

The new Public Realm services

Meeting: Cabinet

Meeting date: Thursday 27 June 2024

Report by: Cabinet Member – Community Services and Assets

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Wards affected

All Wards

Purpose

This report seeks approval of the council's Public Realm Services model for market engagement.

Recommendation

That:

- a) Cabinet adopt the Public Realm Services model set out in Appendix 1 for the purposes of market engagement**
- b) Cabinet delegates authority to the Corporate Director Economy and Environment to carry out market engagement on the Public Realm Services model set out in Appendix 1.**

Alternative Options

1. To vary the current contract. This is not an option as the variations required to the contract to meet the council's vision for the new public realm services are not permissible under the Public Contract Regulations 2015.

Background

2. The council's vision is to deliver public realm services that are fit for the future embracing technology, automation and digital innovation, a transition to electric plant and vehicles, using materials to meet carbon reduction ambitions, investment in people that support development and innovation enabling the service to continually improve, maximising resources and opportunities to best meet the needs of local residents and communities.
3. The 25 April 2024 Cabinet report provided as a background paper to this report, provides details of the current contract with Balfour Beatty Living Places (BBLP) and the reasons why that contract has been terminated with an end date of 31 May 2026.
4. The council has investigated trends and best practice in the sector and developed a model designed to deliver the council's vision. The model is set out in Appendix 1 includes the services proposed to be transferred to the council, the services proposed to be delivered in a new Public Realm Services Contract and the form of contract.
5. Following market engagement, further work is planned to develop the IT systems, fleet and depot arrangements that will be required to support the new model.
6. This report seeks approval to take the model in Appendix 1 to market engagement during Summer 2024, where contractors will be invited to engage with the council, and give their expert opinions on the proposed model and contracting arrangements. This will provide the council valuable insight on the model, and the likely level of interest for competitive procurement.
7. Following market engagement the council will refine the model, and bring a report to Cabinet in Autumn 2024 seeking final approval of the model, and permission to commence the procurement in early 2025. This will provide sufficient time to carry out the procurement and allow for mobilisation to ensure the new model and contracting arrangements are fully operational from 1 June 2026.

Key Considerations

8. The model has been developed to deliver the council's vision, delivering the best for Herefordshire in everything we do, while being attractive to the market to promote competitive procurement.
9. Market engagement during Summer 2024 will provide the contractors early insight to the council's requirements and proposals, allowing time for the model to be refined ahead of the procurement.
10. Until the new model and new contracting arrangement come into effect on 1 June 2026, the council and BBLP will continue to work together to deliver the public realm services under the current contracting arrangements, and are committed to work together to support a smooth transition to the new arrangements.

Implementation & Timescales

Activity	Start Date	Finish Date
Cabinet Decision to end current contract with BBLP	25 Apr 2024	Complete
Effective date of 2 year No-Fault Termination Notice	31 May 2024	Complete
Cabinet Decision to adopt new model for market engagement purposes	27 Jun 2024	
Market engagement	July 2024	Aug 2024
Services review & model refinement (including IT, fleet & depots)	July 2024	Aug 2024
Develop contract documents, specification & tender documents	Aug 2024	Nov 2024
Cabinet Decision to approve model and commence procurement (date TBC)	Autumn 2024	
Deliver procurement process (10 months)	Jan 2025	Nov 2025
Cabinet Decision to Award contract (date TBC)	Late 2025	
Sign contract	1 Jan 2026	31 Jan 2026
Deliver Demobilisation and mobilisation (5 months)	1 Jan 2026	31 May 2026
Contract with BBLP ends	31 May 2026	
New Public Realm Services Contract Goes Live	1 Jun 2026	

Community impact

11. Public realm services are a statutory function of the council and vital to communities as the services include maintaining and developing infrastructure, maintaining green areas, providing effective drainage, lighting the highway and enabling safe and reliable travel by all modes of transport, and access for business and leisure. Transformation is an integral part of the Council Plan 2024 to 2028. A stated aim being to create an efficient council that embraces best practice, delivers innovation through technology and demonstrates value for money
12. The Department for Transport has asked local transport authorities to refresh their Local Transport Plans, this work is under way and will be ready for implementation late 2024 or early 2025 and will inform the procurement for public realm services, with an emphasis on active and sustainable traffic measures.
13. The new model will encourage engagement with community groups and parish councils to seek out efficiencies, and identify where local communities would like the service enhanced. The model will allow for top up voluntary and paid services to be provided within the scope of the new contract.

Environmental Impact

14. The public realm services will be aligned to meet the council's environmental objectives including net zero carbon ambitions including:
 - a) *Improve drainage and increase flood resilience*
 - b) *Reduce the council's carbon emissions*
 - c) *Work in partnership with others to reduce carbon emissions*
 - d) *Improve the air quality*
 - e) *Improve residents' access to green space*
 - f) *Increase the number of short distance trips being done by sustainable modes of travel including walking, cycling and use public transport*

15. Net zero carbon ambition aligned with the council's targets will be a requirement of the model, the procurement and the new contract.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in exercise of its functions, have due regard to the need to –

- I. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - II. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - III. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. The public sector equality duty (specific duty) requires the council to consider how it can positively contribute to the advancement of equality and good relations, and demonstrate that the council are paying 'due regard' in its decision making in the design of policies and in the delivery of services.
 18. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
 19. Equality impact assessments are provided in Appendix 2 for the impact on the services and Appendix 3 for the impact on the workforce.

Resource implications

20. The 2024/25 approved revenue budget includes £0.9 million of one-off funding allocated to deliver the project and additional funding of £1.0 million from the council's earmarked reserve balances has been identified. Project costs comprise of: project management; contract expertise; procurement; legal; property including the depots; human resources; change management; communications; IT and demobilisation costs.
21. Following market engagement, the Public Realm Services Model will be refined and a review of estimated service costs will be undertaken to consider any potential impact on the council's revenue and capital budgets and the Medium Term Financial Strategy. This review will form part of the report to Cabinet in Autumn 2024.

Legal implications

22. This contract will be procured under the Procurement Act 2023. Where the council carries out preliminary market engagement, the authority must publish a preliminary market engagement notice before publishing a tender notice. The preliminary market engagement notice provides information that the contracting authority intends to conduct, or has conducted, preliminary market engagement together with any other information specified in Procurement Regulations 2024 under section 95.

Risk management

23. The key risks associated with approval of the model for market engagement are:

Ref	Risk	Potential Impact	Mitigation
1	The model does not deliver the council's vision for new public realm services.	Public realm services do not meet the requirements and expectations of Herefordshire's communities and residents.	The model has been developed with cross party engagement. Market engagement will be used to refine the model and a final version of the model will be brought back to Cabinet for approval in Autumn 2024.
2	Lack of interest in the new contract.	Lack of competition during the procurement process in 2025 may result in cost escalation and concerns relating to VFM for the new contract.	Notify the market early. And undertake market engagement during summer 2024, and refine the model and contracting arrangements to ensure they are attractive to the market to support competitive procurement.
3	BBLP struggle to retain staff and operatives during the two year transition period.	Inadequate resources and loss of local and expert knowledge lead to reduction in service capacity.	The council and BBLP are delivering staff communications setting out the roadmap to the new model and contract from June 2026, and are providing assurances to staff identified to transfer to the council or new contract under the new model. The council and BBLP will continue to work together to ensure that the current workforce are not moved to other parts of the business during the transition period as set out in the current contract.
4	Relationship sours with the current provider BBLP during the two year transition period.	Service delivery performance reduces, and/or BBLP adopt a commercial approach for last two years of contract resulting in service reduction and cost and claim increases.	BBLP have committed to support a smooth transition to the new model. The Council and BBLP are working together to maintain a good relationship and ensure appropriate contractual and performance controls are in place during last two years of the contract, as is required under the current contract.

Consultees

The council and BBLP have delivered communications with their staff in relation to the transition to

the new Public Realm Services as set out in this report.

Appendices

- Appendix 1- Public Realm Services Model Summary
- Appendix 2- Equality impact assessments for services
- Appendix 3- Equality impact assessments for workforce

Background papers

Cabinet 25 April 2024

<https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?Id=10100>

Cabinet 2 March 2023

<https://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=251&MId=8905&Ver=4>

Connected Communities Scrutiny Committee 13 February

<https://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=1157&MId=8826&Ver=4>

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Claire Porter	Date 18/06/2024
Finance	Racheal Hart	Date 07/06/2024
Legal	Sarah Halliwell Senior Lawyer	Date 22/05/2024
Communications	Luenne Featherstone	Date 06/06/2024
Equality Duty	Harriot Yellen	Date 07/06/2024
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.
Approved by	Click or tap here to enter text.	Date Click or tap to enter a date.

Glossary of terms, abbreviations and acronyms used in this report.

Balfour Beatty Living Places (BBLP)

Value for Money (VFM)