

Cabinet Member Delegated Decision 10 April 2019

Report title: Changes to the Tree Maintenance Service

Wards: All

Portfolio: Councillor Sonia Winifred, Cabinet Member for Equalities and Culture

Report Authorised by: Bayo Dosunmu, Interim Strategic Director, Residents' Services

Contact for enquiries: Kevin Crook, Assistant Director Neighbourhoods, 020 7926 8973,
kcrook@lambeth.gov.uk

Report summary

Lambeth owns and manages approximately 65,000 trees, distributed across our streets, housing estates, parks, schools and cemeteries. For matters of public safety and insurance claim mitigation it is essential that a regular inspection and maintenance regime is in place. A short two year contract (April 2017-March 2019) was awarded to City Suburban Ltd in order to allow the future option of bringing the service in-house to form part of Lambeth Landscapes.

This report recommends bringing the service back in-house on 1st April 2019 when the contract expires. A Gateway 2 Procurement Strategy Report setting out the case for this has been considered and approved by Management Board and Procurement Board. The service is severely under-resourced and does not have the capacity to cope with the rapid increases in damage caused by pests and diseases; to adequately assess trees for risk; and there is no tree-planting budget to replace the hundreds of trees felled each year due to death, disease or development.

Bringing the service in-house will enable a number of enhancements to the current service and allow us to significantly reduce the risk inherent in the service.

Finance summary

The 2018-19 grand total revenue budget for tree maintenance is £834,000. The grand total budget contains the following total budgets: Parks tree maintenance budget of £309,000 and the HRA tree maintenance total budget of £525,000. The cost model for the in-house service remains well within this figure. Housing have requested a reduction of £100,000 on their annual expenditure and this has been factored-in to the modelling. To bring the tree maintenance service back in house capital investment has been awarded totalling £300,000 from Community Infrastructure Levy to purchase the required vehicles, plant and equipment.

Recommendations

1. To approve bringing the tree maintenance service back in-house with effect from 1 April 2019 when the current contract ends.
2. To approve and allocate £300,000 funded from Community Infrastructure Levy (CIL) to purchase the required vehicles, plant and equipment.

1. Context

- 1.1 Lambeth owns and manages 65,000 trees across its land-holdings. A regular inspection and maintenance regime is essential in order to protect the health of the stock and reduce the council's liability for injury and damage to property.
- 1.2 The current two-year contract with City Suburban Tree Surgeons commenced on 1 April 2017 and ends on 31 March 2019. A short contract was tendered to allow for a second phase of bringing all grounds maintenance services in-house, if a robust business case could be made.
- 1.3 Tree maintenance services provides for the planned and reactive maintenance of all Lambeth-owned trees on the public highway and housing estates, and in parks, schools and cemeteries. A schedule of planned maintenance is required to ensure that the council fulfils its statutory duty of care through regular inspection and pruning of trees on the highway and on housing estates. The service should deliver a risk management approach to the borough's trees, prioritising the safety of people and property by regularly assessing against a number of risk factors, including tree size, condition, health, age and proximity to buildings and the highway. Provision is also required for tree-planting in order to replace felled trees and implement new planting schemes.
- 1.4 The Gateway 1 Business Case was approved on 28 June 2018. The Gateway 2 Procurement Strategy Report was agreed at Management Board on 30 October 2018 and at Procurement Board on 20 November 2018.
- 1.5 The Procurement Strategy Report outlined the reasons for recommending insourcing the service. The main alternative option of extending the contract with City Suburban was not preferred because the market has been fully tested recently, there is not scope to further reduce expenditure and provide the financial capacity needed to reduce risk, deal with pests and diseases and create a tree-planting programme. Other boroughs with in-house services were spoken to but do not have the capacity to work with Lambeth in terms of joint service provision.

2 Proposal and Reasons

- 2.1 The proposal is to bring the trees maintenance service back in-house on 1 April 2019, to form part of the Lambeth Landscapes team within the Neighbourhoods Division.
- 2.2 The service does not have sufficient resources to adequately manage risks, following significant reductions in staff and budgets over successive savings rounds. The proposal is to operate within the current budget envelope in order to provide an enhanced level of service.
- 2.3 An in-house model provides full control of finance, operations and risk. It offers more flexibility in terms of responding to issues and changing priorities. Un-programmed work, such as checking trees for pests and diseases can be undertaken at no additional cost. The operational resource is dedicated to Lambeth and there is no risk that teams will be diverted to work on other contracts.
- 2.4 Over the past few years the annual maintenance budget for non-Housing trees has been reduced from £433,000 to £266,000. Staffing covering non-housing trees has been reduced from a team of five to a single officer responsible for the management of over 22,000 trees. The extent of these reductions mean that officers do not believe the service offers an appropriate level of risk mitigation. It is only possible to assess the most high-risk locations for necessary work; in other areas officers rely entirely on the contractor to assess what needs to be done. Over the past 12 months we have experienced numerous incidents of trees or large branches falling, particularly in parks. Some have damaged vehicles and property and it is lucky that no-one has been injured. The in-house model will enable the creation of a Tree Service Manager post to provide specialist leadership and direction for the service, particularly in

terms of risk management. The tree officer post covering non-housing trees will then be freed up to undertake much more extensive assessments on the ground, moving to a slightly more pro-active basis than is currently the case.

- 2.5 The cyclical maintenance regime for non-Housing trees had to be moved from a three-year to a four-year cycle in order to meet the savings imposed in 2016, which has increased risk. A Court of Appeal ruling from October 2018 (Witley Parish Council v. Andrew Cavanagh) determined that a three-year maintenance cycle was not adequate for trees within falling distance of high-use areas (most of Lambeth); and that inspections of high-risk trees should be made every one or two years. The in-house model is still not sufficiently resourced to allow that, but will enable a return to a standard three-year cycle, with inspections for the highest risk trees every one or two years.
- 2.6 Incidence of pests and diseases is currently increasing significantly within Lambeth. We have neither the budget nor the staff capacity to deal adequately with these issues. Massaria is a disease which infects London Planes, causing limbs to fall from trees and ideally each tree should be checked annually for signs of the disease. Under the contract each inspection is chargeable. For the first time this year we have seen Massaria spread to main supporting limbs, marking a notable intensity in the disease, with increased risk. Oak Processionary Moth has had a relatively minor presence in the borough to date, however in 2018 it was identified in Brockwell Park, spreading to almost every oak tree and is no doubt prevalent in other parks as well. The hairs from the caterpillars contain a dangerous irritant and can remain active in the environment for several years. It cost £7,000 to remove all nests from Brockwell Park alone and will be an annual threat. With an in-house model we can divert operational staff to undertake Massaria inspections and other tasks during quieter periods of the year, without any financial implications.
- 2.7 Tree work in parks has been minimal for several years now following budget savings and this is where we are seeing a lot of trees and limbs falling. Officers secured £60,000 revenue maintenance S106 in 2016, which has funded a small programme of works across several sites over a two-year period. However, this is not a sustainable source of funding. Again, the in-house model will provide the flexibility to allocate resources from street trees into parks and cemeteries without any financial implications.
- 2.8 Lambeth has been utilising specialist tree management software (Ezytreev) since 2001. This is crucial in terms of dealing with enquiries, complaints and insurance claims as it records all inspections and maintenance information. However, the loss of the Tree Co-ordinator post in a 2014 restructure has made it impossible to keep maintenance records fully up to date. The in-house model provides for a dedicated Technical Officer to handle enquiries and maintain Ezytreev.
- 2.9 The HRA tree maintenance budget currently funds two Tree Officers and contracted works. There is no provision for maintaining Ezytreev records, providing any sort of direction or oversight for the service, or cover when officers are on leave. Under the in-house model a number of enhancements will be possible within the HRA budget. These include: a 42% time allocation of the Tree Service Manager; an additional Assistant Tree Officer able to provide continuity when colleagues are on leave; a 50% time allocation of a Technical Officer to handle enquiries and keep Ezytreev records up to date; an operational team approximately twice as large as the current contracted allocation; vans for the Housing Tree Officers, meaning they can move around their geographical areas more quickly and provide a more efficient service; access to specialist equipment such as a stump grinder which will mean a more responsive service. Currently this equipment is shared across several contracts.
- 2.10 The tree service generates relatively high volumes of enquiries and requests, most of which require a site visit. An increasing number of these are linked to subsidence related insurance claims and so are complex and potentially costly in nature. The tree team are having to remove ever greater numbers of trees to reduce Lambeth's liabilities, however the lack of tree-planting to compensate for losses is not popular with local residents. A dedicated Tree Service Manager will have capacity to work more closely with our Risk and Insurance team to develop processes and procedures to reduce subsidence risk and the number of trees felled.
- 2.11 The value of urban trees is increasingly recognised and we have a manifesto commitment to plant 2,000 trees by 2020. However, there is no tree-planting budget and we lose several hundred trees each year to death and disease. We are entirely reliant on external funding to maintain our tree stock, let alone

increase it. The in-house model will allow the creation of a budget for the planting of at least 200 trees a year.

- 2.12 The incumbent contractor currently operates out of a depot adjacent to Larkhall Park, however this site will shortly be developed for housing. Opportunities for external contractors to find depot space within the borough are very limited, but there are a number of advantages to having the service based in the borough, especially in terms of an emergency response element. The in-house service will be based in the borough, operating out of the depot in Kennington Park. This site is not suitable for external contractors because it accommodates the parks staff based at Kennington Park.
- 2.13 There are commercial opportunities arising from an in-house service and once the core delivery elements have established, these will be explored. The tree team regularly receives enquiries and requests relating to consultancy and tree surgery. The current low staffing levels and contractual arrangement make it virtually impossible to derive benefit from these leads. However, under the proposed model a larger staff team will mean greater capacity for consultancy and the operational teams will be able to undertake additional works during quieter periods or on overtime.
- 2.14 Moving away from a contractual arrangement has associated benefits across the authority in terms of less support required from legal, procurement and the new corporate contract management team; and simplifies payment arrangements.
- 2.15 Housing currently utilise the trees team in Neighbourhoods to maintain all trees on Housing land. The HRA budget is divided between programmed works (over a three-year cycle) and ad-hoc works. Housing managers have to calculate carefully in terms of the ad-hoc budget, weighing up each request and possible allocation in terms of priority. The in-house model will greatly simplify this decision-making and budgeting process. There will be no need to reserve an ad-hoc budget allocation. Providing the operational team has capacity, housing managers will be able to simply request whatever works are required.

3. **Finance**

- 3.1 The 2018-19 grand total revenue budget for tree maintenance is £834,000. The grand total budget contains the following total budgets: Parks tree maintenance budget of £309,000 and the HRA tree maintenance total budget of £525,000.
- 3.2 Staffing costs for the in-house model are calculated to include pension liabilities and all other on-costs.
- 3.3 £300,000 of Community Infrastructure Levy has been awarded for the purchase of vehicles, plant and specialist equipment, and necessary adaptations to Kennington Park depot. Quotes have been obtained for the capital expenditure and are illustrated below. However, there may be some variation by the time orders are placed.

Expenditure item	Cost
2 x 3.5 tonne tipper	£50,000
Cherry-picker	£50,000
7.5 tonne tipper	£46,000
Climbing kit and tools	£43,000
Large chipper	£40,000
2 x small chippers	£20,000
Security improvements and tipping bays	£20,000
Stump grinder	£20,000
2 x trailers	£5,000
Tipping trailer	£5,000
Total	£299,000

3.4 Housing have requested a reduction of £100,000 on the annual HRA expenditure on tree maintenance and this has been factored-in and is achievable.

3.4 The finance model for the in-house service consists of the following elements:

Expenditure element	Cost
Core staffing costs	£544,505
Tree-planting to replace felled stock	£96,854
Emergency cover rota	£25,000
Fuel	£15,000
Annual equipment costs, uniform etc.	£12,260
Van rental for Housing Tree Officers	£11,000
Staff training	£10,000
Ezytreev licences and other IT costs	£8,000
Other vehicle costs	£5,000
Crane hire (3 days)	£3,000
Platform hire	£1,200
Grand total	£731,819

This represents a £102,000 annual reduction compared to the current budget of £834,000 due to the lowered HRA expenditure.

4. Legal and Democracy

4.1 The Council has delegated the authority to enact this report's recommendations to the Cabinet Member for Equalities and Culture.

4.2 Local authorities are under a general Duty of Best Value, which requires them to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

4.3 If the trees maintenance service is delivered in-house it is likely that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply. The Council must comply with the obligations under TUPE to inform and consult with any employees who may be affected by the transfer. It will inherit any liabilities arising from transferring employees' employment with the current provider.

4.4 The Council should undertake due diligence and obtain information from the current provider in order to assess accurately the likely staffing costs, including any costs arising from any post transfer restructure of the service and any potential liabilities arising from employment related claims. Specific advice and support should be sought from Legal Services and Human Resources.

4.5 This proposed key decision was entered in the Forward Plan on 21 December 2018 and the necessary 28 clear days' notice will be given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days – the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. Consultation and co-production

- 5.1 The key stakeholder in this proposal is Housing, with forty per cent of public realm trees in Lambeth located on Housing land. Housing were consulted in June 2018 and were highly supportive of the proposed in-house model and the benefits it would bring. Officers will work with Housing to develop the final service offering.
- 5.2 The corporate health and safety team were also consulted in June and expressed their preference for this service being managed in-house.
- 5.3 Officers engaged with the Parks Forum in October 2018 and members expressed their support for bringing the service in-house.
- 5.4 Both Southwark and the Royal Borough of Greenwich operate in-house tree maintenance services. Senior officers from both boroughs have confirmed that a number of benefits were realised after internalising services; and advice and guidance is being obtained from both authorities.

6 Risk management

6.1 Risks

Risk	Likelihood	Impact	Mitigation
Not enough staff TUPE from contractor	M	M	Even if all eligible staff transferred across it would not be enough for the proposed structure. Officers will be planning a recruitment campaign. The service change will occur during the low-season for tree works and it will not be service critical if it takes a while to reach full staffing levels
Recruitment difficulties across the industry	H	M	It is widely known that tree surgery is a challenging industry for recruitment at present. Officers have benchmarked and the finance model includes salaries for operational staff at competitive levels. A recruitment plan will be drawn up, including the use of specialist agencies if required. An apprenticeship scheme is also planned
Loss of existing depot	H	L	Suitable alternative provision will be made at the Kennington Park depot
Vehicles and plant are not delivered in time for 1 April	H	L	The lead-in times for the larger vehicles mean it is extremely unlikely they will be delivered by 1 April, even if they are ordered in December. By using a combination of smaller vehicles, leased vehicles and existing vehicles within the parks fleet this risk will be managed

Risk	Likelihood	Impact	Mitigation
A lack of staff transferring means there is not the operational experience to run the service	M	L	There is sufficient knowledge, skill and experience within the existing workforce to manage the service on an interim basis

7 Equalities impact assessment

- 7.1 The 'Justification for not completing an equalities impact assessment' document has been completed for this proposal. This is on the basis that tree maintenance is not a people-related service and the recommendation offers no potential for discrimination against any of the protected characteristics. The proposal is not for any change to the service or the fundamental aspects of delivery, simply a change in provider.

8 Community safety

- 8.1 A minor point is that trees sometimes obscure CCTV cameras. This will be easier to remedy with an in-house service as the work can be undertaken at no additional cost; whereas currently such works are unbudgeted and tend to be required immediately.

9 Organisational implications

9.1 Environmental

The in-house proposal is the most viable way of ensuring the service is operated from a Lambeth-based depot. This will reduce the environmental impacts from vehicle use, as will plans to maximise the use of waste products within the borough.

All waste products not reused within Lambeth will be taken for composting via Veolia or Western Riverside Waste Authority.

All vehicles used in the delivery of the service will be new and will meet Euro 6 requirements. A number of electric vans for existing staff have already been purchased as part of the parks fleet replacement programme and will be used by staff managing the tree service.

Fleet management for the in-house service will fall under the Transport Manager for Neighbourhoods who will ensure policies and procedures are in place to minimise the environmental impact of the fleet, including telematics.

9.2 Staffing and accommodation

The service will be based within the depot at Kennington Park which is currently used by just two members of staff and has sufficient office space, mess capacity, storage space and vehicle parking for the service. Staff will also be able to use offices and mess facilities at other parks depots if more convenient on any particular day, to ensure an efficient operation

A number of sites will be used for tipping woodchip and cordwood, including the storage yards at Brockwell Park, Clapham Common, Ruskin Park and Streatham Common. Locations on housing estates may also be required.

TUPE will apply, however City Suburban only employ a small number of staff full-time on the Lambeth contract. It is possible that not all of them will want to transfer to the public sector and specialist recruitment will be required.

There will need to be some adjustments made to the establishment once the new service has started, to ensure an appropriate structure which is fully integrated within the Parks team.

9.3 Procurement

Bringing the service in-house will require the purchase of a small number of vehicles, some specialist plant and a range of equipment for staff. Procurement will take place in line with internal policies and with the guidance of the appropriate category management teams. Supported borrowing will be utilised to avoid the need for capital receipts.

9.4 Health and Safety

Arboriculture is a relatively dangerous industry. The corporate Health and Safety manager has expressed his support for bringing the service in-house, enabling us to have full control of health and safety provision. Safety will be a key priority for the service and officers will be putting a comprehensive suite of health and safety measures in place prior to the transfer.

10 Procurement Timetable

Procurement Strategy Report to Management Board	30 October 2018
Contractor informed	2 November 2018
Procurement Strategy Report to Procurement Board	20 November 2018
Finance request to AIMG	4 December 2018
Designate HR Officer to support service integration	January 2019
TUPE process established, measures etc.	January-March 2019
Contractor formally notified and notifies staff	January 2019
Contractor passes over ELI	January-March 2019
CMDDR approved	March 2019
Report published on Decisions Online	March 2019
Procurement process for vehicles and plant commences	March 2019
Contractor consultation	March 2019
Project team established	March 2019
Decision report published	March 2019
Decision is formally made	March 2019
City Suburban contract ends	31 March 2019
New in-house service commences	1 April 2019
Vehicle procurement	April 2019
Uniform and kit procurement	April 2019

Audit Trail				
Consultation				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
Cllr. Sonia Winifred Cabinet Member for Equalities and Culture	Cabinet Member	27/03/2019	01/04/2019	Cleared
Bayo Dosunmu Interim Strategic Director	Residents' Services	18/03/2019	27/03/2019	Cleared
Raj Mistry Director of Environment	Residents' Services	01/03/2019	18/03/2019	Cleared
Kevin Edger Category Procurement Manager	Finance and Investment	07/12/2018	18/12/2018	1
Hamant Bharadia Director, Finance & Property	Finance and Investment	25/02/2019	01/03/2019	3
Michael O'Hora Senior Contracts Lawyer	Legal and Governance	07/12/2018	11/12/2018	4
Maria Burton Senior Democratic Services Officer	Legal and Governance	07/12/2018	13/12/2018	4
Procurement Board	Date	20/11/2018		

Report History	
Original discussion with Cabinet Member	19/11/2018
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	27/12/2018
Key decision reasons	2. Expenditure, income or savings in excess of £500,000
Background information	None
Appendices	None

APPROVAL IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Kevin Crook, Assistant Director Neighbourhoods

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature: _____ **Date:** _____

Post: Councillor Sonia Winifred, Cabinet Member for Equalities and Culture