

Decision Maker: EXECUTIVE

**For Pre-Decision Scrutiny by the Environment and Community Services
Policy Development and Scrutiny Committee on Thursday 29 June 2023**

Date:
5th July 2023

Decision Type: Non-Urgent Executive Key

Title:
**VARIATIONS TO THE CONTRACT FOR PARKS MANAGEMENT
AND GROUNDS MAINTENANCE**

Contact Officer: Hannah Jackson, Assistant Director Environment (Carbon Management &
Greenspace)
Tel: 0208 461 7690 E-mail: Hannah.Jackson@bromley.gov.uk

Chief Officer: Director of Environment and Public Protection

Ward: (All Wards);

1. Reason for decision/report and options

- 1.1 This report sets out a number of recommendations to make variations (modifications) to the contract for parks management and grounds maintenance services with idverde at a total combined value of £2.463m (£4.597m if the contract extension option is taken).
- 1.2 This report also seeks delegated authority for the Director of Environment & Public Protection and the Portfolio Holder for Sustainability, Green Services and Open Spaces to agree variations (modifications) to the contract under a scheme of delegation set out in paragraph 3.21.
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2. **RECOMMENDATION(S)**

- 2.1 The Environment & Community Services Policy Development & Scrutiny Committee is asked to review this report and provide its comments to the Executive.
- 2.2 The Executive is asked to approve variations (modifications) to the contract for parks management and grounds maintenance with idverde of:
- (i) Up to £880k for the delivery of projects funded by the Platinum Jubilee Parks Fund, as set out in paragraphs 3.6 – 3.8

- (ii) Up to £235k per annum for the remaining contract term (£940k cumulatively for the initial term or £2.82m if extended) for park infrastructure repairs, as set out in paragraphs 3.9 – 3.11
 - (iii) £69k per annum for the remaining contract term (cumulatively £276k for the initial term of £828k if extended) for additional weekend cleansing, as set out in paragraphs 3.12 – 3.14.
 - (iv) Up to £71k per annum for the remaining contract term (cumulatively £284k for the initial term or £852k if extended) for PROW infrastructure works, as set out in paragraphs 3.15 – 3.16
 - (v) £83k for the initial term (£97k if extended) for the payment of the Countryside Stewardship Grants as set out in paragraphs 3.17 – 3.18.
- 2.3 Agree to delegate authority to the Assistant Director Environment (Carbon Management & Greenspace) to undertake variations as required and through the appropriate contractual process for recommendations 2.2 (i), (ii) and (iv) within the values authorised.
- 2.4 Approve the scheme of delegation for authorisations in relation to future variations (modifications) to the contract for parks management and grounds maintenance as set out in paragraph 3.21.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The services delivered under the parks management and grounds maintenance contract affects all residents including vulnerable adults and children with some services having a specific impact on their customer groups. Projects to be delivered under the proposals set out in this report will have due regard to impacts on vulnerable adults and children.
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Transformation Policy

1. Policy Status: Existing Policy:
2. Making Bromley Even Better Priority (*delete as appropriate*):

(4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.

(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.

Financial

1. Cost of proposal: £2.463m (£4.597m if extended)
 2. Ongoing costs: Recurring Cost Non-Recurring Cost:
 3. Budget head/performance centre: Parks and Street Environment cost centres, Platinum Jubilee Parks Fund, Countryside Stewardship Grants
 4. Total current budget for this head: £5m (Parks), £71k (Street Environment), £880k (PJPF), £83k (grants)
 5. Source of funding: Revenue budgets, grants, earmarked reserves
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Personnel

1. Number of staff (*current and additional*): N/A
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.
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Property

1. Summary of Property Implications: N/A
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: The contract includes obligations that support the Council's obligations in relation to Social Value which apply in relation to the proposed variations.
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Impact on the Local Economy

1. Summary of Local Economy Implications: N/A

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Services under this contract support health and wellbeing objectives under the *Open Space Strategy 2021 – 2031*.

Customer Impact

1. Estimated number of users or customers (*current and projected*): The variations will improve parks and open spaces for residents in the borough. The number of visits to parks and open spaces is unknown.

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

Background

- 3.1 On 20th November 2018, the Executive agreed to award a contact for the provision of parks management and grounds maintenance services to idverde Ltd for a term of 8 years commencing on 1st April 2019, with the option to extend for a further 8 years, for an estimated contract value of £38.4m for the initial term. (**ES18082**)
- 3.2 The purpose of the contract is to provide a fully managed service for the management and maintenance of parks, countryside, and green spaces in the borough.
- 3.3 Under the Council's Contract Procedure Rules, there are two methods for making variations to the contract: change controls and modifications. Under CPR 23.7.5, when variations which are modifications (because they were not provided for within the terms of the contract or anticipated at the outset of the tender) cumulatively exceed £1m, all further variation (modification) decisions must be taken by the Executive.
- 3.4 Modifications have been made to the contract which have a cumulative value of circa £1m and consequently, any further modifications will require approval from the Executive. Due to the nature of this contract, further variations are likely as a result of grants or changes in priority during the term.

Variations

- 3.5 There are several new initiatives or recommended changes in scope that require Executive approval to implement because of the cumulative value of modifications.

Platinum Jubilee Parks Fund

- 3.6 As part of the budget setting process for 2022/23, £1m was set aside in a Platinum Jubilee Parks Fund. Funded from underspends (**CSD22023**), the Fund is intended to support the objectives of the Open Space Strategy. The approach to allocating spend was agreed by the Portfolio Holder for Sustainability, Green Services and Open Spaces in June 2022 which allowed local stakeholders groups to submit applications for community led projects, directing investment in parks and open spaces (**ES20189**). This set an allocation of £40k for each of the 22 wards (£880k in total).
- 3.7 Through this process, it has become clear that in most cases, the most efficient and least risky way to deliver the projects developed under the fund is through the existing supply chain established by idverde. There are a small number of applications where the applicant may hold and spend the grant monies directly, or where works may need to be separately tendered but, in most instances, the works can be delivered through idverde's supply chain and demonstrate value for money.
- 3.8 It is therefore recommended that the Executive approve a variation to idverde's contract of up to a value of £880k to enable delivery of projects under this Fund, with delegated authority to the Assistant Director of Environment (Carbon Management & Greenspace) to agree the project specific variations as they arise.

Infrastructure repairs

- 3.9 idverde's contract was varied to allow for park infrastructure repairs (excluding buildings) in parks and open spaces (**ES20225**), funded from the Operational Maintenance budgets in 2022/23 and 2023/24 to a value of £320k per annum (**HPR2022/007**).

3.10 Facilities and infrastructure in parks and green spaces is the area of delivery that park users are least satisfied with; according to the Park User Satisfaction Survey 2022, only 21% of respondents were satisfied with facilities in parks. The funding agreed from the Operational Maintenance budgets were therefore much needed and have enabled delivery of a number of works, summarised as:

- Pothole repairs
- Fencing repairs or replacement
- Infrastructure measures to support reduction of anti-social behaviour
- Works to repair collapsed or at-risk water body banks
- Drainage repairs
- Memorial repairs

3.11 The annual revenue budget for parks and greenspace was increased by £400k for 2023/24 onwards (**FSD23012**). Consequently, and to enable infrastructure repairs on ongoing basis it is recommended that the contract is varied by up to £235k per annum. The cumulative value of this proposed variation is therefore up to £940k for the remaining initial term. It is recommended that authority is delegated to the Assistant Director Environment (Carbon Management & Greenspace) to action a variation annually for a planned programme of repairs, and reactive repair-specific variations as they arise.

Additional cleansing

3.12 The annual Park User Satisfaction Survey consistently identifies cleanliness as a key concern in the borough's parks and open spaces, with 37% of respondents reporting that they were dissatisfied with cleanliness levels in 2022.

3.13 Whilst the frequency of litter collections has been reviewed with collections increasing in 2022/23 in locations where problems have been prevalent, more could be achieved with the implementation of additional weekend cleaning at parks where there is heavy footfall. By doubling the weekend cleansing team, parks with areas of high intensity could be visited twice daily, with reactive deployment of cleansing teams to other locations where problems arise.

3.14 The cost of this service enhancement is £69k per annum. It is therefore recommended that the contract for parks management & grounds maintenance is varied to reflect this, resulting in a cumulative variation of £276k for the remaining initial term.

Public Rights of Way (PROW)

3.15 Currently, idverde provide certain grounds maintenance services to maintain public rights of way so that they are accessible. However, their contract does not extend to undertaking infrastructure related improvements; the Council holds a budget for these types of works of £71k per annum and determines where best to spend this based on risk and impact.

3.16 It is recommended that the Executive approve a variation to the contract for parks management and grounds maintenance services of up to £284k for the remaining initial term to enable instruction of PROW infrastructure works and delegate authority to the Assistant Director, Environment (Carbon Management & Greenspace) to approve individual variations within that budget envelope for works required as they arise.

Countryside Stewardship Grants

- 3.17 The Council receives Countryside Stewardship Grants from the Rural Payments Agency to protect and improve environmentally important sites including commons and woodlands.
- 3.18 idverde undertake the work funded by the Countryside Stewardship Grant on the Council's behalf. To enable this work to continue, it is recommended that the Executive agree to a variation to the contract of £83k for the remaining initial term.

Summary

- 3.19 The cumulative value of these variations is £2.463m (£4.597m if extended), and these therefore require Executive approval.

Table 1: Proposed Variations (Modifications)

Variation (Modification)	Initial term	Extended term
	£,000	£,000
Platinum Jubilee Parks Fund	880	0
Infrastructure repairs	940	2,820
Additional cleansing	276	828
PROW infrastructure works	284	852
Countryside Stewardship Grant	83	97
TOTAL	2,463	4,597

Delegated authority to make further variations (modifications)

- 3.20 The total amount by which the contract has been varied is only a small percentage of the total contract value and therefore permissible under the Public Contract Regulations 2015. However, because CPR 23.7.5 applies based on the cumulative value of variations, it is now the case that any variation must be approved by the Executive. Whilst this is designed to protect against legal and procurement risks, on contracts with large values such as this, this can be impractical and prevent timely responses to emerging issues.
- 3.21 The nature of the contract for parks management and grounds maintenance means that further modifications are likely, for example because of receipt of grants or changes in priority during the life of the contract. It is therefore recommended that the Executive delegate authority to the Chief Officer (Director of Environment & Public Protection) and/or the Portfolio Holder for Sustainability, Green Services & Open Spaces to agree variations for the remaining contract term in accordance with the thresholds set out in the table below:

Chief Officer In consultation with the Portfolio Holder for Sustainability, Green Services & Open Spaces	Any single variation with an annual value of up to £500k
Portfolio Holder for Sustainability, Green Services & Open Spaces With pre-decision scrutiny by the Environment & Community Services PDS Committee	Any single variation with an annual value of over £500k

3.22 Any future variations made under the recommended scheme of delegation would continue to be subject to the agreement of the Assistant Director Governance & Contracts, Director of Corporate Services and Director of Finance.

3.23 It should be noted the budget to fund any further variations (modifications) would need to have been formally approved in accordance with the Financial Regulations before action is taken in respect of the contract.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 The parks management and maintenance contract affects all residents including vulnerable adults and children. idverde are the Council's agent, managing health and safety in parks and greenspaces and advise on equality impacts in relation to service delivery. idverde also manage services that have direct contact with children and vulnerable adults including environmental education, and through their role supporting Park Friends and other community stakeholder's and their initiatives.

5. TRANSFORMATION/POLICY IMPLICATIONS

5.1 The parks management and grounds maintenance contract and the variations proposed in this report supports the delivery of the ambitions within the Corporate Strategy: Making Bromley Even Better, with the most direct impact on ambitions:

(4) For residents to live responsibly and prosper in a safe, clean, and green environment great for today and sustainable for the future

(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley residents.

5.2 The parks management and grounds maintenance contract is also key to the delivery of the Council's Open Space Strategy 2021-2031, with the variations proposed under this contract also delivering against the objectives set out therein.

6. FINANCIAL IMPLICATIONS

6.1 This report seeks authorisation to make several variations to the contract for parks management and grounds maintenance with idverde, which had an estimated total value of £38.4m at contract award. The cumulative value of these variations is £2.463m for the remaining term (£4.597m if extended).

6.2 Recommendation 2.2(i) seeks authority to vary the contract by up to £880k to deliver projects applied for under the Platinum Jubilee Parks Fund. These variations will be funded from the reserve set up for this purpose.

6.3 Recommendation 2.2(ii) seeks authority to vary the contract by up to £235k per annum to deliver infrastructure repairs in parks and open spaces. Recommendation 2.2(iii) seeks authority to vary the contract by £69k per annum for enhanced cleansing. These will be funded by the Parks Infrastructure Fund revenue budget increase of £400k per annum agreed from 2023/24.

6.4 The variation set out in recommendation 2.2(iv) will be funded from the existing £71k revenue Street Environment budget for PROW works. This report seeks authority to spend up to the amount in the revenue budget through the contract with idverde.

6.5 The variation covered by recommendation 2.2(v) will be funded by the Countryside Stewardship Grants received by the Council from the Rural Payments Agency.

6.6 As set out in paragraph 3.23, the budget for any variations made under the scheme of delegation recommended at 2.3 should be formally approved in accordance with the Financial Regulations before any action is taken on any subsequent variations.

7. LEGAL IMPLICATIONS

7.1 This report asks Members to agree several recommendations to make variations to the idverde contract for parks management and grounds maintenance services at a total combined value of £2.463m (or £4.597m if the contract extension option is exercised). It further requests Members to delegate authority for the future variations to the Chief Officer and/or Portfolio Holder.

7.2 While there may be no statutory requirement to provide some of the works and services under the proposed contract variations, under Section 1 of the Localism Act 2011, a local authority has a general power of competence to do anything that individuals generally may do. These works and services also clearly fall within the Making Bromley Even Better policy framework.

7.3 Contract Procedure Rule 23.7 sets out the internal governance procedures the Council must follow for these variations over £500k which has been followed as detailed in this report. Any variation must also comply with the law as stated in the Public Contract Regulations 2015. Under Regulation 72 (1)(b)(ii) a public contract may be varied without a new procurement procedure where a change of contractor would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract.

7.4 Officers wish to delegate future variations to the Chief Officer and/or Portfolio Holder which is open to the Executive to do. Any such future variations will be considered by Procurement and Legal Services to ensure they are made both soundly and within the law.

7.5 Should these variations be approved by the Executive then the appropriate contractual change control mechanism must be followed to record them.

8. PROCUREMENT IMPLICATIONS

8.1 This report seeks to authorise a number of variations to the Council's contract with idverde and also seeks delegated authority for future variations that may be required in a contract of this size and type.

8.2 The idverde contract was originally procured as an above-threshold contract following a competitive tendering process. The variations stated above can be completed in compliance with Regulation 72 of the Public Contracts Regulations 2015.

8.3 The Council's requirements for authorising variations are covered in CPR 23.7 and 13.1. The following thresholds must normally be adhered to for a variation (modification):

- £5k - £99,999: Approved by Chief Officer
- £100k - £999,999: Approved by Portfolio Holder
- £1m and above: Approved by Executive Committee

8.4 Cumulative value will apply, which means that the total value of all extensions and variations applied to a contract to date must be considered when determining the correct approval route.

8.5 Following Approval, the variations must be applied via a suitable Change Control Notice, or similar, agreed with the Provider. The service must contact the Procurement Team when variations are made so that the appropriate transparency notices can be published. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

8.6 The actions identified in this report are provided for within the Council’s Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

9. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

9.1 Social value considerations were built into the evaluation of the tenders for the parks management and greenspace contract at tender, and there are specific contractual obligations regarding supporting the Council to meet its obligations under the Public Services (Social Value) Act 2012.

10. IMPACT ON HEALTH AND WELLBEING

10.1 The contract for parks management and greenspace and the variations proposed in this report are all geared towards supporting achieving the objectives of the *Open Space Strategy 2021 – 2031*, including Strategic Objective 3 which refers to health, wellbeing and the community.

10.2 Investment in infrastructure is prioritised according to risk with health and safety concerns be forefront to those recommendations.

11. CUSTOMER IMPACT

11.1 As referenced in this report, a Park User Satisfaction Survey is completed annually. The variations proposed in this report are responding to the feedback provided by customers who have completed this survey, recognising that satisfaction levels for infrastructure and cleansing are at 21% and 63% respectively.

11.2 All variations seek to improve parks and greenspaces for the benefit of those who live, work or visit in the borough.

Non-Applicable Headings:	Property Implications, Personnel Implications, Impact on the Local Economy, Ward Councillor Views
Background Documents: (Access via Contact Officer)	<p>ES18082 Award of Contracts for Waste Disposal, Waste Collection, Street Environment, and Parks Management & Grounds Maintenance (Part 1 and Part 2)</p> <p>ES20189 One Million Pound Platinum Jubilee Parks Fund ES20276 Platinum Jubilee Parks Fund Update</p> <p>ES20225 idverde Annual Contract Performance Report 2021/22 HPR2022/007 Operational Building Maintenance Budgets and Planned Programme 2022/23</p> <p>FSD23012 2023/24 Council Tax</p> <p>Open Space Strategy 2021 - 2031</p>

