

Report to Joy Dennis, Cabinet Member for Highways and Transport

September 2021

Procurement of specialist contractor to undertake felling of Ash Trees infected with Ash Dieback

Report by Matt Davey, Director of Highways, Transport & Planning

Electoral division(s): All

Summary

Ash Dieback (ADB) is a disease that is likely to kill 95% of the county's ash trees over the next 10–20 years. This will have a major impact on the county's landscape, the wildlife it supports, other ecosystems that trees provide, and climate change. It will also have a high impact on the County Council, posing a significant risk to people, property (including schools), and the delivery of services (including highways). Therefore, a corporate [Ash Dieback Action Plan](#) has been prepared to manage the impact of the disease.

A specialist contractor is now required to deliver the tree removal phase of the plan, so that the County Council can meet its statutory obligations for safety of both staff and residents of West Sussex.

Recommendations

The Cabinet Member for Highways and Transport will be asked to:

- (1) approve the commencement of a procurement process for a tree felling contract for Ash Dieback infected trees through an open tender process, the contract to commence on 1 April 2022; and
 - (2) delegate authority to the Director of Highways, Transport and Planning, to award the contract to the successful bidder for an initial period of 4 years with optional extension periods of 1 year up to 7 years in total, in accordance with the County Council's Standing Orders on Procurement Contracts.
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Proposal

1 Background and context

- 1.1 Ash Dieback disease is caused by the fungus Hymenoscyphus fraxineus, formerly known as Chalara fraxinea. In West Sussex, nearly 21% of all broadleaved trees are ash, covering 4,968 hectares. The disease has the potential to kill 95% of West Sussex Ash trees over the next 10–20 years. This will have a major impact on the county's landscape, the wildlife it supports and other ecosystem services.
- 1.2 As the disease progresses it weakens the tree enabling other pathogens to set in, some of which will destroy the integrity of the tree's structure leading to limb loss and eventually failure of the tree. In some settings this may not be a risk, e.g., in a deeply wooded area with very little footfall. Alongside a highway or a property, the risks increase and give rise to serious concerns over maintaining safe access. This is our priority as it impacts on our legal obligation to maintain highways to enable safe passage and represents a potentially catastrophic risk.
- 1.3 A survey of the road network has been undertaken and identified that over 30,000 Ash trees within falling distance of the highway show signs of infection and will need to be removed. A risk-based approach will determine which locations should be addressed more urgently, based on the impact of tree failure, with a second level of prioritisation based on tree condition.
- 1.4 The County Council's current tree works contract is for generic tree maintenance programmes across West Sussex. Due to the number of trees and the specialist equipment needed to remove them, it is clear that a separate contract is needed for the sole purpose of removing trees infected with ADB.
- 1.5 Whilst the removal of many trees will have a significant impact on the county's landscape, and ecosystems that trees provide, the first approach to mitigating this is to allow for natural regeneration of the ecosystem. If subsequently a replanting/regeneration programme is required, then options for delivering this will be considered in accordance with the West Sussex [Tree Plan](#). Therefore, replanting of trees does not form part of this proposal.

2 Proposal details

- 2.1 To procure, via an open tender process a single provider NEC4 Term Service Contract (Option E) for the services of a specialist contractor to undertake a felling programme to remove Ash trees infected with ADB.
- 2.2 The contract will commence on 1 April 2022 and run for an initial period of 4 years with possible 1-year extensions, up to a maximum of 7 years.
- 2.3 The proposed felling contract will put an obligation on the successful contractor to maximise the use of felled timber either into the biofuel or timber markets. The revenue generated will be reflected in the contractor's submitted rates.
- 2.4 Re-planting areas of land where diseased trees have been removed will be considered via monitoring and assessment to understand how the sites have developed since the trees were removed. In some cases, natural regeneration of the site may be the most ecologically beneficial option and therefore planting may not be required. Where planting is considered an option by the County

Council, this will be assessed, planned and delivered in accordance with the principles set out in the West Sussex Tree Plan.

- 2.5 Given that ADB will impact trees on private property in close proximity to the public highway or council owned land, a key component of the contract will be the ability of the contractor to incorporate third party works into works being delivered on behalf of the County Council. Council officers will make initial contact with impacted landowners, who will have the opportunity to utilise this contract. The third party will be responsible for the full costs of these works and the rates applied will mirror those applied by the contractor to council works as set out in the contract.

3 Other options considered (and reasons for not proposing)

3.1 Do nothing:

Do nothing was rejected as the danger posed by the ADB disease means that the County Council has a statutory duty under section 41 Highway Act 1980 to as far as practicable, ensure the highway is safe for use. Equally the County Council has an obligation for the safety of people using its buildings and grounds.

3.2 Framework Contract:

Feedback from contractors through a formal Request for Information soft-market testing exercise was that if there was no guarantee of contracted work, it would discourage contractors from investing in the significant plant required. It was also considered that the client project team (3 members of staff) would not be sufficient to effectively manage a framework contract involving multiple and regular mini tenders.

Existing Lot 1 Contract:

Consideration was given to whether the existing Highways Maintenance Services 2020 Lot 1 contract was suitable for felling diseased Ash trees. However, whilst the interim arrangement in advance of specialist contractor procurement is utilising Lot 1 for highest priority safety works, it is not possible contractually to extend this beyond the duration of 1 year. In addition, the Lot 1 contract provides an option to procure general tree maintenance; it does not provide a route to market for a specialist ADB tree felling contractor who can efficiently and effectively recycle the felled trees.

4 Consultation, engagement, and advice

- 4.1 The Executive Director for Place services, the Director of Finance and Support Services, and the Director of Law and Assurance have been consulted.
- 4.2 The County Council's internal Procurement Board has considered the options and support this procurement and contract award process, which will be undertaken in accordance with the County Council's Standing Orders on Contracts.
- 4.3 To inform the procurement process, a formal Request for Information soft-market testing exercise was released via In-Tend which garnered more than 30 responses from both arboriculture and forestry contractors. Contractor responses were comprehensive and have been considered in formulating the current proposal.
- 4.4 Feedback from the contractors was used to inform a detailed options appraisal, supported by discussions with neighbouring and other county councils which

included Hampshire, Surrey, East Sussex, Kent, Devon, Leicestershire, and Gloucestershire.

5 Finance

- 5.1 The total contract value is estimated to be between £5m and £8m, depending on the total number of trees removed, the severity of ADB degradation and the relative ease or difficulty of access for felling and removal operations.
- 5.2 An annual revenue budget of £1.5m will be available to fund the works, as shown below.

	Year 1 2022/23 £m	Year 2 2023/24 £m	Year 3 2024/25 £m	Year 4 2025/26 £m
Revenue budget	1.5	1.5	1.5	1.5
Change from Proposal	0	0	0	0
Revised budget	1.5	1.5	1.5	1.5

- 5.3 Felling and removal works will be prioritised on a risk management basis to ensure the County Council continues to meet its safety obligations. The Ash Dieback Reserve will provide flexibility to accommodate fluctuations in work volumes across financial years.
- 5.4 The effect of the proposal:

(a) How the proposal represents good value

The contract will be awarded through a competitive procurement process evaluated using the Most Economically Advantageous Tender (MEAT) criteria.

The value of timber arisings from felled trees will be reflected as a reduction applied to the contractor's rates, ensuring the financial benefit is returned to the County Council.

Adopting a planned and coordinated response to this major tree disease will deliver significantly better value for money than proceeding on a reactive basis. Evaluation of the worst-case scenario, in which nature is allowed to take its course and trees are felled as they become an immediate danger, identified a likely felling cost in the region of £12.5m.

(b) Human Resources, IT and Assets Impact

There are no Human Resources, IT or Assets Impact, to this proposal.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Lack of capacity in the market	Market engagement has been conducted to mitigate this risk. Feedback is that there is strong interest in this procurement opportunity.

Risk	Mitigating Action (in place or planned)
Failure to deliver on time - dangerous trees	Provision is made within the contract to provide emergency response where required. This is further supported by the County Council's Highways Maintenance Services 2020 Lot 1 contractor, Balfour Beatty, who also have provision for emergency response.
Poor Contractor Performance	Sufficient contract clauses and incentives will be in place to manage and deal with this if necessary.

7 Policy alignment and compliance

- 7.1 Our Council Plan (2021-2025) - this procurement contract will contribute towards delivery of Priority 2: A sustainable and prosperous economy, and Priority 4: Making the best use of resources.
- 7.2 West Sussex County Council Climate Change Strategy (2020-2030) - delivery of this contract will support and grow the local green economy by encouraging sustainable businesses, green innovation and reducing demand for fossil fuel-based energy. The successful contractor will be closely monitored to ensure that the impact of operations on the environment is minimised.
- 7.3 West Sussex County Council Tree Plan (December 2020) - this contract will be sensitive to, and recognises the economic, social, and environmental benefits of trees, all of which contribute to our quality of life.
- 7.4 West Sussex County Council Ash Dieback Action Plan (December 2019) - this contract will focus on appointing the most appropriate contractor for the felling and safe removal of dead, dying, and diseased ash trees, a key aspect of the Action Plan, that of to reduce the safety risk posed by Ash Dieback to an acceptable level.
- 7.5 Legal implications - the procurement of a specialist contractor will be in accordance with the County Council's standing orders as well as Public Contracts Regulations 2015. The County Council's statutory responsibilities have been outlined in the report.
- 7.6 Social value is considered as part of the tender evaluation process and will be measured through the contract Key Performance Indicators.
- 7.7 There are no equality, human rights, crime and disorder or public health impacts associated with this proposal.

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Appendices/background papers - none