightly differently as it potentially increases bureaucracy, time and cost.
- **Efficiency** – Option 2 is a very flexible SDM compared to managing two separate contracts. Under Option 1 there is a potential for double handling in relation to some activities which is a less efficient use of the resources.

3.7.4 Achievability Comparison (9 Commercial, Management and financial criteria)

- **Complexity** – in terms of transition Option 2 is the least complex option to transition too as it is a version of current SDM.
- **Capability and Capacity** – There is a good level of existing capability and capacity to move to an enhanced Option 2 without needing additional resources to manage two sperate contracts, which would be the case with Option 1.
- **Affordability** – Both options require some organisational change within the Council’s client Contract Management Group (CMG) to enable successful management. Option 2 provides us with the opportunity to consider a leaner, more efficient client structure, whereas Option 1 will require additional resources to manage two separate contracts

3.7.5 The results of the two shortlisted options, on the next page, have been scored against the evaluation criteria in table 014.

- **Table 014: Key of Evaluation Criteria.**

KEY: Anticipated Performance	
n/a	Not Applicable (In This Context)
0	Critical Issue / Barrier to Implementation
33	Poorer Than Current Performance
66	Unknown or Parity (At Best) Performance
100	Parity Or Better Than Current Performance

3.8 Table 015: Shortlisted two Options

Business Case	Assessment Criteria	Option 1	Option 2
		Single Provider Works Single Provider Design	Integrated Single Provider (Works & Design)
Strategic (Strategic Fit & Business Needs)	Improvement & Development of the Highway Infrastructure (optimise)	66	66
	Improvement & Development of the Highway Infrastructure (Enhance)	66	66
	Customer Focus	33	66
	Make Best Use of Resources	66	66
	Carbon	66	66
Economic (Potential VfM)	Economy	33	66
	Effectiveness	33	66
	Stakeholder Value	33	66
	Efficiency	33	66
Management (potential achievability)	Complexity (Inherent Risk)	66	100
	Capability & Capacity	66	100
	Authority Readiness	33	66
	Governance & Reporting	33	66
	Partner Management	33	66
	Cultural Alignment	33	66
Commercial (Supply-Side capacity and Capability)	Provider Readiness	66	66
	Sector Success Stories	100	66
Financial (potential affordability)	Affordability	66	100
Strategic Total		59	66
Attractiveness Total		33	66
Achievability Total		59	81
Overall Totals (%)		50%	71%
		2nd	1st

3.10 Options Assurance

3.10.1 The recommended SDM from stage 3, is further supported through the Options Study activity led by Proving Services Ltd, which comprised 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, Option 2 was ranked the highest overall. Table 016 gives a summary of the average ranking, with a detailed report provided by Proving Services Ltd included in Appendix 007.

Table 016: Service Delivery Model average ranking for all 8 authorities

Option Number	Service Delivery Model	Overall Ranking	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, 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 and supports the selection of Option 2.

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 that some authorities will look to procure a blend of options when they go to market. This is only an academic study and to be used as an overall guide to authorities when developing their respective SDMs. When procuring their respective SDMs in practice what each authority ends up with may differ to the study ranking.

Economic Appraisal Summary

Option 2 Integrated Single Provider (Works & Design) represents the best opportunity for value for money for the future delivery of highways services in East Sussex. Having completed the detailed options appraisal of 15 different SDMs across three stages, Option 2 has:

- **Consistency** - has scored the highest at all three stages;
- **Assessment Criteria** – of the eighteen different assessment used within the options appraisal, when evaluated against Option 1, it scored higher on 12 of the assessment criteria, the same score on 5 assessment criteria and only lower on 1 assessment criteria.
- **Capability and Capacity** – There is a good level of existing capability and capacity to move to an enhanced Option 2 without needing additional resources.
- **Affordability** – provides us with the opportunity to consider a leaner, more efficient client structure.

Through the use of the Proving Services best practice options appraisal toolkit, the participation in the Options Study with eight other authorities and Independent challenge being provided by Proving Services throughout completion of the three stages, stakeholders can be assured of the approach taken and the overall recommendation of Option 2.

4 COMMERCIAL CASE

4.1 Overview

4.1.1 In developing the DBC a full review has been completed of key commercial considerations for the future HIS contract, this includes:

- Selection of form of contract (terms and conditions)
- Selection of procurement route to market sourcing strategy
- Recommendation of contract duration
- Selection of payment options for core activities, works and design services

4.2 Form of Contract

4.2.1 The Council's current form of contract for the delivering its HIS contract, is a modified New Engineering and Construction Contract (ECC) 3rd Edition.

4.2.2 The current contract modifications include, the core clauses from both the Term Service Contract and Professional Services Contract, and the Council's additions (known as Z Clauses). A copy of the current conditions of contract will be available for the potential bidders as part of the ongoing soft market testing activities. This will allow the market to provide initial feedback on any key clauses that are likely to remain in place as part developing the new form of contract.

4.2.3 The NEC forms of contract are a family of contracts that are industry standard used across the construction and local government industries. They are 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 both term and works contracts.

4.2.4 During the term of the current contract the NEC has published the fourth edition of the suite of contracts, commonly referred to as NEC4. This new suite of contracts will form the basis upon which the new contract will be drafted.

4.2.5 In developing this DBC we have confirmed that the Council's Contract Management Group have developed the knowledge and skills to administer the contract and it is therefore proposed that the current contract form is continued into the new contract with the Contract being updated to include the changes introduced by the NEC4. This approach is also supported by the market.

4.2.6 Further, the NEC is endorsed for public sector use in the UK Government Construction Strategy as well as by the Construction Clients' Board, the Crown Commercial Service, the Facilities Management Board of the UK Cabinet Office, the Association for Project Management and the British Institute of Facilities Management

4.3 Specification (scope)

4.3.1 The existing model has shown that a mix of outcome and output specifications provide both the Council and Service Provider with the flexibility to deliver the complexities of the highway service.

4.3.2 A review of the existing specifications for Core Activities has been undertaken, concluding that they are appropriate for the next contract, subject to minor updates, reflecting changes in legislation and lessons learnt.

4.3.3 In addition to the review of the core activities, a detailed review of the site information (information about our assets, policies, service level etc) will be undertaken. The validation of this information is vital to ensure bidders are able to accurately price each of the core activities.

4.3.4 A detailed specification for professional services in relation to Strategic Economic Infrastructure (SEI) activities. Will be provided in the Invitation to tender document set to clearly identify the Council's requirements at each stage of a project lifecycle.

4.4 Sourcing options

4.4.1 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.

4.4.2 Due to misalignment of respective contract periods between authorities, at present there are limited opportunities for any partnership for 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")

4.5 Payment Mechanisms

4.5.1 The existing arrangement of a mixed economy, utilising standard NEC payment options A, C and E, (fixed price, target cost and cost reimbursable respectively) determined by work type and funding stream has enabled appropriate risk apportionment (see figure 007) to be applied for various works and service types, whilst providing suitable costs and budget certainty.

4.5.2 The effective use of options A, C, E in the existing HIS contract, will continue in the new arrangement. Table 022 in the financial case sets out how much has been spent under each of the three options for services years 1-3. The use of the various payment options will ensure both the Council and the Service Provider have the flexibility to drive and deliver efficiencies and continuous improvement whilst maintaining a level of return for the Service Provider.

4.5.3 The three standard contract payment options are briefly described below as follows:

- **Option A – Priced Contract with Activity Schedule** 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 (The Core Service)

- **Option C – Target Contract with Activity Schedule, 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.

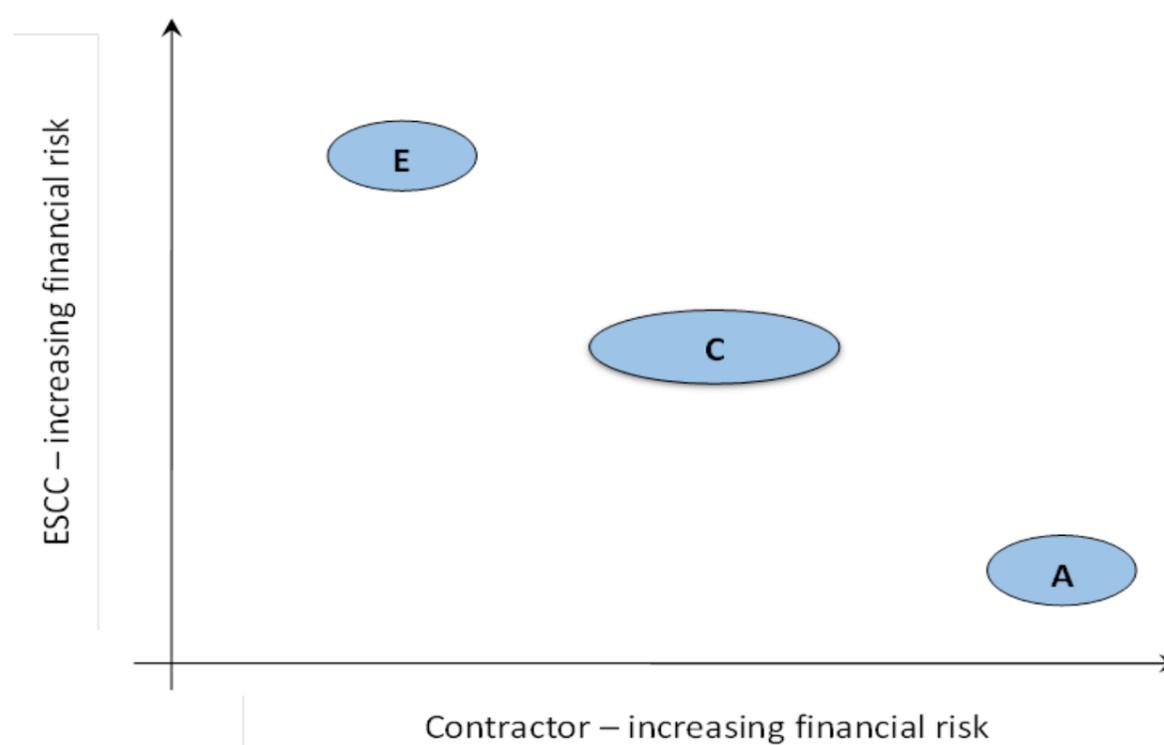
E.g., Strategic Economic Infrastructure schemes, carriageway reconstruction and resurfacing etc.

- **Option E – Cost Reimbursable Contract, 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 his 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.

Figure 007– NEC Payment Options:



4.5.4 As part core activities review, through the 3rd stage of soft marketing testing, the market was asked what their preferred pricing basis would be for each of the current core activities. Table 017, sets out the findings and includes what the recommended future pricing basis will be, this is subject to further analysis to be completed at the next stage of the project

Table 017: Comparison of Pricing Options

Core Activity	Current Pricing basis:	Responses from SMT	Future Contract 2023-2030
Management			
Stakeholder Management	Option A	Option A x 6 Option C x1	Option A
Third Party Claims	Option A	Option A x 7	Option A
Highway Asset Inspections	Option A	Option A x 6 Option C x1	Option A
Service Management	Option A	Option A x 7	Option A
Network Management	Option A	Option A x 6 Option C x1	Option A
Cyclic			
Drainage Maintenance	Option A	Option A x 5 Option C x 3	Option A
Control of Vegetation	Option A	Option A x 6 Option C x 2	Option A
Safety & Serviceability			
Road Markings	Option A	Option A x 4 Option C x 3	Option A
Winter Service	Option A	Option A x 6 Option B x 1 Option C x 2 Option E x 1	Option A
Structures & General Maintenance	Option A	Option A x 5 Option C x 3	Option A
Street Lighting & Traffic Signals	Option A	Option A x 6 Option C x 3	Option A
Reactive and Emergency Response	Option A	Option A x 5 Option C x 1 Option E x 2	Option A
Works Activity:			
Works and Services including Carriageway works Footway works Structure's maintenance, Infrastructure Improvement Schemes,	Option C	Option C x 7	Option C
Ad hoc in year works or design	Option A Option C Option E	Option E x 7	Option A Option C Option E
Design	Option C Option E	Option A x 2 Option C x 7 Option E x 6	Option C Option E

Note - Where more than one option is identified for the future contract, this will be decided on a task by task basis to ensure the most appropriate option is chosen for the complexity and value of the task.

4.6 Risk Allocation & Transfer

- 4.6.1 As part of the previous procurement the Council embarked on a transformational journey for the Highway Service provisions, including the outsourcing of a number of services and staff 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.
- 4.6.2 The SDM proposed in this DBC remains 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 and developed in-house commercial expertise.
- 4.6.3 Contract risk allocation is clear and transparent within the NEC forms of contract for both the Council and the Service Providers bidding, bidders will be able to make allowances for risks within their pricing tender return. The Council will evaluate these and seek clarifications with the bidders should this be needed.

4.7 Contract length

4.7.1 Background – looking back

- 4.7.2 The contract duration for the current contract with Costain is a fixed term of seven years with no extensions.
- 4.7.3 The selection of seven years is the ideal duration for the return on the investment the Contractor has to make in fleet, plant and typically ICT equipment. Seven years offered the optimum business model for the Contractor and the best prices for the Authority. The fixed duration combined with fixed prices also assisted in securing and forecasting the necessary revenue budget savings in 2016/17
- 4.7.4 With no option for an extension included in the current contract, this allowed Costain to manage the service risks over a fixed period of time with no need to model the management of this over extended timescales. It also reduced any strategic pricing at the tender stage, as all bidders were pricing a fixed term whereas had extensions been included, some bidders may have priced the longer term.

4.7.5 Looking forward

4.7.6 The OBC did not set out what a future duration would be, this is an activity to be completed when developing this DBC. A review of the previous rationale has been completed, a summary of the advantages and disadvantages for each potential options is shown in Table 018. In summary a minimum 5-year duration is the shortest duration recommended. A longer duration has additional benefits and many of the contractors have expressed a desire for longer durations.

Table 018: Contract Duration Options:

Option	Contract Duration Options	Advantages	Disadvantages
1	Fixed 5 years	<ul style="list-style-type: none"> Creates a level playing field for tender pricing. Removes the linkage to and complications for the performance regime which causes poor behaviour. 	<ul style="list-style-type: none"> Re-procurement costs and process restarting within 3 years. Higher prices as less opportunity to average conditions and investment. Not attractive to the market as evidence from soft market testing
2	Fixed 7 years	<ul style="list-style-type: none"> Creates a level playing field for tender pricing. Offers the optimum investment period for plant & equipment. Removes the linkage to and complications for the performance regime which causes poor behaviour. A Minimum duration of 7 years has been declared by 5 out of 7 of the Tier One Contractors that completed the Soft Market Testing. 	<ul style="list-style-type: none"> Reduces the Authority's flexibility. No extensions available by way of an additional incentive to perform.
3	Initial term 7 Years + 1 to 2-year extensions	<ul style="list-style-type: none"> Provides the Authority with flexibility. Can provide incentives for improving performance. 	<ul style="list-style-type: none"> Heavy admin role in determining performance. Poor provider behaviour if performance measures/attainment cannot be agreed. Mixed & Strategic pricing offerings at tender stage.
4	Fixed 10 years with reductions	<ul style="list-style-type: none"> Provides surety of work for the provider so pricing should be fair. 	<ul style="list-style-type: none"> Heavy admin role in determining performance. Poor provider behaviour if performance measures/attainment cannot be agreed. Exceeds the natural lifecycle for plant & equipment. Reductions are not attractive to the market
5	Fixed Initial 7-year term + 7-year extension (with price rebasing)	<ul style="list-style-type: none"> Two fixed periods of 7 years match the markets 7-year refresh cycles. Provides the Authority with flexibility with an option to exercise an extension as opposed to having to go back to the market to re-procure In addition to the set annual KPI's linked to potential gainshare, an opportunity to extend could offer extra incentives for improving performance. Allow the Contractor the opportunity to adjust their fee & core activity prices to be applied to the 7-year extension. This may offer greater Value for Money compared with Re-procurement costs (mobilisation, demobilisation, authority procurement costs, bidder's procurement costs). 	<ul style="list-style-type: none"> As the extension is discretionary not mandatory, subject to certain performance criteria being met, the market may view this option as less attractive/same as a fixed seven-year duration

4.7.8 Soft Market Testing – Duration Summary of Findings

4.7.9 A short questionnaire regarding different aspects of the HSRP was sent out to the market via the South East Shared Service Portal on the 5th of April 2021, 11 responses were received by the deadline of the 28th of April

4.7.10 From the seven returns received to date, five of the Contractors have confirmed that a minimum seven-year duration is preferred, two Contractors have indicated that their minimum duration is 15 years and 10 years respectively. All seven Contractors have confirmed a preference for some form of allowable extensions ranging from 2 years to 7 years. Table 019 sets out a basic summary.

Table 019: Soft Market Testing Summary

Service Provider	Minimum (if specified)	Optimum
A	Minimum 10 years	15 years no extensions but with break clauses
B	Minimum 7 years	7 years + 3 years (either 1+1+1 or all three together)
C	Minimum 15 years	10 years + 5 years + 5 Years
D	Minimum 7 years	10 years + 5 years
E	Minimum 7 years	7 years + 2-5 years
F	Minimum 7 years	7 years + 7 Years (max 14 years)
G	Minimum 7 years	7/8 Years + extensions to be mutually agreed.

4.7.11 Overall Duration Summary

4.7.12 Fixed Duration Benefits

- A fixed term duration has proven to be effective in reducing strategic pricing at the tender stage.
- A fixed term duration requires less administration to manage.
- A complex model to award extensions that is transparent and correctly administered is not needed on a fixed term model.
- A fixed duration focuses a Contractor to maximise their efforts to achieve the contract outcomes and their profitability targets within a fixed time, as these cannot be recovered by improving during an extension, as no extensions are available.
- Allows the Contractor to better forecast over a minimum fixed duration, costs and profitability forecasts will be more accurate along with assumptions about any risks.
- With additional use of lump sum pricing (Option A) it gives the authority the ability to set longer term fixed budget forecasts but not too long (10 years+) that their accuracy diminishes.

4.7.13 Fixed Duration + Extensions

- Mobilisation, Demobilisation, ESCC procurement costs, Contractors bidders' costs are spread over a longer term.
- Offers the opportunity to develop greater levels of collaboration and innovation.
- Is the most attractive option to the majority of the market

4.7.14 Duration Recommendation

4.7.15 Following soft market testing and experience from the existing contract arrangement with Costain, option 5 is the recommended preferred option:

- **Option 5: A initial term of 6 years 11 months years + 7 years extension**

4.7.16 The initial term would be for the period 1st May 2023 to 31st March 2030, with the second term extension period starting 1st April 2030 to 31st March 2037.

4.7.17 To maximise this as an opportunity for the Authority the initial term will be a fixed six-year 11-month period, it is one month less of a full seven years to allow for a realignment of the Council financial year and contract year.

4.8 Outline Terms of Extensions

4.8.1 Subject to meeting the required performance criteria to be agreed, which will be set out in the Invitation to tender documentation and by mutual agreement, the plus seven years will be awarded as a single block.

4.8.2 It is proposed that the award of the extension would allow the Service Provider to adjust their fee and lump sum prices. This would be attractive to the market

4.8.3 Should the revised Service Providers extension offer be affordable and desirable to the parties the extension could then be awarded. Award of the extension is not mandatory it is discretionary.

4.8.4 Should the adjusted prices not be affordable, or the parties are not in mutual agreement or the agreed performance criteria are not met, a re-procurement exercise would then need to be completed.

4.8.5 In order to effectively implement this type of option the decision to award the extension would need to be made by the end of Service Year 5 (March 2028), the invitation to tender documentation will set out a clear process for awarding the extension along with the key aspects of the contract that can be modified and those that cannot be modified.

4.8.6 A key benefit of this option, should the extension be awarded, is that the authority only pays out once for direct procurement project costs (mobilisation, demobilisation, internal procurement costs, bidders costs), the total of these can be between £3m-£4m.

4.9 Early Exit form Contract (Termination)

4.9.1 The Contract will retain the NEC termination clauses throughout its full durations, irrespective of an extension reward.

4.10 Step Out Procedure

4.10.1 The current contract has a step out procedure, which to date has not been implemented, however, the new contract will retain this option.

4.10.2 It is anticipated that all works, and services will be delivered by the new service provider; however, the Authority will maintain the right to place works or services with other providers.

4.10.3 The Step out procedure will relate to projects that are deemed to be highly complex or specialist in nature, are not part of the initial agreed annual service delivery plan and/or generate a significant reputational risk to the Authority.

4.10.4 In the event that the above conditions are met, the determination of provider will be undertaken by the application of a service impact assessment which will consider, cost, complexity, capability, risk and capacity.

- **Cost** – The anticipated cost of procurement of the work/services, considering the individual PCR threshold and total impact on the highway maintenance contract;
- **Complexity** – are the works/service required within the scope of the highway maintenance contract;
- **Capability** – Does the highway maintenance contractor have the necessary skills to undertake the works;
- **Risk** – Is the delivery likely to expose the Authority to a reputational risk, e.g.
 - Timescales
 - Stakeholder expectation
 - Funding constraints
- **Capacity** – Does the highway maintenance contractor have the capacity to undertake the works in addition to the agreed annual service delivery plan?

4.11 Choice of procurement method

4.11.1 The Public Contracts Regulations 2015 (PCR2015) set out the legal framework for public procurement. They apply when public authorities and utilities seek to acquire supplies, services, or works and set out procedures which must be followed before awarding a contract, when its value exceeds set thresholds.

4.11.2 The value of this procurement is above the Official Journal of the European Union (OJEU) threshold of £4.7m and therefore PCR2015 will apply.

4.11.3 Where the procurement of a works contract exceeds the EU 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.

4.11.4 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.

4.11.5 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:

4.11.6 Open:

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 possibility 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.

4.11.7 Restricted:

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 able to submit bids and is suitable when you are purchasing services which can be clearly defined at time of tender.

4.11.8 Competitive Dialogue:

The 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). The conditions that must be met for its use are set out at Regulation 26(4) of the 2015 Regulations and 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.

4.11.9 Competitive Procedure with Negotiation (CPwN):

The competitive with negotiation procedure 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 with Negotiation process.

4.12 Recommended Procurement Route

4.12.1 A detailed review of the procurement routes, considering the benefits and dis-benefits of their use for the Highway Services re-procurement has been undertaken, the following table 020 summarises the significance of these key factors in relation to each of the procedures for use on the procurement of the new highways contract.

Table 020 – Summary of Procurement Procedures

Procedure	Cost	Time	Allowable dialogue/ negotiations	Complexity of procedure
<i>Open</i>	Low	Less than 4 months	No	Low
<i>Restricted</i>	Medium	up to 6 months	No	Medium
<i>Competitive Dialogue</i>	High	Up to 12+ months	Yes	High
<i>CPwN</i>	High	Up to 6-9 months	Yes	Medium to High

4.12.2 It is therefore recommended that a targeted version of CPwN is used, with the stated intent within the contract notice to award without the need to complete any specific topics of negotiation.

4.12.3 The Council would reserve the right to negotiate if deemed necessary once the initial tenders have been evaluated.

4.12.4 If there is no need to negotiate any aspects of the tenders, the winning tender will be the highest scoring tender based on the established evaluation criteria set out within the tender documentation.

4.12.5 The successful bidder will be selected on the basis of the most economically advantageous tender.

4.12.6 Table 021 sets out an overview of the key activities across the five key stages.

Table 021: Overview of the five key stages for Competitive Procedure with Negotiation

Procurement Stage	Competitive Procedure with Negotiation
Stage 1: Formal Pre-market Engagement	Pre-market engagement is permitted. A Prior Information Notice (PIN) is a good method for alerting the market of the start of formal pre-market engagement.
Stage 2: Formal commencement of the procurement, including selection of bidders using the standard Supplier Selection Questionnaire	Call for competition by Contract Notice (CN) (for central or sub-central authorities) or PIN (for sub-central authorities only). In the procurement documents, contracting authorities must: <ul style="list-style-type: none"> Identify the subject-matter of the procurement including by providing a description of needs and the characteristics of the suppliers/works/services Indicate the minimum requirements that must be met by all tenders Specify the award criteria Information must be specifically precise to enable operators to identify the nature and scope of the procurement so they can decide whether to apply.
	Requests to participate must be received within 30 days from the date of the CN or the date of invitation to confirm interest where a PIN is used as a means of calling for competition. In a state of urgency, this time limit can be reduced to not less than 15 days.
	Selection Stage Evaluation: Only those who are invited to tender following assessment of selection information may tender. Contracting authorities can reduce the number of qualified suppliers invited to participate. A minimum of three suppliers, where they exist and meet the selection criteria, must be invited to tender. Contracting authorities may also limit the number of tenders/solutions to be discussed having provided the mechanism to do so.

Stage 3: Initial Invitation to tender & negotiation (if applicable)	<p>There is no express requirement to provide an indicative timeframe.</p> <p>30 days for receipt of initial tenders from day after the notification to bidders of the selection result, or 25 days if electronic tenders are accepted.</p> <p>This time limit can be reduced to 10 days if a PIN was published other than as a means of calling for competition and if certain requirements are met.</p> <p>Sub-central authorities can agree a time limit for receipt of initial tenders with all selected candidates (but where there is no agreement the time limit must be at least 10 days).</p> <p>In a state of urgency, the time limit for receipt of initial tenders can be reduced to not less than 10 days from the date of the CN.</p>
	<p>Negotiations are on the basis of initial and subsequent tenders.</p> <p>Contracting authorities may award contracts on the basis of the initial tenders without negotiations where this was indicated in the CN or the invitation to confirm interest.</p>
Stage 3: Initial Invitation to tender & negotiation (if applicable)	<p>Contracting authorities must negotiate with bidders on the initial and all subsequent tenders submitted to them but not the final tender, unless they have indicated that they may award without negotiation.</p>
	<p>Negotiations are with a view to improving the content of tenders.</p>
	<p>Minimum requirements and award criteria must not be subject to negotiations.</p>
	<p>During negotiation, contracting authorities must ensure equal treatment and not provide information in a discriminatory manner which may give some bidders an advantage.</p>
	<p>During negotiation/dialogue, contracting authorities must ensure equal treatment and not provide information in a discriminatory manner which may give some bidders an advantage.</p>
	<p>Contracting authorities must inform bidders of any changes to the technical specification or other procurement documents (other than minimum requirements which mustn't change).</p> <p>Following changes, contracting authorities must allow sufficient time for bidders to modify and resubmit amended tenders as appropriate.</p>
	<p>Bidders' confidential information must not be revealed to other bidders without specific agreement. Agreement must be with reference to the intended communication of specific information, not a general waiver.</p> <p>The negotiation/dialogue may take place in successive stages to reduce the number of solutions (CD)/bidders (CPN) by applying the specified award criteria. Contracting authorities must indicate whether they will use successive stages.</p>
Stage 4: Final tenders	<p>No negotiations allowed on final tenders.</p>
	<p>No explicit restriction on discussions on the successful tender (other than no negotiations of final tenders). Clarifications which comply with the general principles of equal treatment, non-discrimination and transparency are permitted.</p>
Stage 5: Award	<p>Award on the basis of most economically advantageous tender (which may include using best price-quality ratio or lowest price). <i>Departments should, however, note that it is Government Policy to award contracts based on value for money and not lowest price.</i></p>

5 FINANCIAL CASE

5.1 Service Delivery

- 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 fixed for the duration of the contract.
- 5.1.2 Works Activities relate to planned maintenance/improvement works and are instructed at market rates using payment options A, C or E (activity schedule, actual cost, or cost reimbursable) 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.
- 5.1.3 The current HIS Contract delegates certain statutory functions of the Council to the Service Provider for 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.
- 5.1.4 In respect of Network Management, 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. At time of drafting this report ESCC is considering the introduction of a Lane Rental scheme, subject to Cabinet and DfT approval, and if approved it is envisaged that this will be managed in future by the Service Provider.
- 5.1.5 With regard to Third Party Claims, the Service Provider manages, handles and validates claims arising from injury or damages sustained 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.
- 5.1.6 A full review has been undertaken of the suitability of the current HIS Contract Client and Service Provider functions, taking into account; feedback from the market via soft market testing, the current Service Provider and the knowledge gained by the Client through five years of service delivery There are no significant changes proposed to the contract functions or payment options for the new SDM - see table 017 within the commercial case section.

5.2 Current Service Cost

- 5.2.1 The current SDM is delivered within the constraints of the annual revenue and capital budget allocations to the highways service, Tables 022 & 023 below summarise the current HIS Contract costs to date. This includes spend from both the Council's Highways Maintenance Capital and Revenue budgets, which the service is responsible for managing and also spend from the Council's SEI team. The SEI budgets are not specifically managed within the Highways service, and the spend relates to both works and professional services.
- 5.2.2 It is expected that highways maintenance spend levels will remain at a similar level for the remainder of the current contract and continue to be financed within the current allocated budgets.

Table 022: Summary of current HIS Contract costs (Service Years 1-3)

Completed Activities	Service Year 1 (2016/17)	Service Year 2 (2017/18)	Service Year 3 (2018/19)
Mobilisation	£948,480.55		
Core Activities	£7,685,473.15	£7,685,473.15	£7,685,473.15
CEs to Core Activities*	£1,814,549.23	£3,093,340.23	£1,947,671.82
Total – Core Activities (a)	£10,448,502.93	£10,778,813.38	£9,633,144.97
Works Activities (Option A)	£331,705.15	£996,654.64	£1,163,305.00
Works Activities (Option C)	£23,032,390.53	£13,897,658.78	£16,545,559.75
Works Activities (Option E)	£370,500.08	£5,433,520.68	£5,888,211.97
Total – Works Activities (b)	£23,952,919.53	£19,311,179.46	£23,597,076.72
Total SEI (c)	£219,942.55	2,960,803.24	£1,964,467.20
Total (a+b+c)**	£34,401,422.46	£34,067,450.72	£35,194,688.89

* relates to additional emergency & reactive maintenance work instructed (Compensation Events (CEs) over & above that included in the Core Activities

** Excludes costs associated with Employer's Incentive Scheme

Table 023: Summary of current HIS Contract costs associated with application of Employer's Incentive Scheme (Service Years 1-3)

	Service Year 1 (2016/17)	Service Year 2 (2017/18)	Service Year 3 (2018/19)
Total share (Works Activities – Option C)	£1,431,656.42	£437,650.12	£479,072.04
Employer's share of savings (50%)	£715,828.21	£218,825.06	£239,536.02
Contractor's share (50%)	£715,828.21	£218,825.06	£239,536.02
Profit bonus payment	£131,003.13	£64,865.67	£201,035.92
Contractor's Social Value Contribution	£81,248.47	£27,319.12	£42,907.86

* Values struck through relate to costs not paid or not applicable due to application of Employer's Incentive Scheme and/or performance.

5.2.3 In addition to costs incurred through the delivery of works, the highway service budget also includes an annual allocation of £3.1m for the cost in providing the Council's Client management function, utilities and highway activities delivered by others, such as highway tree management in Eastbourne.

5.2.4 To date the current HIS contract has incurred costs of approximately £40m per annum, with a forecast seven-year contract outturn of £280m.

5.3 Future Indicative Service Budget

5.3.1 Highway maintenance is currently funded from two funding streams, Capital and Revenue, indicative budgets for the initial contract term have been identified, see Table 023. Note, table 023 is for illustration purposes only and outlines indicative highway maintenance budgets. It does not include any potential additional SEI spend that could be procured through the new contract.

5.3.2 How the Council plans for the future

5.3.3 Reconciling Policy, Performance and Resources (RPPR)

5.3.4 The Council has a well-established budget setting process called Reconciling Policy, Performance and Resources (RPPR) which plans, reviews and sets both revenue and capital budgets on both an annual and multi-year basis. It is the main tool to help the Council identify key policy priorities.

5.3.5 The Council Plan

5.3.6 The Council Plan summarises the agreed budget and is the Council's most important business planning tool. It sets out priorities for the next three years with clear targets for achievement. It is published by 1 April each year and monitored quarterly. Links to each document can be found here:

- [Council Plan](#)
- [Our progress against the Council Plan](#)

5.3.7 How the Council's priorities are reflected in the budget

5.3.8 As part of the RPPR process, the Council develops a medium-term financial plan published in its [Financial Budget Summary](#). The Council must make sure it has the money to meet its key priorities and objectives. To work out what money it needs and what it has, the following information is taken into account as part of the RPPR process:

- the amount of money the Council would need to provide services in the future in exactly the same way as now;
- the cost of any new services that the Council must provide during the next financial year;
- other financial risks and pressures (as a result of increased demand for services or an increased cost in delivering services); and
- anticipated levels of money available to the Council to provide services.

5.3.9 The Council then prepares its budget and allocates money to individual services, so that the plan and budget can be agreed before the financial year starts on 1 April. The agreed budget provides detail on the 2020/21 revenue budget and the Capital Programme to 2029/30. It gives analysis of expenditure by type and also by accountability, along with detail of the Council's resources to finance that expenditure. The summary provides a useful source of information for Council officers, elected members and the public alike.

Table 024 – Seven Year Indicative Highways Maintenance Budget Allocation

ESCC Highways Maintenance - Budgets	Future Contract Term Initial Seven Year Term							Total
	23-24	24-25	25-26	26-27	27-28	28-29	29-30	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Highways Maintenance – Capital Programme Total	21,347	21,902	22,559	23,236	23,933	24,651	25,376	163,004
Highways Maintenance - Revenue Programme Total*	12,025	12,025	12,025	12,025	12,025	12,025	12,025	84,175
Highways Maintenance - Future Contract Period Total**	33,372	33,927	34,584	35,261	35,958	36,676	37,401	247,179

* this excludes an annual allocation of £3.1m for the cost in providing the Council's Client management function, utilities and highway activities delivered by others, such as highway tree management in Eastbourne.

**These totals exclude any forecast budget spend from the SEI team.

5.4 Contract Savings

- 5.4.1 Significant budgetary savings were made during the last highway services procurement (for the current contract), much of which was one-off cashable savings (£1,404,455, including a £1.1m target reduction in revenue set out in the Council's Medium Term Financial Plan). These savings were predominantly brought about through the change in service delivery model and the move to an outsourced mode. As such there is very limited scope to secure further savings of this nature through the proposed SDM.
- 5.4.2 In addition to the savings generated through the previous contract, further revenue savings have been secured during its service delivery in the sum £1.289m. These can be summarised as follows:
- 2018/19 - £400k Grass cutting (reduction in urban grass cutting)
 - 2019/20 - £700k Reallocation of Client Staff costs from revenue to the capital budget
 - 2019/20 - £189k Highways related investigations and studies (reallocation of costs from revenue to capital)
- 5.4.3 Currently there are no highways related savings targets against either of the revenue or capital budgets in the Council's 2021/22 Medium Term Financial Plan (MTFP). However, one of the Council's key priorities is to make the best use of resources. This is driven by the Local Government Act general duty which sets out that a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having due regard to a combination of economy, efficiency and effectiveness.
- 5.4.4 Therefore, whilst no official savings targets are currently set in the MTFP for the highways service, the HSRP analysis completed to date seeks to ensure the Council's priority to make the best use of resources is continued to be actively pursued. This will be achieved through determination and selection of the best fit SDM, through to the specifics of the contract design, such as risk allocation, payment options and incentivisation models.
- 5.4.5 With the likelihood that service costs may continue to increase in the future as fixed prices are adjusted for inflation, one of the main objectives of this re-procurement is to therefore seek to mitigate these increases wherever possible.

5.5 Forecast Price Increases

- 5.5.1 A review of the impacts of future inflation has been undertaken, based upon the last 20 years of market data, as detailed in Table 025 below. It can be seen that the Core Activity current prices could increase in the range of 9.5 -18.5%, this would take the current core service provision from £7,685,473 up to £9,107,285, this could further increased by changes in the bidder's strategic approach and commercial offer, which will likely see changes in the contractors fee and level of efficiency discount.
- 5.5.2 The full impact of this until bids are received and the full effect of competition and market forces become evident.

Table 025: Inflation Review (Core Activity Prices)

	Price Fluctuation Indices			
	RPIx	RPI	All Civil Engineering	Highway Maintenance
Average annual	2.65%	2.56%	1.72%	1.36%
Forecast to 2030 (7-year contract term)	18.5%	17.9%	12.0%	9.5%

- 5.5.3 In completing this DBC further analysis has now been undertaken to assess the impact of inflation when applied to the current expenditure. Additionally, an assessment has been made to assess the potential tender prices that may be received from the market. This has included for the removal of the current Contractor's tendered discount and an increase in the Contractor's Fee.
- 5.5.4 Table 026 shows three scenarios of budget and cost for the future initial seven-year contract term 2023/24 – 2030/21:
- **Column A** – shows the indicative budget allocation forecast through the RPPR process
 - **Column B** – shows the forecast future service costs based on potential costs increases due to increases in inflation, Contractors Fee and no tender discount received from the winning Service Provider. This is the worst case scenario impact to the indicative budgets set out in column A.

Table 026– Forecast Modelled Service Costs

Service Year	Column A Indicative Budget Allocation £m	Column B Forecast Cost* £m
1	33,372	40,843
2	33,927	41,576
3	34,584	41,950
4	35,261	42,333
5	35,958	42,727
6	36,676	43,131
7	37,401	43,546
Total	247,179	296,106

*Forecast cost calculation – Contractor's discount removed, average fee applied, prices inflated to 2023-

** Modelling gap need added to capital indicative budget

5.6 Potential Change in Cost Summary

- 5.6.1 Through the analysis of both savings opportunities and potential costs increases, Table 027 provides an overall summary of the potential changes in service cost for the three key areas of spend for the preferred SDM (Option 2 only).
- 5.6.2 A full affordability assessment can only be completed once the tender evaluation has been completed.

Table 027 Potential change in Service cost.

	SDM Option 2 (Integrated) Per Service Year	Seven Year Forecast	Comments
Highway Maintenance - Core Activities	9.5% - 35%	n/a	Inflation, contractors fee and tender discount increases. Potential change in price only occurs once at contract award, as these are lump sum (Option A)
Highway Maintenance - Works Activities (Schemes)	0-5%	Up to 35%	Anticipated change in contract fee. Less works to be delivered if budget remains the same.
Professional Services (Design)	-5% to 5%	Up to 30%	Improved management and monitoring of need and cost by ESCC, but also anticipated change in contract fee. Less works to be delivered if budget remains the same.

5.7 Asset Management Approach

5.7.1 Highway Asset Management in East Sussex has been maturing since the concept was introduced in 2005. It was only in 2016 as part of the Code of Practice recommendations that this method of delivery became further developed and the Council’s highway budgets relies on the application of Asset Management as a solution.

5.7.2 In recent years the Council has improved its understanding of managing the network through continuing to apply asset management principles. The Council has gathered more and better data with which to inform our understanding and refine our decision-making processes. In 2020 the Council procured a new pavement management system (PMS) to manage all asset data. We use the PMS to support planning and decision making aligned with Council priorities for all of our assets. As we have matured, we have refined expected lifecycles for the carriageway asset to reflect local experience in the County and fed these onto the PMS. We model investment in the PMS using these lifecycles following best practice using national averages for maintenance costs.

5.7.3 An approach to life cycle planning for each major asset has been adopted and investment is managed on this basis. Processes to apply appropriate analyses to determine the investment are in place such as the HMEP Lifecycle Toolkit. Investment for future funding has been developed using a range of different scenarios in order to identify best return from investment. Lifecycle plans are used to support investment decisions, through the RPP&R process, and are audited and checked.

5.7.4 The Council’s Asset Management Strategy is currently under review as part of the current RPP&R process to meet council priorities and resources. The updated strategy will outline our long-term strategic objectives which may require review as a result of a modelling exercise and the RPP&R process. The new Asset Management Strategy 2021 – 2031 will be included with the Invitation to Tender (ITT) document set to be issued around October 2021.

5.7.5 Asset Modelling

5.7.6 During the development of this DBC the Council are in the process of completing a full review of its asset lifecycle model for the highway assets. Lifecycle highway assets models have been completed for: -

- Carriageway 3,112.25 Km in total
- Footway 2250Km Urban, 400Km Rural
- Structures 1108 bridge and culverts, 342 individual retaining walls
- Lighting 41,537 lights, 626 illuminated signs, 2,356 bollards, 478 other.
- Signs 43,695 individual items
- Road Markings 2,220Km plus 31,600 individual items
- Traffic Signals. 66 junction, 149 pedestrian, 2 others

5.7.7 Each asset type has been modelled following best practice, to undertake the modelling projection as follows;

- The Council sets deterioration values for each asset in line with best practice and local experience.
- A cradle to grave calculation is applied to many assets. This assumes the items transition from new to end of life without any intervention, e.g. highway signs.
- For other assets (e.g. carriageways) the calculation is more refined, for example where lifecycles can be extended through interim preservation/preventative treatments. This is particularly important where the asset is not replaced wholesale as if a new road for example.

5.7.8 The early modelling results are being refined to confirm council priorities and to inform the budget setting process.

5.7.9 The modelling that is in progress will need to consider any funding gap over the initial seven-year contract duration. The impact of a funding gap may mean that the condition of some asset types will continue to decline in condition unless the Council is able to invest more funds into the service.

5.8 Funding Strategy

5.8.1 As identified in this DBC, it has been recognised that the condition of the council’s highway assets and the council’s ability to stem deterioration in condition needs to be considered alongside all other council service priorities. This situation is not unique to East Sussex; many other highway authorities are in a similar position, as often reported in the national press and technical journals. Indeed, most recently a House of Commons Local Roads Maintenance report, Feb 2019 highlights:

- There are ongoing concerns about the general state of the national road network, the backlog of repairs and the cost of bringing these defects up to standard. Industry reports suggest that around 18% of the national local roads network is in poor condition and it would take 14 years, at a cost of £9.31 billion (national total), to get local roads back into a reasonable steady state.
- While motorway and A road local road maintenance expenditure has increased, this has come at the expense of spending on minor roads. The squeeze on local authority budgets has meant that spending is being allocated to other core services at the expense of local roads maintenance
- The fall in spending on local roads needs to be considered in the context of the increase in traffic that is being realised on local roads across the country. Between 2013 and 2017, traffic grew by 7% on local roads in England. Routine maintenance expenditure has also been declining and an increasing share of spending is being allocated to A roads compared with minor roads across the country

5.8.2 Against that backdrop, consideration must be given to the Council's ability to fund an appropriate level of investment and to service the associated borrowing against the budget challenges for other Council priorities.

5.8.3 However, any future funding decision does not detract from the SDM presented for future highway infrastructure services. The proposed model remains the preferred SDM in order to, as a minimum, meet the Council's general duties and obligations to maintain a safe and serviceable highway asset and provide value for money.

5.9 Department for Transport Funding

5.9.1 Whilst potholes are generally viewed by the public as the main indicator of highway condition, the repair of potholes and preventing them from forming is only one element to improve the condition for all road users. Well maintained highways not only improve local productivity but also the environment by reducing delays, and makes cycling, horse riding and walking more attractive.

5.9.2 As set by the Department for Transport (DfT) in their most recent roads funding information pack, June 2020:

- The needs element funding allocated to each local highway authority in England in 2020/21 is based on a formula using 2019 road length data provided by each local authority, and also takes into account the number of highways assets such as bridges and lighting columns for which they are each responsible for.
- The Incentive fund element is funding for local authorities to ensure they are following an effective asset management approach and adopting efficiency and best practice principles for local highway maintenance. The funding is a mechanism for highway authorities to receive additional funding over and above the Needs based formula. The Council is currently band three (top band) for 21/22 and has therefore received 100% of the incentive fund opportunity. Although the DfT are yet to confirm the continuation and process for incentive funding past 21/22, the usual self-assessment submission to DfT is due February 2022 and East Sussex are continually working to ensure we are able to return a band 3 again and maximise our funding allocation.

5.9.3 In May 2020, in the Transport Secretary's statement on Covid-19, he laid out further plans to transform the country's transport infrastructure to help the country 'build out' of Covid-19, supporting the nation's economy, and delivering on the government's key agenda of levelling up the country. There is a focus on sustainable travel; cycling, rail, bus, trams etc, - levelling up infrastructure and regenerating/balancing local economies after the coronavirus outbreak. East Sussex are exploring all relevant bidding opportunities that come out of this, including the Levelling Up Fund, but it is also unknown what impact these future funding opportunities/changes will have on the Council.

5.10 Financial risk

5.10.1 Table 028 sets out a number of key financial risks that may impact future service affordability. Risks 1,2,3 were identified in the OBC, these three risks are still open and three new financial risks (4,5,6) have been identified through the development of the DBC. Risk 1 remains as the highest overall financial risk, the impact of this risk on the overall service affordability cannot be known until the tender evaluations are completed.

5.10.2 A key mitigation tool that could be used in the event of any of these financial risks occurring is the use of the CPwN, procurement route to market strategy that has been selected as set out in the commercial case section. Upon evaluation of the tenders at the initial phase, the Council should they need to, can have a number of negotiations with the bidders and provide feedback on their bids to enable them to resubmit an improved offer which may include changes to prices and/or quality submission and also changes to the Councils service requirements.

Table 028: Key Financial Risks

Risk Ref. No.	Topic	Description of Risk	Impact (expected)	Revised Risk Rating (Impact x Likely = Result)			Status	Proposed or actual Countermeasure(s)
				Impact	Likely	Result		
1	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 can only be completed once the winning Service Providers bid has been evaluated. 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	Covid	Further lockdowns / prolonged (long term) safety measures in place regarding COVID	Delays to the project programme and potential longer term impacts on contract costs	High	Moderate	6	Active	Robust project management of the project timeline, regular monthly updates. Forecast cost increases have been reported corporately. It is unknown what, if any, this risk may have on new tenders prices under the tenders are evaluated.
3	Budget Reduction	RPPR savings targets are applied to highways budgets during the tending process -	Depending on the scale of the savings, this could impact the efficiency and effectiveness of the selected service delivery model as set out in the original options appraisal. This may also impact the market interest of the selected model due to it not being commercially viable. Delays to completion of the DBC/whole procurement process if the selected SDM needs to significantly change to an alternative model Reduced Service Delivery levels / Asset deterioration / Customer satisfaction. Basic statutory service provided only	Medium	Likely	6	Active	Mitigation required dependent on the outcomes of the RPPR process and any funding proposed. Recent AM modelling indicates not enough funds are in place to maintain current condition targets. This is to be dealt with as a serrate funding paper and feed into the finalisation of the AM Strategy 2021-2031 Policy review, design of commercial contract, review of works information. Reductions can be managed through the normal contract mechanisms
4	TUPE	Poor TUPE information provided to the bidders	Inability for bidders to accurately price the contract.	Medium	Moderate	4	Active	Ensure early engagement with ESCC Pensions Manager/external pension advice, to ensure all relevant issues/risks are given appropriate priority and level of resource. Produce TUPE template, seek 3rd party advice on template, request stage 1 TUPE list in June 2021 to allow validation time for any potential issues
5	Asset Inventory	Incomplete asset inventory.	Any gaps in inventory data could be exploited/leave ESCC vulnerable when tendering new contract, bidders may apply additional risk/cost when pricing tender response.	Medium	Moderate	4	Active	Assess knowledge gaps for Cost risk and benefit. Commission Asset Inventory Surveys where of benefit. Centralise and validate asset data records. A project lead has been appointed to work with the AM team to start to collect the inventory and site information documentation. An independent 3rd party consultant will review the information to be provided to the market and test the pricing model document.
6	Contract Value	Reduction in contract	Under recovery of %profit by the winning contractor	Medium	Likely	6	Active	At stage 3 of the project continue to explore mitigations such as setting a contract value all bidders should use when calculating their fee's and/or the most accurate breakdown of spend as possible

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 Both the Outline Business Case and the work undertaken for the Detailed Business Case (DBC) have identified that a strong contract management capability is important and there is good evidence that a lack of this capability has led to problems with contracts in other authorities and in some cases of functions being brought back in-house for the Authority to manage. This was something that the Authority recognised before the award of the current contract and a great deal of time and training has gone into building a strong in-house commercial capability. Whichever option is chosen a strong contract management and commercial function will be required and the current in-house capability will stand the authority in good stead.

6.4.2 One of the Council's key priorities is to make the best use of resources, this is driven by the Local Government Act general duty which sets out that a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

6.4.3 The Council has reduced spending across its services by more than £134 million over the past decade to keep within the limits set by long-term reductions in financial support to East Sussex and the county's growing needs. It is projected there will be a further financial gap of £12.5 million across the whole Council over the two years from 2021–2023.

6.4.4 The need for the Council to be efficient, offer value for money and reduce costs has never been stronger, this re-procurement project provides an opportunity to review the current structure of the Council's highways Contract Management Group (CMG). The CMG structure needs to be established and trained on the future contract mechanisms and be ready to work with the incoming provider(s) during the mobilisation phase in order to meet the Council's priorities and best value requirements of the Local Government Act.

6.4.5 The principle outcome of the new contract is to focus on providing our core service well and by using a robust asset management approach to provide effective quality assurance, to have the best network condition for the investment available, to consistently have effective customer engagement, to continue to promote economic growth and to support new challenges such as the carbon neutral agenda

6.4.5 Existing Contracts Management Group Structure

6.4.6 The existing CMG structure was established at the start of the current Highways Infrastructure Services (HIS) Contract 2016 – 2023. The team is led by a Head of Service and the key functions are: contract and commercial management, performance and compliance management, asset management and service development.

6.4.7 An overview of some of the key successes that the CMG have been responsible for include:

- Realisation of an Initial £1.4 revenue savings per annum when the new current integrated Service Delivery Model (SDM) was designed, tendered and implemented.
- Realisation of 10% efficiencies per annum on the capital works programmes, more for less, carriageway condition targets been achieved for each Service Year
- Continuous improvement of service through application of the performance framework & employer's incentivisation model. The Contractors performance across the 24 Strategic Performance Indicators (SPIs) in Service Year five is the highest to date.
- Effective quality monitoring of the capital programme through onsite inspections of all works
- Robust internal audit completed in July 2017, found reasonable assurance (2nd highest opinion) in respect of the contract management controls being in place.

6.4.8 Future CMG functional requirements

- 6.4.9 The CMG is well established and 'home-grown' with 6 x NEC Accredited Project Managers and 5 X NEC Accredited Supervisors. The team has sufficient capability and capacity to effectively manage the preferred Option 2 – Integrated Single Provider SDM that is being recommended and no additional resources will need to be recruited.
- 6.4.10 In preparing this DBC a number of engagement activities have been carried out where stakeholders have identified potential areas where there are opportunities to further develop our contract management capabilities to provide an improved service. These areas include but are not limited to improved quality control of the Contractor's works to ensure the delivery of a right first-time approach and enhanced support for both internal and external key stakeholders through client officers.
- 6.4.11 In preparing this DBC, 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 SDM. Table 029 sets out the six key functional requirements, outline key objectives, responsibilities, and benefits of each function.
- 6.4.12 At the next stage 3 of the project alongside delivering the procurement strategy the management structure of CMG will continue to be reviewed and designed to ensure that the critical functions are organised in the most efficient and effective structure. Any organisational changes that may need to be made will be undertaken in advance of the start of mobilisation around November 2022, so that all roles are in place ready to work with the new Contractors key people. This was a key lesson from the previous re-procurement, whereby recruitment delays meant some roles remained vacant throughout Service Year one, leading to some benefits not being realised at the earliest opportunity.

Table 029: Summary of CMG key functions

Service Management – Head of Service / NEC Project Manager						
Function	Contract & Commercial Management	Business & Performance Improvement	Asset Strategy and Management	Key Stakeholder Management	NEC Supervision (Quality Management)	Intergrated Project Support
Objectives	To manage and administer the contract to give confidence and assurance the service is being provided efficiently and delivers the best possible value for money	Manage business activities such as performance monitoring, reporting requirements and undertake business analysis and benchmarking internally and externally to further develop the service over its contract duration.	To develop and implement an Asset Management Strategy & Plan that is funded and meets the needs of ESCC	To promote the service and the culture with key stakeholders	To ensure effective contract compliance and quality control of both reactive and planned works	Project support of service needs
Key Responsibilities	<ul style="list-style-type: none"> • NEC—delegated duties from Project Manager • NEC - Contract compliance auditing and administration • NEC— Change control • NEC—Risk Management (EW's) • Cost forecasting & Programme delivery • NEC— Payment Assessments • Supply Chain Management • Commercial Negotiations • Approve Payments • Procurement of step out services 	<ul style="list-style-type: none"> • Monitor of Performance Framework • Business Improvement Plans • Business Analysis & Benchmarking • Organisational Development • Management of FOI's • Support Contractor on developing self-service information • Drive Continuous Improvement 	<ul style="list-style-type: none"> • Develop Total Asset Plan & Strategy for ESCC • Develop & Maintain WLC model • Determine Asset Need & Priorities • Policy Review & Management • Update & Maintain national indicators • Engineering expert and Materials • Asset Funding Bids Lead • Condition Surveys • GIS Mapping & Data Management • Manage Pavement Management System • Budget Management • Adoption of new assets 	<ul style="list-style-type: none"> • Support HoS • Management of Senior ESCC Officer Enquires • Management of other ESCC team interfaces with ESH. • Support of Member & Parish Enquires • SLR attendance • Overview of member & parish relationships • Liaison with press and communications teams 	<ul style="list-style-type: none"> • Fulfilment of NEC duties as set in NEC4 • Monitoring the quality of works being delivered, addressing any trends or issues identified • Management of issuing defect certificates, and ensuring that the operational contractor teams address and repair these • Issue instruction for the identification of defects 	<ul style="list-style-type: none"> • Lead on business and performance improvement projects to drive continuous improvement. • Support internal client projects.
ESCC Key Priorities	Making best use of resources in the short and long term Driving sustainable economic growth					
Service Outcomes	<ul style="list-style-type: none"> • Quality Assurance • Promote economic growth 	<ul style="list-style-type: none"> • Quality Assurance • Promote economic growth • Effective Customer Engagement 	To have the best network condition for the investment available Support Carbon Neutral Agenda	<ul style="list-style-type: none"> • Effective Customer Engagement • Quality Assurance 	<ul style="list-style-type: none"> • Quality Assurance 	<ul style="list-style-type: none"> • Quality Assurance • Effective Customer Engagement
Benefits	<ul style="list-style-type: none"> • Enhanced function with the responsibility and full resources to manage effective contract compliance in a timely manner. • Resources can be deployed quickly and proactively to monitor compliance to avoid non-compliance before a full after the event audit is needed 	<ul style="list-style-type: none"> • Enhanced function with responsibility for business improvement and performance monitoring being within a single function • Performance monitoring is a primary source for identifying areas for continuous improvement, which is complimented through proactive regular business analysis and benchmarking activities. 	<ul style="list-style-type: none"> • Enhanced function with capital budget management and funding and bidding aligned to key policies and Asset Management plans • Permits more effective short and longer term planning 	<ul style="list-style-type: none"> • Dedicated function to support key stakeholders throughout their engagement journey. • Key Stakeholders will have a single point of contact to assist them with escalated needs providing better access to CMG services • Enables common issues to be identified to provide enhanced service to all key stakeholders 	<ul style="list-style-type: none"> • Enhanced function with sufficient resources for effective quality control of works both planned and reactive. 	<ul style="list-style-type: none"> • Enables a consistent approach to how projects are executed. • Project risks are reduced and opportunities maximised • Individuals work in a more successful environment as manage projects from start to finish

6.5 Overview of functions

6.5.1 An overview of the rationale and future challenges for the six functions included in table 029 is set out below.

6.5.2 Contract and Commercial Management Function

6.5.3 This function is critical to the successful day-to-day delivery of the commercial contract(s) and ensuring overall contract compliance, governance, and administration of the contract. The function will fulfil a number of 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 corporate expectations. With this in mind, the Council's Contract and Commercial Management function needs to be equally skilled and resourced to ensure the Council continues to receive value for money for the commissioned services.

6.5.4 The current function has grown and developed with 100% retention of staff over the last five years contract duration, all staff in the function hold a form of NEC accredited professional qualification.

6.5.5 Through effective risk management of the NEC Contract Risk Register (Early Warnings), the function ensures successful commercial management and delivery of the Councils key priority, making the best use of resources. Through daily engagement with the Contractor the function is well placed to identify potential contract compliance issues, the function can therefore be enhanced by taking on the design and delivery of an appropriate compliance plan for the next contract duration.

6.5.6 Business and Performance Improvement

Managing an integrated service contract trust and mutual co-operation between the parties is key and working with the contractor to support and develop the people of both organisations is critical to the success of the service. The business and performance improvement function sits at the centre of the required organisational training and development to promote the business, people and performance improvement across the service.

6.5.7 The function will have responsibility for business development, improvement and performance monitoring where performance monitoring is a primary source of identifying areas for improvement through proactive service analysis and benchmarking activities that will ensure an ongoing driver for continuous improvement of the service throughout the contract life. Business analysis and benchmarking will be essential to ensure the Council can deliver best practice service delivery and demonstrate continuous value for money.

6.5.8 In addition the function provides important support for reporting and administering corporate requirements and liaison with other authorities for bench marking and research.

6.5.9 Asset Management

6.5.10 This function has been established over the life of the current contract, it continues to develop and evolve each service year through a blend of training, the introduction of an Asset Management system and through improved data management and modelling techniques regarding the condition of the asset inventory. The success and maturity of this team has been recognised through the attainment of the DfT Incentive Band 3 which is the highest banding, ensuring the council receives the maximum allocation of funding.

6.5.11 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 function will also be responsible for managing and updating the Council’s relevant Highway Maintenance Policies through the life of the next contract, in addition to leading on developing funding bids and work with the new Contractor to collaboratively seek best value of resources through embedding innovation practices where possible. A key challenge for this function will be agreeing a fully funded asset management strategy with conditions targets for each asset type.

6.5.12 Key Stakeholder Management

6.5.13 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 Key Stakeholder Management function will be responsible for leading on this aspect. The focus will be the management of (non-transactional) Member enquiries and other departmental/corporate communications. This will provide an increased focus on developing good relationships with organisations outside the Council and those key stakeholders that have regular contact with the Council on wider highway matters. They will also support other functions, within highways and the Council’s wider CET department, and their relationships will ensure a transparent and collaborative approach is taken across the service.

6.5.14 The provision of the day to day Customer service will remain with the Contractor as the first point of contact for making enquires including the reporting of safety defects and other transactional issues. This function will support key stakeholders with more complex enquires and ensure they have a single point of contact to assist them through to resolution. This will enable common issues to be identified, rectified to provide a consistent and the enhanced service that Members and parishes are keen to receive.

6.5.15 NEC Supervision (Quality Management)

6.5.16 As set out in Appendix 004, 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 reactive works being delivered. As such, this enhanced function will build on the current successes regarding the fulfilment NEC Supervision obligations that has focused on planned capital works. The enhanced function will have resources to focus on the quality of both planned works and reactive works being delivered and address any trends or issues identified. The function will be able to provide assurances to Members and other key stakeholders that the future Contractor is delivering the services to the requisite quality and in line with the requirements of the Service.

6.5.17 Integrated Project Support

6.5.20 To manage and deliver CMG led projects to support continuous improvement across the business and support other teams across CET deliver successful highway projects.

6.6 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 030:

6.5.2 The key risks at this stage of the HSRP are set out in Table 010.

Table 030 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.

6.7 Post Implementation Review

6.7.1 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.

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 completion of both the OBC and DBC.
- 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 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 next stage of the project.
- 7.6 The following are recommended for development in the next stage of the HSRP (Stage 3 – Delivery of the Procurement Strategy):
- 1 The Council selects Option 2, Integrated Contractor & Designer Contract (current SDM) as the preferred SDM because it presents the best opportunity and the least risk to 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;**
 - 2 Select the contract duration option of an initial term of 6 years 11 months + 7 years optional extension;**
 - 3 Agree that a contract is developed and prepared for tendering based on NEC4 form of contract that reflects the Councils requirements and clearly defines the service requirements and the Service Provider's responsibilities.**

8 NEXT STEPS

- 8.1 The next steps are to develop the contract documents for tendering. An E-Notice will be issued in November 2021 that will flag our intention to engage the market for tender and start the formal procurement process.
- 8.2 At the same time as preparing the contract documents we will continue to develop the performance criteria for inclusion in the contract, refine the contract mechanisms, determine the service levels required, develop the organisational change plan and develop the asset management plan.
- 8.3 The following is a summary of the key activities and tasks to be completed in the delivery of the procurement strategy (stage 3):
 - Prepare the tender documents & evaluation (SQ and ITT);
 - Test the performance management regime;
 - Procure the services, and
 - Complete the tender evaluations