

# Delegated Decisions report



31 August 2021

## LANDSCAPE SERVICES APPROACH FROM 2023, INCLUDING ONGOING PARISH AND TOWN COUNCIL DEVOLVEMENT

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Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>Commitment 15:</b> Bring forward the future operational models for waste and landscaping services beyond the end of the current contracts in 2023.
Wards affected	<b>All wards</b>

### Executive Summary

As part of the Environmental Services Commissioning 2023 Programme to review and align the approach to services, the landscape and play area services now need to be considered. The current contract expires on 31 March 2023. A key part of the future service is the continuation of service delivery by Parishes and Town Councils (P&TC's).

Currently, 12 P&TC's operate under a devolution agreement and invest an additional combined amount of £614,000 per year to provide services to our residents, with some P&TC's investing 10% more than the grant allocation whilst others have invested 150% more. Continuing to work with P&TC's (working with those who want to take on landscaping services under devolution agreements) can be seen as a form of 'further insourcing' back to Local Government, as essentially, where devolvement takes place the work will be delivered by/through a public (locally accountable) body.

Devolution is a transformational programme. There will be some costs associated with economies of scale. The process of devolving fragments a very large contract or direct delivery service and migrates it into lots which are accessible to small to medium enterprise (SME) grounds maintenance markets. SME's deliver the services and they can be 'core' contracts for these local businesses (as is currently the case). Additionally, where services are delivered directly by P&TC's themselves, this provides local employment and localised skill bases are developed. Devolution is very much an exemplar for Community Wealth building and Co-operative Working, as determined by the expert consultants (Co-operative Futures). Co-operative Futures confirmed that Milton Keynes are ahead of the curve and ground-breaking in its partnership working, collaboration and approach to devolution approaches and application of co-operative principles.

This report considers the packaging of the balance of the 'parish landscape' (i.e. the remaining parish landscape not delivered by P&TC's under a devolution agreement) and the 'corporate landscape' (i.e. landscape on housing, grid roads, MKDP, leisure, crematoriums and cemeteries land), combined with the play area contract, with the waste collection and recycling commission and contract tender process.

A Delegated Decision was taken on 20 July 2021 to commission a new external contractor for waste and recycling collection and street cleansing, to start on 1 April 2023. This will be on the basis of a five year contract with an option to extend for a further five years was agreed. It allows for flexibility for landscape and play areas to be part of an integrated service with waste collection and cleansing. Adding these elements to the contract tender process will open the market and make it more attractive to potential bidders as well as enable a more integrated environmental services delivery.

This report provides information and background about the successful devolution of landscape services to P&TC's to date and looks at opportunities to enhance these arrangements from 2023. It refers to the operational models for service delivery and direction from 1 April 2023, as detailed in the Delegated Decision of 20 July 2021.

## 1. Decisions to be Made

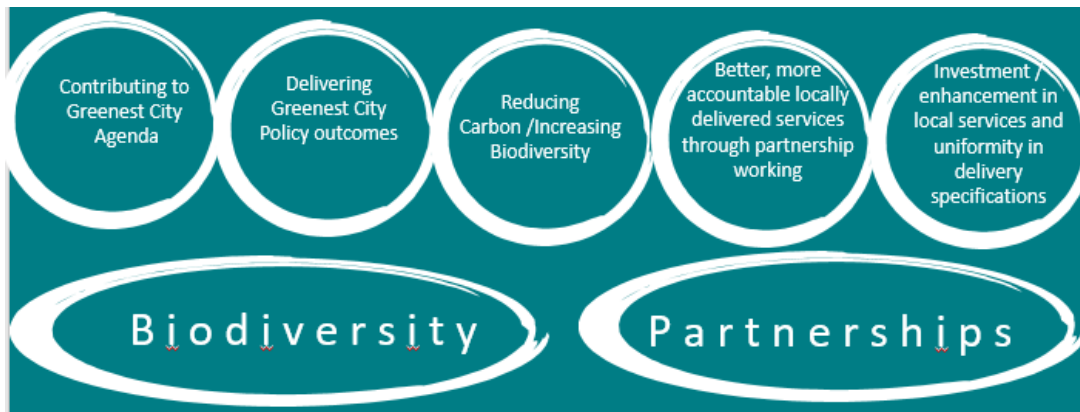
- 1.1 That the ongoing programme of devolution of landscape services to Parish and Town Councils (in accordance with the Council's Asset and Service Devolution Approach) be enhanced in line with Option D (Enhanced Partnership Model), capturing priorities around co-operative principles and partnership working and collaboration.
- 1.2 That in respect of the devolution of play areas and open spaces to Parish and Town Councils:
  - (a) the current 'expression of interest' model (as set out in the Council's Asset and Service Devolution Approach) be continued; and
  - (b) the Director - Policy, Insight and Communication and the Director - Environment and Property commence a process to review the approach in order that a 'borough wide strategic approach' to the transfer of these assets be developed.
- 1.3 That a procurement exercise for the remaining landscape management and play area inspections and maintenance services commence on the following basis:
  - (a) as part of an integrated contract with waste collection and cleansing (five year contract commencing 1 April 2023 with an option to extend for a further five years); and
  - (b) that contract tender documents and contract mechanisms enable the ongoing devolution to Parish and Town Councils and require the appointed provider to support and encourage this.

## 2. Why is the Decision Needed?

### **Core Drivers for Ongoing Partnership Working with P&TC's**

- 2.1 Milton Keynes is fully parished, with 48 P&TC's. There are currently 12 P&TC's successfully delivering devolved landscape services. **Annex A** provides the service background to P&TC involvement in landscape services. The core drivers for devolving landscaping services to P&TC's are explained in Figure 1 below. P&TC's are close to their communities and know what they want. Devolved P&TC's have been mandated to improve services and residents have been prepared to pay an increased local precept to deliver such. On average, for every £1 of grant money the Council provides to the parish or town council to deliver a devolved landscape maintenance service, a further £1 is matched by the P&TC. This results in greater service delivery and high levels of customer satisfaction.

**Figure 1 - Key Drivers**



- 2.2 P&TC's already demonstrate their ability to respond to the requirements of Biodiversity Management, with many already having local Biodiversity Management Plans. They can engage with residents and work with local volunteers in a way that we, as the Principal Authority simply cannot, harnessing the opportunities.
- 2.3 As the Principal Authority, the Council can provide the necessary expertise (e.g. ecology and mapping) and specialist equipment (e.g. vehicles and machinery) to support and facilitate the local biodiversity plans for both P&TC's that choose to devolve as well as those that choose not to at the current time.

#### **Options for Ongoing Partnership Working with P&TC's**

- 2.4 An options assessment for the service delivery vehicle was considered and the preferred method of delivery was the continuation of partnership working with P&TC's. Other options that were considered included full insourcing (no P&TC devolvement), full outsourcing (no P&TC devolvement) and a joint venture with the Parks Trust, delivering services through a pool of sub-contractors.
- 2.5 Having determined that ongoing partnership working with P&TC's was the preferred option, the Council commissioned and worked closely with independent consultants, Cooperative Futures, to develop and assess options for working co-operatively / within a co-operative framework with P&TC's.
- 2.6 In terms of landscape management, we have considered four options for the post 2023 arrangements, which are:
- (a) **Option A (Enhanced Status Quo)** - maintain the status quo with some minor enhancements around the contract management / internal management aspects and the development of the 'biodiversity management' specification and extend offer to devolve to the remaining 36 P&TC's.

- (b) **Option B (Co-operative Consortium - Direct Delivery (CCDD))** P&TC Consortium. The Council have custodian share, allowing reserved places on the board and some powers of veto (board made up representatives of the member organisations, i.e. P&TC's).
  - (c) **Option C - Outsource to a Local Authority Controlled Co-operative (LACC)** - 51% owned by the Council, 49% owned by P&TC's (one share is one vote, not one member one vote). The board would have places reserved for the Council with remainder elected from the shareholders.
  - (d) **Option D (Enhanced Partnership Model)** - continue to devolve to P&TC's at 3 further points in time (tranche 3 - 2023, tranche 4 - 2025 and tranche 5 - 2028) with major enhancements around the contract management / internal management aspects and the development of the 'biodiversity management' specification with a view to full P&TC Co-operative / devolvement / clusters model by 2030.
- 2.7 The four options reflect the work undertaken by Co-operative Futures, who concluded that *"the current approach of devolving the landscaping services to P&TC's is a clear indication that the Council is already in the process of embracing both a co-operative way of working and delivering community wealth building methodologies. This has been recognised by the Co-operative Councils Innovation Network as an example of good practice for collaborating with P&TC's. This way of working combined with the positive policy environment, provide firm foundations for taking a cooperative model to the next stage"*
- 2.8 Engagement has been undertaken with P&TC's on the four options. This engagement took the form of workshops, initially with those P&TC's that currently operate under devolution arrangements and then with all P&TC (devolved and non-devolved). All feedback, from both clerks and councillors has been collated and considered.
- 2.9 The four options have been considered and assessed against a Commissioning Model - see detail in **Annex B** together with the scoring results in **Annex C**.
- 2.10 The recommended option, following both assessment and engagement with P&TC's is Option D. This recommendation will enable the harmonisation of the specification and reduce the concern of the 'patchwork quilt' to ensure that baseline services are delivered across MK and provide P&TC's with the ability to top up services to meet the needs of our residents.

- 2.11 Option D will unlock further opportunities around increasing biodiversity, community wealth building, mapping and sustainability. For those P&TC's that currently do not wish to take on devolved services, the successful contractor will deliver landscaping services within those P&TC areas. There will be a mechanism within the contract for further devolution to support this process at points in 2025 and 2028.
- 2.12 Option D will also provide an opportunity for more of the smaller P&TC's who might not otherwise feel that they are in a position to take on devolved landscaping, to collaborate and cluster with larger P&TC's to deliver local services to meet resident's needs. It will also assist in the collaboration of those that feel they can't, to be helped by those that can.
- 2.13 In terms of the play areas maintenance and inspection, **Annex D** provides the service background to P&TC involvement. Currently landscape and play areas maintenance and inspection work under an integrated approach, sharing the same management and supervision.
- 2.14 The customer journey, in terms of who to contact (i.e. the parish or town council or MKC) with enquiries about the service will be mapped out with a streamlined and consistent customer journey (through use and access of the mapping systems) for who is responsible for delivery.
- 2.15 It is anticipated that the commissioning approach around tree management will be considered separately and subject to a separate decision in due course.

#### **Links to Environment and Waste Contracts**

- 2.16 Along with the current waste collection and cleansing contract, both the landscape maintenance and play area inspections and maintenance contracts expire on 31 March 2023. It was considered in the report on 20 July 2021 that setting up a new MK Council waste service would have major implications for increasing resources in terms of:
- people and equipment;
  - additional training and capability;
  - new procedures and processes and consequently requiring new software;
  - risk in terms of health and safety;
  - challenging future innovation; and
  - additional service cost.

2.17 In addition, we will be introducing wheeled bins, a new fleet which will be charged by power produced by our waste at our Waste Recovery Park (which also will also include the landscape and play area fleet), enhanced and new depots for all services to respond to service change (wheeled bins and a new landscape services including biodiversity). These significant service changes combined with setting up a brand-new MK Council service would put a significant burden on resources at very busy time which could affect our abilities to deliver on other very important priorities.

2.18 There are many benefits of an integrated service between waste, landscape and play areas including:

- security of staff with Real Living Wage;
- opportunities for workforce;
- ability to upscale and skill up workforce in accelerated timescale;
- redeployment;
- street scene integrated services - integration of street cleaning, landscape and fix-it maintenance services;
- dedicated street-scene resource focussed on estate renewal and improvement; programme of 'delighter' projects in addition to getting the basics right - renovation and renewal;
- shared depots;
- shared equipment and vehicles;
- Council City wide team - one branding;
- improved performance mechanisms;
- joined up transparent customer response and easier access and clarity for residents; and
- reduced costs with shared corporate services for HR and health and safety.

The integrated contract will be based on a five-year contract with an option to extend for a further five years. There is the opportunity for the Council to make changes after the first five years.

2.19 An enhanced Council client landscape team (to include a new landscape officer post to ensure liaison, service consistency and compliance) will provide services to support the devolution of landscape to P&TC's. Specialist input such as arboriculture, ecology to respond to increasing and maintaining biodiversity will be available and coordinated through the wider environment team with the new Parish Landscaping Officer to facilitate. The Council will also continue to provide procurement support for P&TC's.

### 3. Implications of the Decision

Financial	X	Human rights, equalities, diversity	X
Legal	X	Policies or Council Plan	X
Communication	X	Procurement	X
Energy Efficiency		Workforce	X

#### (a) Financial Implications

As part of the commissioning process the Council has looked at the various potential costs of different methods of service delivery. The options considered competitive tendering, insourcing and a Local Authority Trading Company. Each of the options have different costs and risk implications to the Council, as detailed in the Delegated Decision Report dated 20 July 2021.

Landscape maintenance covers both grass and vegetation maintenance with the parish areas, and also work for other council services e.g. leisure, highways, the Housing Revenue Account (HRA) and MKDP.

Prior to commencement of a tender process, specification of works would need to be agreed with corporate service areas, the HRA and MKDP to ensure all parties understand potential cost implications of any service changes. Whilst the contract would be managed through the General Fund client team, the full cost of works for the HRA and MKDP will need to be recharged those areas.

In August 2019 a delegated decision was taken on Commissioning 2023 - Environmental Services Programme. This decision approved the purchase of additional plant and vehicles to support the delivery of the extension of the current landscape contract. These assets have a useful life that is longer than the contract extension, and therefore would be included within any new contract arrangements. The decision also approved work to be undertaken to transform ageing landscape to ensure public open space responds to the needs of the community and biodiversity. It was envisaged that this programme would deliver a reduction in costs for the future of 5%. The changes this transformation has made will need to be reflected in new contract specifications.

If a decision is made to outsource the balance of the 'parish landscape', the 'corporate landscape' and the play area maintenance and inspection, alongside and as part of the waste collection and recycling commission and contract tender process, savings would be targeted through the combined procurement to reduce the revenue impact. However, these cannot be certain, and any net financial cost will need to be included in the medium-term financial plan forecasts for 2023 onwards.



The cost of the delivery of a new contract would be met within the identified commissioning budget for the Environmental Service Programme.

The Council pays a grant to devolved P&TC's equivalent to what they would receive through the corporately procured service with a contract to deliver a minimum base level specification. This is based on the current contract. It is anticipated that this grant will continue (taking into account inflation and informed by the new contract price, given the programme of transformation). In the lead up to 2023 (see timeline in **Annex E**), P&TC's will be provided with the indicative grant that they can expect from 2023.

It should be noted that in the main, the 12 P&TC's that deliver devolved landscaping services, spend another pound for every pound in funding that MKC provide, amounting to a combined amount of circa £614,000 per year (figures based on 2020/21). Residents of these P&TC's have mandated these P&TC's to deliver and enhance services, which are funded through additional parish precept.

(b) Legal Implications

P&TC's who deliver services under devolution arrangements will sign a contract with Milton Keynes Council to deliver services in accordance with the service specification.

The Council has a duty to maintain land it owns and keep safe the public on public open space. The Council has a duty to maintain public open spaces and burial grounds under the Open Spaces Act 1906.

The Council must comply with health and safety requirements with regards to inspection and maintenance of play areas.

Regulation 13(7) of the Public Contracts Regulations 2015 (as amended) now codifies case law relating to co-operation between contracting authorities. The Council may enter into contracts with a parish and town councils (which are also contracting authorities for the purposes of the procurement regulations) without a need for procurement where all the following conditions are fulfilled:

- (i) the contract establishes or implements a co-operation between the parish or town council and the Council with the aim of ensuring that public services which the parish and the Council have to perform are provided with a view to achieving objectives that the Council and the parish have in common;
- (ii) the implementation of the cooperation is governed solely by considerations relating to public interest; and

- (iii) the participating authorities perform on the open market less than 20% of the activities concerned by the co-operation.

(c) Other Implications

This decision supports the Council Plan:

*Commitment 15:* Bring forward the future operational models for waste and landscaping services beyond the end of the current contract in 2023

*Policy:* Milton Keynes Council's Sustainability Strategy 2019 - 2050 provides the direction for the travel for the Environmental Services Programme. The Together We Can document outlines the approach for working collaboratively with the parish and town councils within Milton Keynes.

*Workforce:* There will be TUPE implications which would require compliance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

*Communication:* Parish and Town Councils have been invited to attend workshops regarding the future of devolvement. We have taken in to account the views expressed. We will continue to engage to support the future devolvement.

*Human rights, Equalities and diversity:* These considerations will be considered with the devolvement of landscape management and within the tender documents and evaluations.

## 4. Timetable for Implementation

- 4.1 If approved, the procurement process would begin immediately. The Senior Project Manager for the delivery of the integrated services will provide regular milestone reports to the Environmental Services Board and the Corporate Portfolio Board, as well as the Strategic Placemaking Scrutiny Committee when requested to do so.
- 4.2 In terms of the P&TC's, engagement with them to co-produce the baseline specification for services with a focus on biodiversity, mapping and transformation, would commence in early Autumn. **Annex E** provides a more detailed timeline.

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## List of Annexes / Background Papers

- Annex A Service Background - Landscape Management and P&TC involvement
- Annex B Commissioning Model and Scoring Methodology
- Annex C Results
- Annex D Service Background - Play areas inspections and maintenance
- Annex E Timeline

## List of Background Papers

[Delegated Decision Report - 20 July 2021](#) (Environmental Services 2023 - Kerbside Waste and Recycling Collection and Cleansing)

[Delegated Decision Report - 23 February 2021](#) (Together We Can - working together to do the best for every Local Community in Milton Keynes)

[Delegated Decision Report - 6 August 2019](#) (Commissioning 2023 - Environmental Services Programme)

[Delegated Decision Report - 30 July 2019](#) (Devolution of Assets and Services - An Approach)