

Birmingham City Council

Sustainability & Transport Overview and Scrutiny Committee

21 December 2023



Subject: Highways Maintenance and Management Services PFI
Report of: Mark Shelswell, Assistant Director (Highways and Infrastructure)
Report author: Mark Shelswell
mark.shelswell@birmingham.gov.uk

1 Purpose

- 1.1 To update the Committee on the Government's decision on the Outline Business Case (OBC) which set out the Council's proposals for the revised Highways Maintenance PFI arrangement.

2 Recommendations

- 2.1 The Committee:
 - 2.1.1 Notes the report.
 - 2.1.2 Please note that the information provided within this report reflects the position of the project at the time of writing (6 December 2023). If further information is available to share by the time of Committee on 21 December 2023, then it is proposed that pre-briefings will be held.

3 Current Position

- 3.1 The approval of the Full Business Case (FBC) and subject to government approval the appointment of the preferred bidder was given by Cabinet on 5 September 2023
- 3.2 On Thursday 30 November, the Council received formal confirmation from the Department of Transport (DfT) that the Government will withdraw its existing funding commitment, and thereby no longer allow for the continuation of the restructured Highway Maintenance and Management Services PFI and the award of the operating sub-contract to the preferred bidder, Kier Highways.
- 3.3 The Council is considering in detail DfT's rationale for rejecting the revised OBC and FBC and the next steps the Council should take.

4 Next Steps

- 4.1 Officers are reviewing the decision and are seeking further clarifications from Government.
- 4.2 Our priority remains continued delivery of statutory highway functions and services across the city, ensuring the safety of our citizens and visitors across the network is maintained.
- 4.3 The Council will continue to ensure the delivery of these services via the current interim services contract that is delivered by Kier.
- 4.4 The Interim Service Contract is in place until the 1 February 2024 and may be extended in consecutive two-month periods up to a maximum of six months. At the Council's discretion
- 4.5 Officers are considering longer term options which will be driven by the actions of both the Council and Government in response to the decision and ongoing discussions.
- 4.6 Members will be briefed and consulted with on the Council's position and consulted with as appropriate as the position with government develops.

5 Any Finance Implications

- 5.1 The Government decision to reject the proposed restructure of the PFI will result in the cessation of the payment of PFI credits to the Council, which are currently £50m per annum, and were previously anticipated to continue until 2035.
- 5.2 Government has suggested short-term mitigations may be available that would give the Council time to reshape its approach to the Highways Maintenance service. The Government have outlined they may provide additional funding at the current level of £50m per annum as an increase to the West Midlands Combined Authority (WMCA) CRSTS settlement, to be maintained until the end of the current Spending Review period (31 March 2025). This is being considered.
- 5.3 Officers are reviewing the decision and seeking further clarifications from Government, including a detailed explanation of the outline proposal in 5.2 above, including how any such funding would be passported through the CRSTS process.
- 5.4 Officers have been working on options concerning all potential outcomes of the Government review of the revised PFI proposals. Officers are now reviewing and refining these in detail following the Government's decision and taking full account of the Council's financial position and statutory responsibilities.

6 Any Legal Implications

- 6.1 All officers and members should be aware of the sensitive nature of this situation. Until the Council has had an opportunity to review the decision in its entirety and

obtained all appropriate advice, officers and members should seek legal advice and guidance before making any comments in a public environment. Failure to do so may jeopardise the Council's legal position.

7 Any Equalities Implications

- 7.1 There are no equalities implications to be considered in relation to this report at the time of writing. However, officers will continue to review this.

8 Background Documents

- 8.1 Report of the Strategic Director, City Operations to Cabinet, 5 September 2023 ("Highway Maintenance and Management PFI Contract").