

Report to Cabinet

25 November 2021

By the Cabinet Member for Leisure and Culture



DECISION REQUIRED

Partially exempt

Appendix 1 exempt under Paragraph 3 of Part 1 of the Schedule 12A to the Local Government Act 1972

Tender of the Council's contract for arboriculture services

Executive Summary

The current arboriculture contract expires on 31 March 2022. To ensure a smooth transition, the new contract will be in place to start on 1 April 2022. A procurement process has been undertaken and a number of bids were received, as detailed in Appendix 1 (exempt).

The aims of the new contract are:

- To effectively deliver the Council's statutory arboriculture duties including inspections and maintenance of its tree stock and to ensure value for money.
- To support the aims in the Wilder Horsham District initiative ensuring that the environment is protected and wildlife habitats are enhanced.
- To contribute towards the council's sustainability and carbon-reduction ambitions, as detailed in the Corporate Plan.

The arboriculture contract will manage the Council's owned tree stock throughout the District, including trees within the urban landscape, parks, open spaces, hedgerows and areas of ancient woodland.

The scope of the contract includes:

- Tree inspections and reporting;
- Routine maintenance – the management of trees identified through inspection as being dead, dying and/or dangerous and presenting a serious risk to the safety of the public and property; or in need of pro-active management to prevent them from becoming so;
- Emergency response – to deal with dangerous or fallen trees caused by storm damage or other unpredictable events;
- Ash-Dieback disease management – providing best value solutions to address the impact of the disease.

The new contract will be in place for a period of seven years, with the ability to extend up to a maximum of a further seven years (a total of 14 years). The contract period will align with the grounds maintenance contract, should it be of value to combine the two contracts in the future.

The new contract ensures that the Council continues to provide high standards of arboriculture inspections and maintenance alongside a commitment to sustainable practices and reduction in carbon emissions.

Tree inspections and reporting has been included within the new arboriculture contract and partially removed from in-house provision. This is primarily to provide flexibility and ensure that additional resource can easily be provided when needed, in particular due to seasonal pressures. A qualified arboriculture specialist will remain in-house to oversee the contract and carry out spot checks to ensure a quality service. Financial details are included within Appendix 1 (exempt).

Recommendations

Cabinet is recommended:

- i) To approve the award of the Arboriculture Contract to the highest scoring bidder, on the terms recommended, as detailed in Appendix 1 (exempt).
- ii) To delegate authority to the Director of Community Services in consultation with the Head of Legal & Democratic Services to finalise terms and conditions and to enter into the contract with the highest scoring bidder.

Reasons for Recommendations

For the Council to continue to carry out statutory arboriculture services across the parks and countryside portfolio.

Background Papers

None

Wards affected: All

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Background Information

1 Introduction and Background

- 1.1 The current arboriculture contract's term was for ten years, ending 31 March 2022. There is no option to extend for a further period. The new contract will be in place from 1 April 2022.
- 1.2 A joint procurement process has been undertaken for the new arboriculture contract alongside Crawley Borough Council. The tender was put out to the market in two separate Lots which meant that both Councils could tailor their requirements. A joint procurement process was more cost-effective as well as attractive to the market. Seven bids were received, details are within Appendix 1 (exempt).
- 1.3 The grounds maintenance services to be carried out within the contract include:
 - Tree inspections and reporting;
 - Routine maintenance – the management of trees identified through inspection as being dead, dying and/or dangerous and presenting a serious risk to the safety of the public and property; or in need of pro-active management to prevent them from becoming so;
 - Emergency response – to deal with dangerous or fallen trees caused by storm damage or other unpredictable events;
 - Ash-Dieback disease management – providing best value solutions to address the impact of the disease.
- 1.4 The decision as to whether to continue outsourcing the arboriculture services via a contract was reviewed. The benefits to the Council in retaining a contracted service include financial efficiencies due to the market's greater buying power, the ability for scaling up and down (which is particularly important with seasonal pressures and Ash Dieback disease), broader knowledge of a specialist market and easy access to technical knowledge and advice.
- 1.5 Before advertising the contract for tender, the Council's procurement team arranged a market engagement day to gauge interest and to help the Council to gather market information to inform the development of the specification.
- 1.6 The market advised on how the contract could support the Council to achieve its carbon reduction and sustainability ambitions. Discussions included realistic timescales for aspects such as electric equipment, vehicles and machinery, where the market was reducing emissions already and plans for the next few years.
- 1.7 The optimum length of contract was explored with the market – to ensure financial value to the Council, attractiveness to the market (to encourage a competitive tender) and to allow for depreciation of vehicles and machinery (particularly looking at how this could aid reduction in emissions).
- 1.8 As detailed to Cabinet on 4 June 2020, a potential opportunity to align the arboriculture and grounds maintenance contracts was identified. This was explored in detail during the market engagement day. The market's responses showed that it would be advantageous to the Council to retain the arboriculture contract separately

due to the specialist nature of the work. This would continue to ensure quality and close control of outcomes. Moving forward, the contract end dates for both contracts will align to enable them to be combined in the future, if needed.

- 1.9 Various ratios of differing percentages for the evaluation of price versus quality were modelled. Due to the impact of the Covid-19 pandemic and uncertainties regarding pricing within all commercial markets, a potential risk was identified as the market potentially returning bids at a much higher rate. The balance in evaluation criteria was therefore set at 60% weighting for price and 40% weighting for quality. This weighting was to encourage competitive pricing but also highlighting to the market that evaluation of quality was also of high importance to the Council.

2 Relevant Council policy

- 2.1 The Corporate Plan supports the aims of the arboriculture contract in order to provide 'a cared for environment' for the District. Including: (4.1.3) work with partners towards becoming a carbon neutral District; (4.1.8) improve the ecology, wildlife and biodiversity of our parks, open spaces and countryside.
- 2.2 The delivery of the arboriculture service through a single provider supports the objective in the Corporate Plan of being 'a modern and flexible council' and delivering services in an efficient and cost effective manner. Including: (5.3) The Council continues to provide the quality, value for money services that people need throughout the 2020s.

3 Details

Tender documentation

- 3.1 Officers prepared a comprehensive set of tender documentation. The key objectives were listed as:
- A collaborative long-term partnership to the mutual benefit of both parties;
 - Continuous improvements in service provision, best practice, quality and cost control;
 - A focus on sustainability and reduction in carbon emissions across the contract term;
 - Value for money, with an open and transparent approach to operating the contract;
 - An excellent responsive service to the Council and other stakeholders;
 - The use of technology to support effective service delivery;
 - An experienced and effective management team to successfully provide the full range of services listed;
 - Continuity of services' including a seamless transfer;
 - A highly skilled flexible workforce.

- 3.2 A set of quality questions were also prepared which allowed the bidders to demonstrate their approach to a number of relevant issues.
- 3.3 The tender documentation was uploaded onto the Council's e-tendering procurement portal and advertised on Find a Tender Service and Contracts Finder. In addition to the evaluation methodology, the tender documentation included contract documentation in an approved form. This process ensures that all contractors are supplied with identical information and understand the nature of the contract that they will be expected to enter into.
- 3.4 During the tender preparation process a number of contractors raised clarification questions, which were answered. Clarification information was shared with all bidders through the procurement portal.
- 3.5 At the tender return date, the Council received seven bids, the details of which are included in Appendix 1 (exempt).

Evaluation of submitted bids

- 3.6 The tenders were assessed independently by officers and against published criteria. The scores were then moderated via a panel, overseen by the Procurement Manager.
- 3.7 On completion of this process an analysis of the total scores was undertaken and a winning bid identified. Due diligence checks have been made on the preferred bidder specifically in relation to their financial stability and insurances. The details of the preferred bidder are included in Appendix 1.

Additional elements to be included within the contract

- 3.8 Inspections are a statutory provision and Council staff currently deliver all inspections of the Council-owned tree stock. Tree inspections will be included within the new contract. There are increasing pressures on the delivery of inspections and the contract enables flexibility and the scaling up of specialist resources when needed. A qualified arboriculture specialist will be retained in-house to manage the contract and carry out spot checks and inspections when appropriate.
- 3.9 The provision for additional inspections of Ash trees and management of Ash Dieback disease is also included within the contract.

Sustainability, carbon reduction and social value

- 3.10 Throughout the tender documentation the importance of the contract delivering continuous improvement and a pro-active approach to improved sustainability practices and reduction in carbon emissions was emphasised. The need to support the Wilder Horsham District ambitions was also highlighted.
- 3.11 Bidders' submissions were evaluated on the evidence of how they would approach reduction of carbon emissions in-line with the Council's stated timelines.

- 3.12 Contractors were also evaluated on their proposals to provide social value including detailing what wider social and economic benefits they would commit to providing throughout the duration of the contract. Aspects such as supporting the local supply chain, ethical purchasing standards, creating jobs for local people, providing work experience and apprenticeship opportunities.
- 3.13 The importance of building effective relationships with the local community and stakeholder groups was also emphasised throughout the tender documentation.

4 Next Steps

- 4.1 To enter into the contract and to ensure mobilisation in time for the expiry of the existing contract on 31 March 2022.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The Leisure and Culture PDAG have been updated on the approach to the procurement of the arboriculture contract alongside the grounds maintenance contract procurement. PDAG Members received a written update in May 2021, the arboriculture contract was also discussed on 14 July 2021 and 24 November 2021.
- 5.2 The Monitoring Officer has been consulted and their recommendations have been incorporated in this report.
- 5.3 The Director of Corporate Resources has been consulted.
- 5.4 The Head of Human Resources & Organisational Development has been consulted regarding the proposed changes to staffing responsibilities and the potential redundancy of one part-time post.
- 5.5 Unison has been consulted and all potentially affected Council staff have also been informally consulted regarding possible staffing changes.

6 Other Courses of Action Considered but Rejected

- 6.1 The current contract is not legally able to be extended further, therefore a procurement process to appoint a new contractor is necessary.
- 6.2 The possible delivery of the arboriculture services in-house via Council staff was considered but was rejected as it was likely that costs would increase significantly and the ability to scale up and down with specialised staffing was limited.

7 Resource Consequences

- 7.1 There are pressures on the budget for arboriculture services. Firstly, the amount of work has increased since the last contract was let 10 years ago. This has caused persistent overspends on this budget for the last three years. Secondly, Ash Dieback disease is expected to kill 70%-90% of ash trees within the District over the

next five years plus there are additional known and emerging diseases for other species. This means that there will likely be increasing work throughout the lifetime of the contract, above the current budget. Thirdly, because of the demand for arboriculture services nationally arising from Ash Dieback, the price for tree work has risen and this is reflected in the prices for this contract. The combination of these three pressures on the budget means the arboriculture budget for 2022/23 will need to rise from £260k to £332k. The impact of Ash Dieback may mean that the budget will need to increase further. The Council must expect to see increasing costs above those shown in Appendix 1 (exempt) throughout the life of this contract and these will be presented as part of budget setting each year.

- 7.2 One part-time post will be made redundant due to the inspections being included within the contract. This post is not viable for Transfer of Undertakings Protection of Employment regulations (TUPE). The affected employee has been informally consulted with and the formal redundancy consultation process will begin after the contract is awarded.

8 Legal Consequences

- 8.1 The Council has complied with all necessary Procurement Regulations and the Council's Procurement Code.
- 8.2 In-house legal resources will be used to complete the legal documentation.
- 8.3 The Transfer of Undertakings Protection of Employment regulations (TUPE) apply to the services moving into this contract.

9 Risk Assessment

- 9.1 There are risks with the implementation of a new contract but there is adequate time to ensure a smooth transition and full information is available. It is therefore considered that this risk is controllable. Further details are included within Appendix 1 (exempt).

10 Procurement implications

- 10.1 The Council has complied with all necessary Procurement Regulations and the Council's Procurement Code. The procurement process has been overseen by the Council's Procurement Manager and supported by a Procurement Officer, ensuring compliance.

11 Equalities and Human Rights implications / Public Sector Equality Duty

- 11.1 The tender documentation and contract ensures that the resulting contractor complies with all equalities legislation and pays due regard to any possible future impacts on human rights.

12 Environmental Implications

- 12.1 As detailed throughout the report, the reduction in carbon emissions, water, pesticides and waste as well as improvements to sustainable practices is prioritised within the new contract.
- 12.2 Key aims of the contract are to improve biodiversity, where possible, and help achieve the Wilder Horsham District ambitions.

13 Other Considerations

- 13.1 The proposed contract will ensure that the council maintains the arboriculture service to a good standard and is compliant with statutory requirements.
- 13.2 The contract requires the new contractor to ensure GDPR and data protection processes are in place and compliant with all relevant legislation.
- 13.3 Crime and disorder incidents do happen in parks and open spaces. The arboriculture contractor will be required to report to the Council, and other relevant authorities, any concerns regarding evidence of anti-social or criminal behaviour.