

Overview, Scrutiny and Policy Development Report

Future Construction Options Sub-group Report

5 July 2016



North Tyneside Council

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Reason for the Sub-group

In 2014, Councillor John Harrison - Cabinet Member for Housing and Transport attended the then Overview & Scrutiny Committee and delivered a presentation on his portfolio responsibility.

At this meeting he requested if the Committee would consider carrying out scrutiny into the future of the Kier North Tyneside Joint Venture Company (KNT JVCo) partnership and options to what delivery models should be considered post 31 March 2019 when the current 10 year contract would end.

Method and Remit

The Overview, Scrutiny & Policy Development Committee agreed that establishing a Future Construction Options Sub-group would be the most appropriate means of undertaking this piece of work.

It was decided to encourage cross party/committee involvement into this important piece of work and invitations were extended to the Chair/Deputy Chair of the Housing sub-committee and all other non Executive Members of the Council to be part of the sub-group.

The following members volunteered to serve on the group:

Councillor Sandra Graham
Councillor Jim Allan
Councillor Steve Cox
Councillor Peter Earley
Councillor Paul Mason
Councillor John O'Shea
Parent Governor Representative – Justine Little

The Sub-group met on 7 occasions.

At its first meeting the Sub-group agreed the scope for the study.

In entering the seventh year of an initial 10 year arrangement there was a need to look at the future priorities and options. This would then provide Cabinet with an evidenced opinion on options that should be investigated further before making the decision on how services would be delivered post 31 March 2019.

It is hoped that this report would provide guidance and opinion to what options should be investigated further in order for there to be a seamless transition into whatever direction the Authority takes.

Background to current contract

The current contract was entered in 2009 through a joint venture arrangement via an Official Journal of the European Union (OJEU) notice for a period of 10 years with the option to extend the contract for a further 5 years.

The contract procurement was separated into work streams to deliver:

- a. The delivery of a high quality Capital Programme and all associated capital works and refurbishment works (as applicable) including new build, design and build, refurbishment and remodelling projects, together with all associated infrastructure, demolition, ground remediation and construction of all associated housing projects.
- b. In addition the Service Provider shall be required to provide a high quality repairs and maintenance service to both housing stock and to other departments within the Council to include responsive repairs to other public buildings and school's within the Council's geographical area.

Current contract extension requirements

Prior to 31 March 2017 there is a need for the Authority and Kier to review the performance of the Kier North Tyneside Joint Venture Company (KNT JVCo), the needs of the population and whether an extension would be beneficial to both parties.

If both the Authority and Kier believe extending the contract would be beneficial to them, then the agreement can be extended by 5 years. However, if either party do not wish to extend the contract 18 months prior notice is required to be given

Options

The options available to the Authority are:

1. End current arrangement with the KNT JVCo
2. Extend the arrangement in its current form
3. Extend the current arrangements with a change in the scope – this would either extend or reduce workstreams within the current contract

If the third option was considered any extension or change in scope requires agreement of both parties and any change to scope would need to comply with Procurement Regulations.

Procurement Regulations

Any variation to the scope of the contract would be subject to the Public Contracts Regulations 2015.

This would allow variations in the contract, provided they are not 'material', where 'material' in this context would mean reduction in scope by 50%.

Any variation over 50% would be in breach of the regulations and would be open to challenge by 3rd party companies/organisations.

Kier North Tyneside Limited

Kier North Tyneside Limited is a Joint Venture Company between the Kier Group and North Tyneside Council. The company commenced trading in September 2009 with circa 500 staff transferring under TUPE arrangements from North Tyneside Council to the new organisation.

Kier North Tyneside is a limited company, owned 80% by the Kier Group and 20% by the Council.

Value for Money

The overarching objective of the contract was the achievement of 'value for money', which is translated as meaning the provision of a high quality service at the lowest possible cost, underpinned by a strong customer focus and achievement of 'year on year' continuous improvement in performance.

Approach

The sub-group had available to them the views of an array of sources to the performance and priorities of the KNT JVCo through the work undertaken by its previous study on the 'Kier North Tyneside Joint Venture – Future Priorities'.

The sub-group in gaining greater understanding of service delivery of the current model of service delivery sought further information and views on:

- Workstream budget constraints
- Current Partner – Kier North Tyneside Limited
- Tenants
- Unions – workforce views

Work stream Budget Constraints

The Sub-group requested information that would allow them to understand the possible future financial impact on the contract and its particular work streams.

It was understood that the future is full of uncertainty and it was the expectation that all work streams with the contract would reduce for a number of reasons.

The key objective is to ensure the provision of an effective and efficient responsive repairs and planned maintenance service for all North Tyneside owned and managed properties including capital investment works continues.

The KNT JVCo also has a key role in North Tyneside Council's emergency planning requirements acting as a Category 2 Responder supporting North Tyneside Council.

The core work streams of the KNT JVCo are:-

Work stream 1 – the Repairs and Maintenance Service responsible for the delivery of all housing related responsive works, gas servicing, void property and planned maintenance activities.

There was a statutory requirement to provide a responsive repairs service and the future budget was depended on:

- Right to Buy (RTB) numbers
- Number of new properties built
- Other demands on the HRA resources

The group heard that the current numbers of applications that the Council receives for RTB was estimated currently at circa 100 - 120 per year. This was in relation to numbers of RTB reaching 400+ per year in the past.

There was a need to understand that possible changes to the RTB scheme proposed by central government could see greater applications being made, which therefore would reduce the Authority housing stock.

The HRA is a ring fenced budget and this needs careful management to ensure there is balanced spending and any reduction in housing stock would reduce the revenue that Authority would realise. This would then affect the amount the Authority would have available to spend on capital projects, building new homes and ensuring that the necessary responsive repairs were carried out.

It had been demonstrated that the building of new developments had been undertaken through a different delivery vehicle, which has a level of independence from the Authority and excludes properties being eligible for Right to Buy.

Work stream 2 - housing capital investments works and major works.

There is a statutory requirement to maintain properties to the Decent Home Standard.

Future budget expectations would depend on:

- Stock numbers – there is currently circa 15K homes

- Life cycle timings – this relates to the lifespan of large replacement works such as kitchens/bathrooms etc

Work stream 2A – aids and adaptations based upon occupational therapists recommendations and funded by the Authority’s capital budgets or grant funded by third party bodies in relation to non-Authority dwellings.

There is a statutory requirement to provide adaptations.

Future budget expectations depend on:

- Stock numbers
- Matching of homes to those with needs
- Demographics

Work stream 3 – The other Authority Capital Funded projects whether allocated to Partnership through the ‘New Project Approval process’ or other agreement as the case may be. This service includes non-housing construction works for the various Authority services and has a “design and build” capability.

The work stream will depend on the Council’s priorities (Our North Tyneside Plan).

Future budget expectations depend on:

- Target Operating Model
- Political Choices
- Government approaches to procurement and funding
- Other demands on Authority capital resources

Work stream 4 - reactive repairs, preventative planned maintenance, emergency works, or minor capital works to Authority owned and/or operated non-housing building portfolio. and

Work stream 4A - reactive repairs, preventative planned maintenance emergency works, or minor capital works to schools as instructed by the Authority or otherwise agreed between Kier North Tyneside Limited and individual schools through formal service level agreements.

The maintaining of Authority owned buildings.

Future budget expectations depend on:

- Status
- Lifecycle timings
- Government approaches to procurement and funding
- Other demands on Authority capital resources

Work stream 5 - works or services to third parties undertaken by Kier North Tyneside Limited.

Originally there was an assumed budget growth as it was thought that the KNT JVCo would increase business activity.

Future budget expectations depend on:

- Third Party appetite of vehicle
- Market factors – Supply and demand
- HRA resources available for new build
- Government approaches to procurement and funding
- Other demands on Authority capital resources

Work streams 6, 7 and 8 - design and other partnering services provided by Kier North Tyneside Limited to the Authority.

The housing aspect of the contract would be the most predictable following the understanding of the effect of the proposed changes to be made by central government with regards to RTB and the decrease in rent levels by 1% this year 2016/17.

There is a need to fully evaluate the effects of any proposed central government policy that would impact on all services delivered through the contract.

Detailed financial analysis is required on the future budget expectations and impact to service delivery for each work stream within the contract to provide a greater understanding the most appropriate delivery model for each work stream.

Scrutiny into Performance and Priorities

During 2015 Scrutiny carried out a study 'Kier North Tyneside Joint Venture – Future Priorities', to provide Cabinet an evidenced opinion on areas to business planning improvement and performance priorities.

The study provided an opinion to the priorities needed to be achieved by the KNT JVCo to ensure that when the contract ends 31 March 2019 it was in a position to ensure there was a seamless transition into whatever direction it would then take, either extend or moving to a different delivery vehicle.

After receiving the views and opinions from stakeholders, the view was that there were clear areas for improvement and development and that sub-group made 10 recommendations to Cabinet, which 8 were accepted.

The sub-group noted and referenced the evidence and findings of this previous study in the course of this work.

Current Partner

Management representatives from the KNT JVCo were invited and presented their views and opinions on the KNT JVCo delivery and the future.

Indication was given that the Kier Group was committed to the partnership and that it would be its intention to continue its relationship and seek to extend the current arrangement beyond the 10 years of the contract.

It was also stated that the KNT JVCo was working to link up and support the Authority to implement the recommendations from the previous report on the KNT JVCo – ‘Kier North Tyneside Joint Venture – Future Priorities’.

The Kier group had made various acquisitions to broaden its areas of expertise and was able to provide technical and greater expertise in back office services that would be able to deliver technical and business services. This included having a presence in the Highways Construction/maintenance sector.

It was suggested that the KNT JVCo had benefitted with wider Kier group involvement and an example was given of the shared post with the local construction business and funded by the National Skill Academy that delivers:

- Armed forces employment programme
- Foundation futures employment programme
- Schools training programme

The rationale provided to continue the current joint arrangement was:

1. Transfer process already complete, with experience within North Tyneside
2. Contract in place and investment costs in place
3. Upper quartile performance across nearly all areas of the business
4. Embedded support to the local community in place
5. Third party income from the KNT JVCo benefitted the Authority and would increase over a longer term
6. Provision of an overhead rebate
7. Turnover of £50m with 2.5% going to Authority
8. Income generated through the gas training centre
9. £100k dividend payment in 2015, with additional payments expected in future years

The view provided by the management was that Kier had been a flexible partner and had worked with the Authority to deliver services and remodelled its financial model to save overheads, although it was thought further simplification would benefit both Kier and the Authority to increase Value for Money.

Work had successfully been undertaken to reduce overheads and this could be demonstrated through the delivery of Affordable homes through work stream 5.

It also highlighted that the ability to draw on the wider Kier group experiences around the country could improve service/business delivery.

It thought that the simplification of Key Performance Indicators (KPIs) could be further considered as the perception was there were too many and proposed that a better indicator could be provided using customer satisfaction.

It was indicated that the Kier Group were looking at a new operating model that would benefit the Authority and the Kier business throughout the UK. That Kier were the sole UK provider of the Scape framework that would deliver housing maintenance projects worth between £40k-£4m. The Construction hub was also positioned in the North East and would develop business, which the Authority would receive a rebate through the KNT JVCo.

The sub-group heard that Kier had the desire to:

- work with all residents in the borough and not only tenants.
- maximise opportunities with Small, Medium Enterprises (SME'S) contracts in/outside North Tyneside
- take on the repairs and maintenance opportunities for other local authorities

Kier was also looking to position itself to take advantage of any opportunities that may also arise once the North East Combined Authority was in place with its devolved powers.

Tenants

Officers from the Authority Housing Team arranged a tenant workshop to seek views and experiences of the KNT JVCo and what were their requirements from a service provider.

Tenant representatives Mrs Magda Kirley & Mrs Koli Begum supported by Peter Brady – Communications & Engagement Team attended a meeting of the sub-group to present the views of the tenant workshop.

At the beginning

It was well known that the service and customer experience at the start of the contract was not good, however, since the implementation of greater tenant involvement the view was there had been definite improvements.

In-house (KNT JVCo) workforce

The view was that tenant/workforce communication was good, staff were well trained, consistent in their approach to customers, listened to tenants concerns, that staff ask for the right information and were clear when explaining what tasks would be carried out. It was also the view that the workforce when carrying out repairs were respectful of both tenants and their homes.

Sub-contractors

The view was that sub-contractors did not match the in-house workforce and showed less respect to tenants and their homes and needed to listen to concerns of residents.

It was questioned the criteria to how contractors were appointed, was this based on quality of work or purely based on cost and who checked to the work the sub-contractors undertake.

Flexibility

Flexibility as to how repairs were conducted was an area that was important to tenants. It was stated that when an operative attends an appointments for a particular repair, there should be a level of flexibility to carry out other ad hoc repair if possible without the restriction of having to schedule a further appointment. It was questioned if this restriction was due to the nature of the partnership in place to deliver repairs services?

An area that was viewed very positively was the criteria and prioritisation of tasks for emergency callouts.

Right First Time

Annually over 5000 repairs were completed with 10% of repairs quality inspected, with the expectation that all materials are of the same quality.

Tenants were not overly concerned to who delivers the services, although there was the expectation that all tasks should be completed right first time and to the right specification.

Tenants made it clear that the expectation from them as the customer were:

- to have a seamless service
- Completing jobs right first time
- A workforce that communicates honestly with the customer
- Where possible all tasks completed at one appointment time
- Ad hoc job ticketing of tasks should be investigated for implementation
- Customer needs to be kept up to date at all time until the completion of each task
- The need to have flexibility in the workforce to carry out a number of activities.
- Respect for tenants and their homes

Union/Workforce

The sub-group acknowledge that the views of the workforce were important to understand how the current working arrangements, relationships and view to the possible changes to their future employment post 31 March 2019.

It was thought the best way to gain a good understanding was to seek the views of the unions that represent the workforce of the KNT JVCo as they would be very aware of issues that their members have brought forward.

Union representatives Mr Alan Stansfield - Union Convenor and Debbie Lydon - UNISON were invited and attended a meeting to present union/workforce views to the current Joint Venture arrangement and their hopes for the future.

It was stated that a Local Authority's workforce was predominately made up of residents of its community, who would spend their income in the local economy. It was thought that when the Joint Venture was created there was an expectation this would have been to secure employment that was not of a less quality than previously in place prior to the partnership.

It would also be expected that the local agreements with employees and the unions that represent them were fully understood and adhered to by all parties, however, the view was that there have been difficulties with the KNT JVCo adhering to local agreements.

Whereby an agreement to have a 'no redundancy' clause may appear to be ideal, if a situation arises where a workforce reduction is inevitable, those looking to take advantage of early retirement or voluntary redundancy should not be confined to

remaining in employment, whilst others are at risk of compulsory redundancy. It was stated this occurrences of this nature had arisen.

Any organisation that was being considered as a suitable employer should be asked for evidence of their working relationship with unions.

It was believed that sub-contracting out work should be kept to a minimum and those who do receive work good should demonstrate they are ethical employers (i.e. paying a Living Wage).

It was the view that trust can be built again by promoting an in-house service which gives value for money and has a social and ethical impact.

It considered that whilst suffering losses in central government funding, a more optimistic outlook should be taken and it should be considered to look to grow and develop the core business in-house, to regain the reputation, to provide good employment opportunities for local residents and communities.

When partnerships are established the employment should not become of a lesser quality than was previous in place.

Value for money is imperative and it was the belief that in-house services would give greater value for money, this was highlighted by the loss of potential income through the pricing of school works not being competitive.

If the workforce was surveyed to ask who they preferred to be employed by the general opinion was that the majority of staff would not have a particular preference. However, it was the view that the main desire was to be respected by the employer. It was suggested that not all staff believe they receive respect by the current employer.

To substantiate this claim the following issues were provided:

- a) Since the commencement of the KNT JVCo the Human Resource function had been centralised away from the North East and as a consequence this has caused many difficulties to staff.
- b) There was also reference of procurement being centralised and the view that value for money was not being met.
- c) The centralisation of services away from the north east had seen a number of problems with reference to salary payments to staff (errors).
- d) It was the belief that a 2 tier workforce was being assembled where employees working at the same trade were employed on different rates of pay/holiday entitlement etc (TUPE/Keir Services Terms and Conditions). This was having major effect on workforce morale and causing some staff divisions.
- e) It was raised that there was a move to outsource the stores that was thought would reduce completed jobs, increase fuel costs and the use of more inferior materials. This was viewed only as a cost cutting and not service improvement measure.

- f) It was stated that there was a continually need to remind the employer that it should not change agreed conditions of the workforce and actions of this kind had generate a level of mistrust.
- g) By the centralisation of the functions that support Human Resources, Payroll and Finance has had a major effect on employees.

It was the view that the potential risk of further centralisation of services away from North Tyneside could affect decisions to how services within the contract would be delivered in future. At the commencement of the contract circa 500 employees were transferred to the KNT JVCo, the Kier North Tyneside Staffing Profile as at May 2016 was:

Employee Status	Total No.
Agency	17
Hybrid – (Original TUPE employees who have taken Kier contracts)	8
Kier	101
Previous NTC Employees	287
Total Employees	413

With regard to specific work streams of the contract the opinion was that the relationships with work streams 1 (repair and maintenance) & 2 (Housing Capital maintenance) were good, however with work streams 3 (Authority capital funded projects) and 4 (reactive repairs) the view was that clients were reluctant to use the KNT JVCo.

It was the view that in entering into a Joint Venture the Local Authority's' reputation had suffered through troubled delivery of the shared service delivery.

It is essential that analysis be undertaken to ascertain the cost saving to the services that have been centralised away from North Tyneside and the effect on the Authority, the workforce, tenants, suppliers and the wider community.

It is essential to understand the effect of having a what is viewed to be a 2 tier workforce where employees are required to work to different terms and conditions for fulfilling the same duties and what effect this would have financially to realise equality.

Key Drivers

With consideration to the work carried out in 2015 scrutiny and following the receipt of information, opinions and experience from stakeholders it was clear that the key drivers were:

- VfM
- Culture
- Job Creation
- Customer Satisfaction
- Local supply Chain
- Business growth and opportunity

Delivery Options

Future delivery options should be made with a clear understanding of the strategic needs of the service, Value for money, organisational appetite and frontline staff.

1. The need to understand and be in control of costs and how these costs relate to the strategic options.
2. Consider reducing cost in-house instead of paying an outsourced contractor to do it.
3. Consider outsourcing the services that would be more cost-effective or will improve performance and consider how these will benefit over time.
4. Understand the expertise that may be lost if a service is contracted out and the ability/cost to re-acquire these skills in the future.
5. Consider if there are certain functions that would benefit from a level of outsourcing to provide hard information to allow real market comparison.
6. Evaluate how shared service options might be an alternative mechanism to outsourcing or delivering in-house.

To identify and understand the key internal and external factors that are important in ensuring the best possible options could be further investigated the sub-group decided to carry out SWOT analysis on each option identified.

SWOT analysis is an acronym for strengths, weaknesses, opportunities, and threats—and is a structured planning method that evaluates those four elements of a project or business venture

SWOT analysis groups key pieces of information into two main categories:

1. internal factors – the *strengths* and *weaknesses* internal to the organisation
2. external factors – the *opportunities* and *threats* presented by the environment external to the organisation

There are 3 distinct approaches that can be taken, extend the current contract, enter a new procurement the service or deliver services through in-sourcing mixture.

There were 9 different options identified within these distinct approaches which were analysed (for full details see Appendix 1).

The 9 Options were:

Extend Current Contract	
Option 1	Extend the current Joint Venture partnership agreement
Option 2	Extend the current Joint Venture partnership incorporating variations to the existing contract (with no material change)
Re-Procure Contract	
Option 3	Retender the service as a Joint Venture (large multi-trade agreement with one provider)
Option 4	Retender the service on the basis of a traditional client contractor arrangement with one provider
Option 5	Retender the service on the basis of a traditional client contractor arrangement with two providers
Option 6	Retender the service on the basis of multiple non-exclusive framework contracts
In-Source Services	
Option 7	Bring the entire service back in house
Option 8	Bring the Repairs and Maintenance service back in house supported by a non-exclusive framework arrangement for major capital works
Option 9	Bring the service back in house and deliver services through the North Tyneside Trading Company (NTTC) using one or a mix of the options mentioned above

The following conclusions in relation to the options have been drawn from the analysis undertaken and taking in views of those stakeholder the sub-group met.

Option 2 - Extend the current Joint Venture partnership incorporating variations to the existing contract (with no material change)

The contract would be extended by 5 years. With the agreement of both parties the contract would be varied to either exclude or add additional services. Once the Authority and Kier are agreed on the scope of the contract, exclusivity would remain for the duration of the 5 year extension.

Exclusivity would remain as per the current contract unless it was contracted for that to change – if changes were made then the risk would be priced into the contract.

This option would have no TUPE Implications.

There would be minimal procurement costs as the contract allows for a simple exchange of correspondence to grant any associated extension to the contract. However, the cost may increase subject to the level of variations incorporated.

Option 6 - Retender the service on the basis of multiple non-exclusive framework contracts

With this option a procurement exercise would need to be undertaken to establish the framework. This would be a non-exclusive frame work with either one provider or 3 or more providers. Works would be called off the framework either by direct award or mini-competition to ensure value for money.

The framework would be non-exclusive.

The Authority would need to consider the length of the contract as it would need to be greater than 5 years to be financially viable.

TUPE implications may arise depending upon how services are drawn down from the framework. In relation to those employees who were transferred from the Authority, they would continue to have pension protection. Any new provider is likely to require admittance to the LGPS to meet the pension protection requirements.

This option would incur contract procurement costs. Expertise from across the Authority would support the procurement arrangements, however there it is assumed that there would be a need for external advice.

Option 8 - Bring the Repairs and Maintenance service back in house supported by a non-exclusive framework arrangement for major capital works

The repairs and maintenance service would be retained by the Authority. There would be a TUPE transfer of staff back to the Authority.

A procurement exercise would need to be undertaken for the major capital works. This would be a non-exclusive framework with a number of providers. Works would be called off the framework either by direct award or mini-competition to ensure value for money. The framework would be non-exclusive.

The Authority would need to clearly define the scope of works for each contractor and how it would continue to determine value for money.

TUPE implications will arise. The Authority will be obliged to honour the terms and conditions of the employees who transfer to it from KNT JVCo. All transferred employees will have the right as employees of the Authority to join the LGPS.

Procurement costs across this option are not applicable however an internal mobilisation team will be required and there will be a range of mobilisation costs including ICT systems.

It is recommended that Cabinet instructs officers to undertake further detailed appraisal of each of the 3 options selected and determined by the Scrutiny Sub-group as the most appropriate future options available and to have regard to the concerns raised within this report.

Background Information

Kier North Tyneside Joint Venture – Future Priorities report
Meeting Notes of the Future Construction Options Sub-group
Managing Conflicts of Interest briefing note
Kier North Tyneside - CSR Activity Information
Kier North Tyneside Ltd - CITB Return 2015
Joint Venture arrangement – North Tyneside Council – UNISON
TUPE implications of Long List of Options
Kier North Tyneside Staffing Profile as at May 2016
DRAFT - KNT Joint Venture Long List of Options
OJEU information and process
Sheffield City Council Cabinet report - Construction and Building Services Re-Tender for Social Housing Repairs and Maintenance – April 2013
Sheffield City Council Cabinet report - Future Options for the Housing Repairs & Maintenance (HR&M) Service - March 2015
City of Stoke on Trent Cabinet report (and appendices) –The Future of the Council's Housing and Public Buildings Repairs and Maintenance Service - July 2015
Presentations
Kier presentation to Overview and Scrutiny 12 November 2015
Delivery & Research 12 November 2015
Overheads in the Kier Joint Venture – 2 December 2015

Acknowledgements

David Foster - Property Services Manager,
Iain Betham - Senior Manager - Education Capital and Fair Access
Alison Campbell - Senior Business Partner
Sarah Heslop - Manager Legal Services - Commercial Team
Mike Furze – Kier Regional Director
James Walder – Kier Financial Controller
Mrs Magda Kirley – Tenant representative
Mrs Koli Begum – Tenant representative
Peter Brady – Communications and Engagement Officer
Alan Stansfield - Union Convenor
Debbie Lydon - UNISON