

Record of officer decision

Decision title:	Contract Award for Herefordshire Ash Tree Survey 2024/25: Public Realm and Council Assets
Date of decision:	
Decision maker:	Corporate Director for Economy and Environment
Authority for delegated decision:	<p>Record of Operation Decision: 2023/24 Capital Investment in Managing Ash Die Back in Herefordshire</p> <p>Decision: To invest £315,000.00 in mitigating the Ash Die Back Risk in Herefordshire:</p> <ul style="list-style-type: none"> a) Commission removal of trees at risk b) Commission surveys to identify any change in condition and action intervention if needed. c) Recovery planting in appropriate locations to mitigate the impact of tree removal. d) Fund a post for council specialised tree person to support the project. <p>Decision - 2023/24 Capital Investment in Managing Ash Die Back in Herefordshire (The date range was previously listed as 2023 to 2027) - Herefordshire Council</p>
Ward:	'Countywide'
Consultation:	None
Decision made:	To award a contract to Dryad Tree Specialists Limited to deliver a Herefordshire Ash Tree Survey 2024/25 – Public Realm and Council Assets, up to the maximum contract value of £178,000.
Reasons for decision:	<p>This appointment is included in the Record of Operation Decision: 2023/24 Capital Investment in Managing Ash Die Back in Herefordshire.</p> <p>Dryad Tree Specialists Limited were the successful bidder following a competitive open tender process carried out in accordance with the Council's contract procedure rules.</p> <p>The works associated with the contract are to survey the public realm network and assets owned or managed by the council, identifying Ash Trees and accurately recording their condition.</p>
Equality Considerations	<p>Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to –</p>

	<ul style="list-style-type: none"> a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.</p> <p>The project is aimed at removing the risk to the public from Ash Die Back, the funding is to be used to inform through surveys and action work to be undertaken The project may identify adjacent landowners who will need to undertake work on their own property to safe guard the public realm. This will be treated on a case by case scenario. Land owners / property owners may be vulnerable, therefore the council will investigate and take appropriate action taking into account the risk and the personal circumstances of those involved.</p>
<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>Finance: A budget of £1,416k has been allocated to this project, with £682k so far approved to be spent for 2023/24 and 2024/25, funded through Herefordshire Councils Capital Programme. The survey will inform the trees that must be removed to ensure public safety.</p> <p>Risk Management: The project will manage the risk of Ash Trees in a dangerous condition due to Ash Die Back. The monitoring of the condition will ensure the network is safe for all users.</p> <p>Legal Implications: Ash dieback is disease which results in the majority of infected trees dying and, in doing so, causes an inherent risk of falling branches and other hazards.</p> <p>There is no statutory duty in respect of managing ash dieback specifically but it is established law that a landowner is responsible for damage/injury caused by trees standing on its land. The law requires a person to <i>“take reasonable care to avoid acts or omissions which cause a reasonably foreseeable risk of injury to persons or property”</i> [Caminer v Northern and London Investment Trust Limited (1951)].</p>

	<p>Both civil and criminal sanctions may arise from an injury caused by a tree, further details are below:</p> <ul style="list-style-type: none"> a) Under civil law a landowner owes a general duty of care to anyone who may be affected by a tree on their land, specifically they are required to take reasonable care to avoid acts or omissions that cause a reasonably foreseeable risk of injury to persons or property (Occupiers Liability Act 1957 and 1984). Where there has been a failure to comply with the provisions of this act, an injured party may be entitled to significant compensation from the landowner. b) Whilst less likely in these circumstances, in criminal law, the Health and Safety at Work Act 1974 places a duty on employers to ensure that employees and members of the public are not put at risk by the carrying out of their undertaking. There is potential for criminal prosecution for failure to comply with the provisions of this act. <p>The Council, as a major landowner within Herefordshire, is responsible for any trees within its land ownership under the above provisions. The Council also has statutory duties to maintain public highways (Section 41(1) of the Highways Act 1980) and ensure public safety. This will be relevant where a tree might affect or impede the users of a public highway.</p> <p>The Tree Council (2020) and the National Tree Safety Group (2011) have released guidance notes on the responsible management of trees, both advocating a proportionate approach which is based on an assessment of risk in individual circumstances. These are not statutory requirements but offer a best practice approach to tree management by landowners (including the local authority).</p>
<p>Details of any alternative options considered and rejected:</p>	<p>Not to award, this is not recommended as this would put the council's capital investment at risk.</p>
<p>Details of any declarations of interest made:</p>	<p>None</p>

Signed..... Date:

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