

Open Report on behalf of Richard Wills, Executive Director for Environment and Economy

Report to:	Executive
Date:	04 July 2017
Subject:	Construction of Salt Barn at Horncastle
Decision Reference:	I013766
Key decision?	No

Summary:

This report recommends the award of a contract to design and construct a Salt Storage Dome at Horncastle Highways Depot.

Recommendation(s):

That approval is given for the detailed design and construction of a Salt Storage Dome at Horncastle Depot where salt stocks are properly stored and managed. That approval is given for the Executive Director to directly enter into a contract for the provision of a Salt Storage Dome as an exception to the Contract & Procurement Procedure rules.

Alternatives Considered:

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| 1. | <p>DO NOTHING - Maintain existing arrangements.
 This would have the disadvantages of high ongoing maintenance costs and health and safety risks.
 It also has inherent environmental risks and results in inefficient operation of the Winter Service.</p> |
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Reasons for Recommendation:

The original Outline Business Case (Appendix A) outlines the rationale and benefits of the proposal.

The proposal will:

- Reduce risk of environmental impact
- Reduce health and safety risk to staff
- Reduce noise disturbance to neighbouring properties
- Increase efficiency of Winter Service
- Provide long term cost savings.

1. Background

- 1.1 With the exception of the Trunk Roads, Lincolnshire County Council is the Highway Authority for all roads in Lincolnshire. The Highways Act 1980, Section 41 (1A) states that:

"A highway authority are under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice"

Hazards such as snow, ice and hoar frost are avoided by Precautionary Salting of a designated network of roads using sodium chloride (salt). This is spread in a "pre-wet" method from gritters which spray brine at a specified concentration onto the dry grains of 6mm marine salt. The calibration of these vehicles and the effectiveness of the treatment are reliant on the quality of the salt which is used.

- 1.2 The storage of this material has a significant effect on how the quality of the material is maintained. If salt is not maintained in good condition, target spread rates and adequate distribution across the carriageway are unlikely to be achieved. If salt is in poor condition both under-spreading and over-spreading are possible.
- 1.3 Keeping the salt in good condition and monitoring the condition is essential to allow spreading at lower rates; thus maximising the efficiency of the operation. The condition of the salt must be maintained for consistent spreader performance during the season.
- 1.4 Changes in National Guidance contained in Appendix H to "Well Maintained Highways", the Code of Practice for Highways Maintenance, placed increased emphasis on salt storage. It is explicit that salt should be stored in a barn wherever possible, with sheeting a less desirable option and open stockpiles to be avoided. As the outlay for a salt barn or dome is recognised as significant, it was suggested a 10-year plan is adopted to allow local authorities to comply with its recommendations.
- 1.5 As well as the impact on service delivery, there are also environmental concerns. Salt stored outside in open or sheeted stockpiles suffers from leaching with the risk of subsequent contamination. The Environment Agency has expressed its desire to see the County Council comply with the guidance.
- 1.6 The County Council operates its winter service out of eight operational depots across the county. The recent construction of Willingham Depot salt barn in 2015 leaves our largest salt store in Horncastle depot. Salt is currently stored externally and sheeted with tarpaulins. This is the last external storage site and a new facility will enable the Authority to meet national recommendations for the storage of de-icing salt, as well as making future savings through improving condition of the salt stored at the depot.
- 1.7 Construction of the facility would have the following benefits:

- Operational – Spreading equipment does not cope well with wet salt and issues with calibration, breakdowns and damage
- Health and Safety - Sheeting poses problems for operatives both handling and working at heights and risk to local residents
- Environmental – Salt heaps pose a contamination risk highlighted and monitored by the Environment Agency
- Effectiveness - Clumping of wet salt results in problems with spread rates and the ability to defend insurance claims is compromised.
- Cost Reduction - The ability to control salt application will result in use of less salt and less repeat gritting runs, reducing operating costs.

1.8 An outline business case was prepared in 2015 to establish the viability of the proposed storage facility and this is attached as Appendix A. This shows that expected rate of return is to recover costs within 8.5 years

1.9 In early 2016 discussions with Lincolnshire County Council planning officers identified an area within Horncastle Depot as the preferred location for a new storage facility. However, consultation with affected parties resulted in significant opposition to these proposals.

1.10 An alternative site within the depot was identified and this was progressed through the planning process. The new location within the depot is square in shape and the only suitable structure was a purpose built domed storage structure. Working with the supplier of domed structures an appropriate design was developed and outline drawings prepared. The dome is a unique design, including the ability to relocate in the future should the need arise.

1.11 Planning permission for the new bespoke structure was granted by the Planning and Regulation Committee in October 2016 which will allow the storage of 5400 tonnes of salt. There is a sole supplier who owns the design, patents and trademarks of this design.

1.12 Revised quotations have been negotiated for the amended proposals and the current cost breakdown is shown below:

Design, Provision and erection of Dome	£388000
Groundworks	£ 50000
Services/ Drainage/ Ancillary Works	£ 47000
TOTAL	<u>£485000</u>

1.13 As the dome is a bespoke structure, approval is sought to waive Procurement rules to enable the award of a single contract for the provision and construction of a purpose built salt dome complying with the planning permission, where salt stocks are properly stored and managed.

1.14 In order to achieve a September start date and allow mobilisation the Executive is requested to approve in principle to the award of a contract up to agreed value, subject the approval of funding by Full Council in July.

Procurement Issues

The value of the proposed contract is well below the relevant threshold for the application of the EU public procurement regime. However, the Council is bound by EU Treaty principles of transparency and equal treatment even in relation to procurements below the EU threshold. Those principles would normally require advertising of the opportunity across the EU unless in the opinion of the Council the contract would not be of cross-border interest – i.e. would not be of interest to a contractor in another EU member state.

Consideration has been given to whether there would be cross-border interest in this contract and it has been concluded that there would not be cross-border interest having particular regard to the nature of the contract and its limited value.

Direct award of a contract would not therefore be a breach of EU procurement rules.

It is not reasonable to require compliance with the Council's own Contract Procedure Rules that require 4 written quotations to be obtained for contracts of the value as the one which is the subject of this Report because the solution of a dome construction is one unique to the Contractor the Council has approached and the Public Contract Regulations 2015 allows for the direct award of a contract (albeit one above the EU Threshold) without prior publication where it involves the protection of exclusive rights such as intellectual property rights which is the case in this instance, and where there is no reasonable alternative or substitute. The report clearly identifies that the best solution for the protection of the salt stock would be for it to be stored in a barn such as the one the Council wishes to have erected. The report also explains how this solution would achieve savings for the Council which would indicate that this solution would achieve best value for the Council.

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act

* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation
Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic

* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

Consideration has been given to the Equality Act duty and there are not considered to be any direct negative impacts of the decision. The works will not take place in an area that the public have access to. To the extent that any of the works would affect members of the public, suitable measures will be taken to maintain safety for people with protected characteristics.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The JSNA identifies topics which relate to the achievement of health and wellbeing objectives. The proposal will directly assist achievement in the following areas:

Isolation/Transport/Access through maintaining a safe highway network.
Road Traffic Collisions through its contribution to a safer road network.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

There are no implications in relation to Crime and Disorder from approval to award the contract.

3. Conclusion

- Planning Permission for a new Salt Storage Dome in Horncastle was granted by the Planning and Regulation Committee in October 2016.
- Approval is now sought to proceed to the construction phase, subject to financial decisions by Full Council on 12 July.
- Further approval is sought for the Executive Director to enter into a design and construct contract as an exception to the Contract & Procurement Procedure Rules, subject to the budget limit identified.

4. Legal Comments:

The Council has the power to enter into the contract proposed.

The procurement law implications and the other matters to which the Executive must have regard are dealt with in detail in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive if it is within the budget.

5. Resource Comments:

A recommendation will be made to County Council on 12 July to approve a carry forward in excess of 1% for the purpose of utilising the underspend on the 2016/17 winter maintenance budget to fund the construction of a salt barn at Horncastle. Subject to this approval, the resources will be available for the recommendation in this report to be agreed. Accepting the recommendation is also likely to reduce the costs in the winter maintenance budget in future years.

6. Consultation

a) Has Local Member Been Consulted?

Yes

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This has not been considered by a scrutiny committee.

d) Have Risks and Impact Analysis been carried out?

n/a

e) Risks and Impact Analysis

n/a

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Original Outline Business Case
Appendix B	Location Plan

8. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Paul Little, who can be contacted on 01522 782070 or paul.little@lincolnshire.gov.uk .

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