

## Sourcing Plan

<b>TITLE: Wiltshire Highways Maintenance Contract</b>	<b>VALUE: £300,000,000</b>	<b>Ref: HE0134</b>
<b>Responsible Officer:</b>	<b>Dave Thomas</b>	
<b>Responsible Director:</b>	<b>Parvis Khansari</b>	
<b>Contract Manager:</b>	<b>Steve Cross</b>	
<b>Procurement Officer:</b>	<b>David Gillett</b>	
<b>Date:</b>	<b>10/11/2021</b>	

### Description

The Council is the local highway authority and is responsible for a highway network of over 4,400km with assets including almost 1,000 highway bridges and approximately 50,000 street lighting columns and illuminated signs and bollards.

Since 1999 maintenance of the highway network has been undertaken by specialist maintenance contractors to ensure the network is maintained in a safe condition for highway users.

The use of a specialist maintenance contractor also ensures that the authority has the capability to meet its legal requirements and objectives detailed in Wiltshire Council's Business Plan.

It also provides the Council access to industry experts and technical resources who can advise on the most financially advantageous and robust maintenance solutions available.

On 31<sup>st</sup> March 2023 the current Wiltshire Highway Contract detailed below will come to an end. It is proposed to retender the highway maintenance service using the 2 stage tender process to shortlist suitable suppliers ahead of the Invitation to Tender.

### Commissioning Aims

The commissioning aim is to engage a 3<sup>rd</sup> party specialist service provider to assist the client in undertaking and delivering a compliant, timely and cost effective highways maintenance service in a professional manner, ensuring Wiltshire's highway network is maintained in a safe condition for highway users.

This will also assist the Council in achieving core aims within the Wiltshire Council Business Plan.

In 1999 Wiltshire County Council undertook to outsource its in-house Direct Labour Organisation through the procurement of a highway maintenance contract. This was followed by a new contract when that one ended. This strategy has continued under Wiltshire Council with subsequent contracts, the current highway maintenance contract is the 4th successive highway maintenance contract awarded.

The Council does not have sufficient skills, personnel or the specialist expertise, plant and materials to deliver these services in house. Please see Appendix A for further details.

In order allow the continued provision of a highway maintenance service a new contract will need to be procured and awarded for a start date of 1st April 2023.

This contract will sit alongside the existing highway contracts for

- Machine Surfacing,
- Surface Dressing and Micro Asphalt,
- Traffic Signals Maintenance,
- Arborist Services and
- Specialist Surfacing and Associated Highway Works Framework Contract.

Together these contracts ensure that the Council is able to maintain the highway network in a safe condition in accordance with its statutory duty as the Highway Authority.

Previous experience through the Balfour Beatty Living Places Highway and Streetscene Contract (2013) has taught us that having multiple contract reduces the risk in providing statutory maintenance operations should a contract encounter contractual difficulties.

The new maintenance contract will include the following highway activities:

- Local Highways
  - Safety Repairs
  - Reactive Service
  - Routine Maintenance
  - Cyclic Operations
  - Parish Stewards
  - Minor Work
- Integrated Transport
  - Improvement Schemes
  - Signing Works
  - Lining Works
  - Handrails and Barriers
- Structures
  - Maintenance and Repairs
  - Bridge Replacements
  - Culverts
- Drainage
  - CCTV Investigations
  - Repairs
  - New Drainage Systems
  - Reactive Works – flooding etc.
- Street Lighting
  - Inspections
  - Maintenance
  - Repairs
  - Replacements
  - Lighting Schemes
  - Checking Third Party Christmas Lighting across the Highway
- Winter Service
  - Provision of Gritter Drivers
  - Call-outs, and Standby
  - Vehicle Management
- Out of Hours Emergencies Service
  - Out of Hours Standby

- Responding to Reactive Issues on the Highway
- Works Programming
- Streetworks Coordination
  - Permits

## Business Objectives:

### **Statutory and Legal Requirements**

Wiltshire Council as the Highway Authority has to fulfil the following statutory duties;

- Under the Highways Act 1980 - "To maintain the highway, and ensure, (where reasonably practical), that safe passage along a highway is not endangered by snow or ice"
- Under the Road Traffic Act 1988 - "In construction of new roads, must take such measures as appear to the authority to be appropriate to reduce the possibilities of such accidents when the roads come into use"

The Authority also has to comply with Common Law in particular to avoid killing or injuring people through negligent actions in accordance with the offence of Gross Negligence, Manslaughter.

This is further reinforced in the Corporate Manslaughter Act 2007 and under Duty of Care.

### **Wiltshire Council Business Plan**

Under the current Wiltshire Council Business Plan, the Council has set out core aims;

#### Growing the Economy

- Road Infrastructure is improved through tackling the historic maintenance backlog on the roads and bringing the county's road network to an acceptable standard in line with the Highways Asset Management Strategy;
- Improved road conditions to improve safety and reduce the levels of those killed or seriously injured.

#### Strong Communities

- Reduced road casualties through improved road conditions to improve safety and reduce the levels of those killed or seriously injured.
- Reduced risk of floods and other threats through maintaining and improving the existing systems and the provision of new systems.

For the Council to achieve its core aims the highway services will require access to a specialist maintenance company who can deliver the maintenance service to meet the Council's programmes and requirements.

### **Carbon Reduction**

In line with the Council's commitment to becoming a carbon neutral council by 2030 the maintenance contract will require the contractor to seek ways of reducing carbon emissions from its operations throughout the life of the contract to assist the council in achieving these aims.

**Social Value**

The maintenance contract will require the successful contractor to provide commitments under the Public Services (Social Value) Act 2012 with regard to economic, social and environmental well-being, in order to demonstrate better value for money to the local community, increase opportunities for disadvantaged people and improve the local environment.

**Contract Performance**

Key Performance Indicators will be agreed based on key objectives, outputs and commitments and monitored through-out the life of the contract to ensure the contractor performs at a suitable level.

**Current Supply arrangements:**

The Council's highway day to day maintenance service is primarily delivered through the Wiltshire Highways Contract. This is a term contract currently being delivered by Ringway Infrastructure Services Limited, this contract expires on 31<sup>st</sup> March 2023.

The current contract is for 5 years with the allowance of up to 2 years extension awarded based on performance.

The contractor has met the performance requirements and so the contract was extended to a 7 year period.

During this time the contractor has ensured the continued maintenance of the highway assets through activities such as pothole and masonry repairs, gully emptying, sweeping, grass cutting, improvement schemes, street lighting, bridge repairs and drainage investigations.

As well as providing these maintenance services the contractor has also provided the parish steward scheme, emergency out of hours services, provision of the winter service, new integrated transport improvement schemes, introduced new innovative material and ways of working, and carried out the conversion of the counties streetlights to LED lighting, considerably reducing the counties energy bill and carbon footprint.

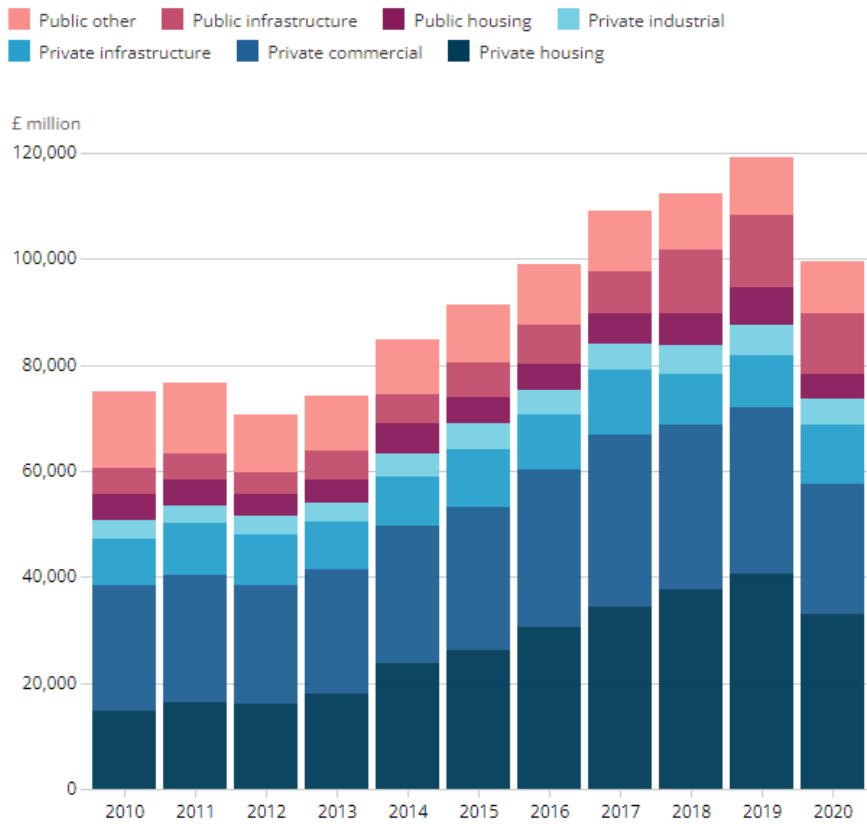
The contract is managed through monthly service delivery team meetings which monitors delivery, performance, and cost for each service area. These meetings feed into the monthly contract management meeting where the outcomes of any issues are agreed at a senior management level.

This approach has been popular with staff administering the contract as it engenders regular communications between the contractor and client / consultant.

Recent feedback from the Client teams favours a similar contract with some minor improvements.

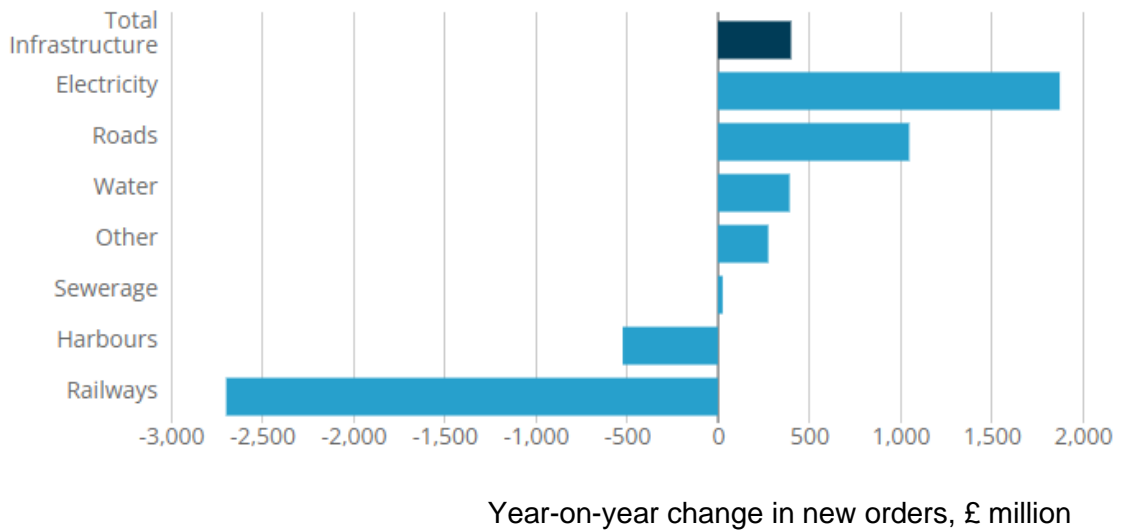
**Market Position:**

**Types of construction work, current prices, non-seasonally adjusted, Great Britain, 2010 to 2020**



Source: Office for National Statistics - Construction statistics, Great Britain: 2020 (Table 1.1, 1.2, 1.3)

**All infrastructure**



Listed below is the current problems facing the construction industry which will lead to higher prices in the next five years as these problems have no short term fixes and are across the European Union we can expect to see a rise in prices.

### **1. Skills shortage**

By far the most pressing challenge is the serious skills gap in the construction industry. For several reasons, young people aren't being attracted into an industry that can really represent a job for life. There will always be a need for homes, commercial buildings and infrastructural projects.

The industry has done plenty of research on the issue, and there seem to be several causes behind it, listed below.

- It's not an attractive career for many. As new sectors emerge, be it the digital, creative and marketing or openings in the green industries, construction is chasing after a smaller proportion of the workforce. Digital is particularly attractive as almost all young people leave school with a selection of transferable digital skills that give them a foot in the door of any digital industry. Most school-leavers have few skills applicable to construction.
- It is still male-dominated. Women make up half the workforce in general, but only about 10% of those in construction. On the building sites themselves the number drops to around 1%. Whether it's a hangover from the bad old days of laddish building site culture or some other reason, it's something that needs to be addressed, as there's huge untapped potential for recruitment and training here.
- It can be seen as dangerous. Construction is a dangerous profession for those working on site, but safety measures have made it safer than ever, statistically speaking. Still, many people see the hard hats and steel toe caps and would rather be behind a desk.
- Brexit. Despite a global skills shortage, the impact of Brexit has exacerbated recruitment issues in the short term. The end of the free movement of labour has made the UK a less attractive employment destination for some construction workers from the EU.

### **2. Ageing workforce**

An ageing workforce and a low uptake of apprentices and trained recruits within the industry is exacerbating the skills shortage. Over 50s account for around a third of employees in the industry across the board. If they are retiring faster than new recruits are entering construction, which appears to be the case, this is a demographic time bomb that's difficult to avoid.

Retraining can partly slow the shortage, however. Those doing heavy work on site will inevitably slow down or become unable to do their jobs as time marches on, but retraining them to operate machinery or perform office or management tasks could help. They certainly have the experience; it just needs commitment from employers, something not always forthcoming in the contracting landscape.

### **3. Materials import**

It might still be too early to pin the cause directly on Brexit (Covid has certainly played a part), but the shortage of construction materials in the UK is troubling the industry.

Some hitherto exporters to the UK have simply given up trying thanks to red tape, and are concentrating on supplying their continental neighbours. This issue is entirely down to policy and

negotiated settlements, which can be changed if there's the will. However, even without those issues, there is still a global shortage of some materials, notably timber and steel.

#### 4. Sustainability

The construction industry will have to become much more sustainable and conscientious as climate change focuses the public's mind.

Poor practices, long supply lines, unsustainable materials and high energy usage will all be subject to more stringent legislation, but there will also be enhanced public pressure and scrutiny surrounding the whole industry. When the buildings themselves have to be ever more energy efficient, this can make the problem worse, especially combined with the shortages mentioned above. However it's an unavoidable reality, which the industry certainly has to cope with.

#### 5. Cash flow

When times are hard, cash flow is always where constructors begin to feel the squeeze. It's partly because of the long delay between contracts being signed and work being completed, during which time a lot can happen to the customer's ability to pay.

Covid took about six weeks to go from a regional story in Wuhan to a global emergency, and the effects are still being felt. However, the skills shortage also extends to accountants and finance experts, and that certainly doesn't help.

#### 6. The value of the pound

The pound has fallen in value by about 13% over the past six years, which inevitably makes imports more expensive.

This is compounded by the supply-side problems, of course, although sellers don't appear to be increasing prices to balance supply and demand ... yet. It's difficult to see what conditions could bring the pound back to the values we became used to in the 20th and early 21st centuries, so it looks like being another everlasting challenge that the accountants and the marketplace will have to deal with for the foreseeable future.

#### Procurement Risks:

<b>Risk</b>	<b>Controls/Mitigating Action</b>
Procurement not completed on time.	➤ Exemption required as this is a statutory requirement and provides the information required to design the forward highways maintenance plans so that the Highway network is maintained with the most cost-effective schedule
Not Enough Bidders	➤ Extensive market engagement has been undertaken including a well-attended supplier day.
Tender prices returned to high	➤ Current prices have been subjected to annual uplift since the current contract started so we have an accurate base line. Although prices are rising sharply ➤ at the moment, that is expected to stabilise in time as supply chains return to normality.

### Procurement Route Options & Evaluation:

We cannot realistically insource as we do not have the expertise or the budget. We would not be able to gain the economies of scale that private companies can rely on which also gives them the ability to respond in increases and decreases in workload in a far more agile manner than the Council would be able to. This is further detailed in Appendix A.

#### Option A Above Threshold Open Tender:

##### Advantages –

1. Increases competition due to the potentially high volume of responses
2. Organisations of all sizes have the opportunity to submit a tender, increasing the opportunity for a number of innovative proposals/solutions.
3. Overall timescale is reduced as there is no pre-qualification stage.
4. Satisfies requirements of transparency and objectivity.

##### Disadvantages –

1. Resource implications of a potentially lengthy tender evaluation. A well-established market sector such as construction may generate a significant number of responses which could require substantial amounts of resource to evaluate effectively.
2. The lack of pre-qualification could increase the chances of poor-quality tenders from inexperienced contractors being submitted.
3. Market engagement has shown that major suppliers will not bid on a project this size if an open process is used due to the high bid costs and chance of competing against lower quality cheaper bids.

#### Option B Above Threshold Restricted Tender:

##### Advantages –

1. Restricts the number of organisations invited to tender making the tender evaluation more manageable and requiring a more finite amount of resource to evaluate effectively.
2. Enables a detailed selection assessment and allows commissioners to focus on potential bidders who can demonstrate the requisite level of capability and experience in a sector.
3. Can help to improve the quality of bids as there is an increased chance of a capable and experienced bidder being successful.

##### Disadvantages –

1. Increased timescales.
2. Can be complex to administer competently and correctly.



3. Selection questions must be both project specific and be carefully framed to avoid excluding less experienced but still capable contractors.

**Option C Above Threshold Frameworks:**

Using a framework would not save a lot of time over a standard tender through the Find a Tender Service (FTS), as this restricts the access to major contractors and given the size of the requirement we are in a position to get very good prices direct from them.

We would have to comply with the framework rules and Terms and Conditions. This requirement involves TUPE and some complicated depot arrangements, so we need to be able to use a very bespoke set of terms and conditions which is either not possible or extremely difficult on external frameworks.

**Procurement Route Recommendation:**

The recommendation is to go to market with a FTS Restricted Procedure. We have the time and resources for this procedure, and this will allow us full control of the procedure and allow us as well as being more attractive to Contractors as they prefer the restricted procedure on this size of contract.

**Outline Timescales:**

<b>Details</b>	<b>Date/Deadline</b>
Market Engagement Event	29 November 2021
Cabinet Approval to Publish Tender	11 January 2022
SQ Published	1 April 2022
Deadline For Submission of SQ	5 May 2022
Evaluation of SQ	6 May – 27 May
Invitation to Tender (ITT) Via Supplying south west Portal	3 June 2022
Deadline For Clarification Questions	4 August 2022
Deadline for Submission of Tenders	25 August 2022
Evaluation of Tenders	26 August- 22 September 2022
Award Decision	23 September 2022
PER Agreed at Commercial Board	1 October 2022
Cabinet Approval to Award Contract	October
Standstill Period	
Formal Contract Award	
Contract Start Date	1 April 2023

**Resources Required:**

Legal  
Finance  
Procurement

Contract Particulars:

Term 5 years Plus 5 years possible extension based on contractor performance  
NEC4 Term Maintenance Contract  
Requirement for Financial Vetting – Duedil Credit Check to be undertaken before Contract Award  
Bonding (Insurance requirements) – Parent Guarantee or Performance Bond required  
GDPR – standard Wiltshire Council GDPR statements included in contract  
Requirement for sealing – Contract to be signed under Seal by Legal Services

Approval to Proceed:

Signed Head of Procurement

Name:

Date:

## Check List

Please review items on check list and complete response box and where appropriate include in plan above.

Check Item	Action Required	Response
Social Value	<p>Social Value:</p> <ul style="list-style-type: none"> <li>• Social</li> <li>• Economic</li> </ul> <p>Environmental</p> <p>Council benefit:</p> <ul style="list-style-type: none"> <li>• Cash value</li> <li>• Non-cash value</li> <li>• Time</li> </ul>	<p><b>Social</b> Maintain between 1 and 3 apprentices at any one time for life of contract.</p> <p><b>Economic</b> Innovation through the trialling and use of alternative surfacing and construction options. Innovation through the use of renewable energy sources.</p> <p><b>Environment</b> Recycling of more surfacing and construction materials. Use of more robust materials and construction methods to reduce the frequency of repairs.</p> <p><b>Cash</b> Cost savings through use of recycled and robust materials.</p> <p><b>Non-Cash</b> Shared training with Council. Environmental improvements associated with recycling of materials. Carbon reduction</p> <p><b>Time</b> Better coordination of works to reduce disruption to road users.</p>
Equalities Impact Assessment	Is an impact assessment necessary, in most cases this will be a requirement the Service are responsible for carrying this out.	This project does not require an equalities impact assessment.
Legal Support Required	Legal support requirement should be considered and agreed with the client.	Elizabeth Muir from legal has been supporting the Highways team throughout this project.
Local Business	Ensure plan has addressed supporting Local Business	A online supplier day was held on the 29 November 2021 including the attendance of local suppliers
TUPE/Pension Staff Transfers	Ascertain if there is any possibility of staff transfers.	TUPE does apply to this contract.

	If TUPE or Pensions may be involved discuss with legal	
Environment	Are there environmental issues or implications in this contract	There are no additional environmental considerations above those already addressed on the existing contract and the legalisation that covers these.
Business Continuity	Business continuity issues this does not just mean IT but consideration of providing essential services	The current highways contract structure allows for the failure of one of the contracts but still allowing the council to undertake its statutory duties to maintain the highway. .
Financial Risk	<p>What is the financial risk associated with this contract,</p> <p><b>Supplier Risk:</b> how much assessment of the supply base is necessary, what is the risk if a supplier fails. If the tender is above EU value we should carry out financial assessments as necessary.</p> <p><b>Budget Risk:</b> Is the budget confirmed for the duration of the contract?</p>	<p>The financial risks on this contract are low as the services will be paid in arrears.</p> <p>The supplier risk is low as they are subject to regular financial checks. Where applicable parent company guarantees are in place.</p> <p>As this is a statutory requirement and forms the basis for all future maintenance programs this service will be funded out of the highway's revenue and capital budget, with additional Dft capital funding and bids for further scheme funding.</p>
Collaboration/ Access to contract	Will this contract be shared with others, if so how is procurement being undertaken?	Only Wiltshire Council will have access to this contract. As the Western Gateway Sub National Transport Body matures there may be opportunities to work with surrounding authorities, but this is some way off.
Authority to Award	Has the Responsible Officer ensured that the correct authority, will be in place when contract needs to be awarded?	<p>The responsible officer, Parvis Khansari has agreed to this procurement activity.</p> <p>Cabinet approval will be sought at January 2022 Cabinet for tendering and in October for the authority for the award of these services.</p>
Ordering and Payment	Confirm as part of tender Process how contract will be paid for and what GL and Cost Code charges will be made to.	Funding for these works will be provided through the Highway and Environment Capital and Revenue budget. Both through revenue and capital budgets

## **Insourcing the new Term Highways Maintenance Contract**

As part of the procurement process consideration needs to be given to various options for service delivery to ensure that the final option agreed will provide best value for money.

One option to be considered is “Should the Highway Maintenance Service be brought back and managed in-house?”

Nationally Local Authorities are considering bringing more of their services back inhouse as they see potential benefits as

- Reduced costs,
- improve quality,
- better-integrated services and, or
- increase flexibility over how services are run.

The “**Government Outsourcing document from the Institute for Government June 2020**” suggest the following circumstances be considered to identify if insourcing would be beneficial.

- I. The market from which local the authority is buying the service is not healthy or competitive.
- II. The local authority needs flexibility to make frequent or significant changes to the design and scope of the service, in view of changing policy and budget priorities.
- III. The local authority lacks the commercial skills to procure or manage an outsourced contract successfully.
- IV. The service could be improved and/or savings made by integrating it with another service.

It follows that by working through these circumstances that the outcome can also indicate that insourcing is not the correct option. *(note: the word “the local authority” has been used to replace the word “government” for the purpose of this exercise)*

### **The market from which the local authority is buying the service is not healthy or competitive.**

There are a number of established contractors who have successfully provided a highway maintenance service to local authorities since the 1980’s.

The initial market would have included many more contractors but over time the number of contractors who operated in this market has reduced to a core number of contractors who have since become specialists in providing local authority highway maintenance services.

There is already initial contractor interest in the Wiltshire contract, partly driven by the number of similar contract due to be tendered over the next four years by neighbouring authorities. The contractors see Wiltshire as a logistically suitable location to operate alongside a number of these similar contracts.

Having a number of similar contracts going out to tender in this part of the country over the next few years, and with the opportunities for contractors to consolidate operations and management levels and costs by securing a few of these contracts. There is a high probability that competition for the Wiltshire Contract is likely to be high.

**The local authority needs flexibility to make frequent or significant changes to the design and scope of the service, in view of changing policy and budget priorities.**

Whilst changing policy and budget priorities are key considerations for the Council when tendering any service. The Council as the Highway Authority has legal duties to maintain the highway in a safe condition in accordance with the Highways Act. So whilst design changes can and do occur during a contract these are occasional changes, often increasing the service rather than reducing it, or, as in the case of the COVID pandemic adapting to circumstances.

Wiltshire's highway maintenance budgets have traditionally been set to enable these duties to be undertaken.

Whilst the maintenance budget may vary from year to year, minimum annual spend levels have always been indicated in the previous highway maintenance contracts, these spend levels have not varied too much since the first highways maintenance contract was outsourced.

It is anticipated that the budget for the foreseeable future will not take the annual highway maintenance spend below the minimum spend level.

There is no evidence from previous contracts or any indication that during a new contract that there would be a need for significant changes to the scope or large reductions in the budget.

**The local authority lacks the commercial skills to procure or manage an outsourced contract successfully.**

Wiltshire highways have a proven track record of successfully procuring and managing its highway contracts.

The highway maintenance contract has successfully been tendered since 1999 (then under Wiltshire County Council)

These contracts have continued to evolve by taking what works well and removing what did not from each contract in the development of the scope for each new successive contract.

Even with the issues and early termination of the Belfour Beatty Living Places Contract, this was managed in such a way that services were maintained until a suitable contract could be properly procured.

**The service could be improved and/or savings made by integrating it with another service.**

Previous attempts to integrate highway services with the district functions of streetscene, grounds maintenance, churchyard maintenance etc was not too successful. Service levels were variable as the contractor struggled to meet the full requirements of the scope over such a large number of activities. Eventually the contract was terminated early through mutual agreement.

One of the lessons learned from that contract was that splitting the services down into smaller more specifically focused contracts is more beneficial for Wiltshire's highways operations. Also having a number of smaller resources based contracts which have a slight overlap, provides additional contingency to maintain services should one of the contracts experience difficulties.

**Other circumstances to be considered**

If Wiltshire were to consider insourcing its highway services, this would be better being considered as part of a strategic plan that includes insourcing most if not all these services, rather than bringing

them in ad-hoc. As having some maintenance services inhouse and some provided through a contractor can result in different levels of services provided, which could cause confusion and also effect any potential cost saving, if any are to be made through insourcing.

In order to bring these services in house the Council would need to employ a new management team with sufficient experience to run these services, and suitable depots to operate from, add to this the investment in plant necessary to carry out the operations, any cost saving would take a number of years to be realised.

Staff recruitment and retention is also currently a problem throughout the Highways Maintenance industry, and unless the Council could afford a suitable pay package to match the private sector. It will find it difficult to retain staff.

An additional benefit of contracting out the service is that the private sector have expertise, and capacity for innovation and new technologies that the Council does not have.

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