



London Borough of Enfield

Report Title	<i>Corporate Condition Programme for 2024/25</i>
Report to	<i>Cabinet Member for Finance and Procurement, Cllr Tim Leaver</i>
Date of Report	<i>22 March 2024</i>
Cabinet Member	<i>Cllr Tim Leaver, Cabinet Member for Finance and Procurement</i>
Executive Director / Director	<i>Executive Director Resources Department, Fay Hammond Director of Property, Nick Denny</i>
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Ward(s) affected	All
Key Decision Number	KD5709
Classification	<i>Part 1 & 2 (Para 3)</i>
Reason for exemption	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Purpose of Report

1. To secure Portfolio holder approval for the continuation of the annual Corporate Condition Programme (CCP) for 2024/25.

Recommendations

- I. That the Cabinet Member for Finance and Procurement approves capital budgets for CCP of £2,020,000.00 in financial year 2024/25
- II. That the Cabinet Member for Finance and Procurement approves the proposed schemes, listed in the Confidential Appendix to this report, that constitute the CCP for 2024/25.
- III. To delegate authority to the Director of Property, in consultation with Cabinet Member for Finance and Procurement, to approve variations to the proposed schemes within the CCP allocation for 2024/25.
- IV. To delegate authority to the Head of Construction, Maintenance & Facilities Management to:
 - procure consultants and contractors in accordance with Contract Procedure Rules and relevant procurement legislation
 - award contracts provided each contract falls within the budget envelope approved in the confidential appendix to this report to deliver the approved schemes; and
 - to finalise contract documents.

Background and Options

2. The Council's Strategic Asset Management Plan (SAMP) describes the approach to the management of the Council's property assets, including a set of core principles. Those principles include achieving 100% statutory compliance and managing the portfolio to reduce expenditure and increase income.
3. The CCP provides for the lifecycle replacement and improvement of major elements of buildings within the corporate property portfolio. The CCP does not cover schools, or housing maintenance, which are subject to different funding streams. The CCP is a regular and essential programme and has been for many years. The CCP comprises works that the Council is legally and contractually obligated to carry out; works to address health and safety and other compliance risks and major repairs to ensure buildings remain operational and fit for purpose.
4. In July 2019 Cabinet approved 2019 a five-year Strategic Asset Management Plan (SAMP), which describes our approach to managing the Council's property assets. As part of this, a core principle is to achieve 100% statutory compliance, alongside other principles to increase income and reduce expenditure.

5. To support the SAMP, regular capital investment is needed to remediate health and safety matters, repair defects and replace major elements of buildings which have reached the end of their life. This responsibility is addressed via the budget allocation in the CCP.
6. Council gave approval of the 10-year CCP programme on 24 February 2022 (KD5353) which includes £2,235,000 funding for 2024/25.
7. Notable works to be complete(d) from CCP 2023/24 include: (i) Renovation and reinforcement of the conservatory and gazebo at Broomfield Park; (ii) external upgrade and replacement of rotten timbers at Gentleman's Row; (iii) replacement roof and structural repairs to 58-60 Silver Street; (iv) refurbishment of public toilets at Craig Park, Jubilee Park and Tottenhall Park, including external artwork murals; and (v) many safety and statutory compliance related improvement works across the corporate property portfolio.

Main Considerations for the Council

8. The annual CCP works programme is prepared from building condition survey information, in conjunction with knowledge of service priorities, that objectively informs the prioritisation of all works. However, building condition and service priorities can often change suddenly and without notice, creating urgent response requirements that are best managed by re-prioritising the approved schemes. Officers will consider the Council's contractual obligations and health and safety risks when re-prioritising the works with the approval of the Director of Environment and Operational Services, to ensure that condition and service priorities are met and the budget allocation is not exceeded.
9. Lifecycle replacement works present significant opportunities to reduce the environmental impact of the Council's buildings by replacing failed or end-of-life elements with modern equivalents that have increased energy and environmental performance. Examples include increasing the thermal insulation of the building envelop (roofs and glazing), increasing the efficiency of heating and cooling systems, air-source heat pumps.
10. Refer to the Appendix for the CCP proposed schemes for 2024/25.

Scope of Works

11. Works carried out will be within the following:
 - a. Improving the condition of the Council's operational property assets
 - b. Ensuring compliance to statutory obligations, e.g.CQC, Building Safety Act 2022, H&S at Work Act 1974 (HASAWA)
 - c. Ensuring staff safety

Ordering and Payments

12. Ordering and payments will be in line with the Councils Governance procedures and Contract Procedure Rules as well as any specific design or construction contract required.

Equalities Impact of the Proposal

13. The Council has a duty under the Equality Act 2010 to pay due regard to the needs of the protected characteristic groups, including ensuring the accessibility of Council buildings to staff, visitors and the public, and that the Corporate Condition Programme includes improvement works that increases accessibility to meet the requirements of the Act where previously it may not have.
14. None of the CCP proposed schemes have any negative Equalities impacts, more so some proposed schemes will have positive Equalities impacts by providing improved access for staff and visitors with disabilities. These are listed in the attached Confidential Appendix as 'Equalities Works DDA Works'.
15. The condition improvement works of the Council Chamber at the Ordnance Road car park to ensure a safe road surface for users and installation of air conditioning heating and cooling systems at in Edmonton Library and Bridgewood House will provide comfortable environments for all users which otherwise would not be so.

Environmental and Climate Change Considerations

16. The operational use of Council corporate buildings accounts for approximately 49% of Scope 1 and 2 carbon emissions. The level of emissions from a building is dependent on its performance requirements, its size and the selection of the technologies used. Effective routine preventative maintenance can reduce emissions by addressing related issues, including in respect of fabric degradation.
17. The Corporate Condition Programme (CCP) provides for the timely replacement of building elements at the end of their design lifespan. Where able to do so Grant Funding is applied for to support further improvements in energy efficiency and decarbonisation. In previous years the Public Sector Decarbonisation Scheme (PSDS; a grant scheme to fund heat decarbonisation measures) has been used to support these initiatives and make viable schemes that improve the environmental performance of our buildings deliverable that would otherwise not proceed.

Risks that may arise if the proposed decision and related work is not taken

18. The Corporate Condition Programme helps ensure operational continuity, prevent major failure of buildings and reduce the total maintenance costs over time;
19. The Corporate Condition Programme helps ensure we mitigate against any risks to building users and occupier's safety;
20. Should relevant statutory functions not be complied with, there is an increased likelihood of legal action with associated financial penalties and/or imprisonment;

21. Under-investment in capital condition works will not reduce the level of carbon emissions produced by buildings.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

22. There is a risk of financial overrun on individual proposed schemes where the extent of the replacement works could not be fully assessed by condition surveys; this risk is considered low and will be mitigated to its lowest level by using early warning, robust project management and project contingency.

23. The Council may be at risk of prosecution if injury or death were to result from the deferral of health and safety related remedial or improvement works.

Options Considered

24. Do nothing – this is not a sustainable option because building condition will continue to degrade and will become unsuitable or unfit for purpose and potentially unsafe to operate as well as reducing in value.

25. Do less – this is not a sustainable option as the building condition survey data shows the estimated total backlog for capital condition works on corporate properties had risen to £18m and needs to be halted and slowly reversed.

Conclusions

26. The proposals are necessary to maintain the condition of the Council's buildings, to ensure the fitness for purpose and operational continuity of the Council's buildings, to minimise the total lifecycle cost of the Council's buildings and to ensure staff productivity, engagement and wellbeing.

Relevance to the Council Plan

27. The contract will support the following objectives from the Council Plan:

• Clean and green places

Maintaining the corporate, public buildings and education portfolio in a safe, fit for purpose, and compliant state provides opportunities for the Council's asset to meet a future outcome for residents to live in a carbon neutral borough and meet decarbonisation pledges.

• Thriving children and young people

Maintaining the corporate, public buildings and education portfolio in a safe, fit for purpose, and compliant state supports the Council's future outcome for children and young people do well at all levels of learning.

• Strong, healthy and safe communities

Maintaining the corporate, public buildings and education portfolio in a safe, fit for purpose, and compliant state will enable Council services to be delivered effectively and efficiently for those people who live, work or travel in the entire borough supporting accessible and responsive services and a future outcome for residents to live happy, healthy and safe lives.

Financial Implications

Summary from Hasan Gigani 8th May 2024

28. The capital approval process has two stages: First level approval is the inclusion of a programme of capital expenditure described in basic terms into the 10-year Capital Budget, whereas Second level approval is the approval to spend individual projects within the programme, typically on a year-by-year basis.

In Feb 2024, Council approved £2.235m budget envelope. In accordance with financial regulations, this report seeks approval to spend this budget.
Detail ref Part 1 confidential appendix

29. Cabinet is requested to provide Second level approval to a budget of £2.020m in 2024/25, this is lower than the value approved at First level by Council in Feb 2024 (KD5502), to be financed entirely from borrowing. The reduction is driven by accruals captured in 2023/24 and for works that are due to continue into 2025/26 (details captured in the confidential appendix).

The £2.020m will allow works detailed in this report to commence in 2024/25 with an estimate £90k of works likely to continue into 2025/26.

30. Expenditure will be in line with Council's Capitalisation Policy with any expenditure not qualifying as capital charged to revenue.

31. The service intends to manage budget within approved amount.

32. Financial Services will work with the property division to explore non borrowing sources of funding for the programme level detail in confidential appendix 1.

Budget impact – capital

33. CCP capital budget 2024/25 is £2.020m, a reduction from the £2.235m approved by Council (KD5502) in Feb 2024.

Budget impact – revenue

34. Expenditure which does not meet the criteria for capitalisation, as set out in the Council's Capitalisation Policy, will be charged to revenue.
35. Combined with the cost of borrowing, interest and Minimum Revenue Provision (MRP) will be c.£164k for FY 2024/25.

Debt

36. The programme is funded entirely from borrowing.

Taxation

37. Whilst the VAT input tax can be recovered as normal, the VAT implications for each CCP project should be individually considered.

Risks

38. As identified above, there is a risk of financial overrun on individual proposed schemes where the extent of the replacement works could not be fully assessed by condition surveys, the service intends to manage budget within approved amount.

Legal Implications

Approved by CP and JH based on version of report circulated 25.4.24

30. The Council, as a corporate landlord has numerous duties under common law and under statute (including Health and Safety at Work etc. Act 1974, Health and Safety Offences Act 2008, and Corporate Manslaughter and Homicide Act 2007, Occupiers liability Acts 1957 and 1984) with regards the premises that it owns and/or controls. These duties extend to all people on premises controlled by the Council whether or not they have lawful authority to be on those premises. Officers must also be mindful of the new duties under the Building Safety Act 2022 (as they relate to any works on higher risk buildings) and under the Building Regulations (Amendment)(England) Regulations 2023 (Building Regulations). The Building Regulations, which came into effect on 1 October 2023, apply to all building works and include the duty to make suitable arrangements for planning, managing and monitoring a project to ensure compliance with all relevant requirements under the Building Regulations.
31. The Council can exercise the general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. Further, section 111 of the Local Government Act 1972 permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The funding of a Capital Condition Programme recommended in this report would be within the Council's powers.

32. A well planned, executed, and funded maintenance programme will assist the Council to demonstrate that it takes seriously its obligations as an organisation in control of premises and may assist it to defend any legal action taken as a result of any incident occurring on premises within its control.
33. All contract award decisions must comply with the Council's Constitution and, in particular, the Contract Procedure Rules. Where the value of a contract procured pursuant to this report is above the threshold under the Public Contracts Regulations 2015 (PCR 2015), the procurement of such contract(s) must comply with the requirements of Part 2 of the PCR 2015. In respect of any procurements commencing on or after the 28 October 2024 (the current anticipated 'go live' date for the new regime) , the award and management of the relevant contracts must instead comply with the the Procurement Act 2023 and accompanying regulations.
34. The Council must ensure that the contracts are in a form approved by the Director of Law and Governance. Any contract with a value above the Key Decision threshold must be sealed.
35. Where grant funding is being utilised in connection with the proposals in this report, officers must be mindful to ensure that the terms and conditions attached to such funding are complied with.
36. The Council must ensure value for money in accordance with the Best Value principles under the Local Government Act 1999.
37. In line with the Public Sector Equality Duty, the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010 (the Act). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Section 149 of the Act requires public authorities to have due regard to several equality considerations when exercising their functions. The main objective of the duty is to ensure public policies and programmes are implemented fairly, in particular with regard to their impact on the protected characteristics identified above and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality.
38. The recommendations set out in this report are within the Council's powers and duties.

Equalities Implications

39. The Council has a duty under the Equality Act 2010 to pay due regard to the needs of the protected characteristic groups, including ensuring the accessibility of Council buildings to staff, visitors and the public, and that the Corporate Condition Programme includes improvement works that increases accessibility to meet the requirements of the Act where previously it may not have.

40. A Stage 1 Equality Impact Assessment has been completed and it indicates that none of the proposed CCP schemes have any negative equalities impacts.

HR & Workforce Implications

41. There are no workforce implications of this proposal.

Environmental and Climate Change Implications

42. Sustainability and climate change considerations will be built into tender evaluation criteria. Bidders will be required to set out the practical approaches they will take to deliver best practice standards of sustainability and help achieve the key environmental sustainability outcomes for LBE: Carbon positive (beyond net zero carbon emissions), Climate resilient, Radical increase in biodiversity, Zero waste & circular economy by design where the project requirement allows.

Public Health Implications

43. Capital investment to address poor building condition will reduce the health risk of buildings for staff and visitors. This should also be taken as an opportunity to improve the sustainability of buildings so encouraging active travel (for example cycle parking) and improvements such as insulation. Efforts to reduce the carbon footprint of the estate will help to reduce the effect of climate change, itself considered to be the greatest threat to the health of the public in the 21st century.

Property Implications

44. Failure to undertake appropriate capital condition works can lead to loss of property value, reduced environmental performance, a building becoming unfit for purpose, Service operations being disrupted and ultimate closure on suitability or health and safety grounds.

45. The CCP reflects the objectives of the Strategic Asset Management Plan (SAMP) as the properties within the programme have been prioritised on condition survey information as well as taking into account contractual lease obligations and also corporate proposals for their future redevelopment, adaption or disposal. In that regard, no works are envisaged to be superseded or made redundant by property activity in the short to medium term.

Safeguarding Implications

46. There are no direct safeguarding implications of this proposal.

Health and Safety Implications

47. The Corporate Manslaughter and Corporate Homicide Act 2007 means that companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a

gross breach of a duty of care.

48. The failure to have in place Reactive Works and Minor Repairs contracts would increase the risk of the Council not fulfilling its legal obligation to maintain its property in a safe condition. The Measured Term Contractors have in place satisfactory health and safety policies and procedures.

Procurement Implications

49. Where feasible works that fall within the parameters of the Measured Term Contract 2024-2030 (KD5684) will be awarded to the Contractor for delivery and managed under those contract Terms and Conditions.
50. Any tender required in relation to this programme, outside of any existing term contract must be undertaken in accordance with the Council's Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015)/Procurement Act 2023, this includes the use of the London Tenders Portal as necessary. Procurements of a value in excess of the Public Contract Regulations thresholds must be processed through the Procurement Services Assurance Process.
51. At the end of the sourcing process, authority to award any contract will be sought in line with the CPR's and Council's Governance. The Service Area shall ensure this procurement activity takes place via the Council's e-Tendering portal and will be promoted to the Council's Contract Register, and the upload the executed contracts/agreements.
52. All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements. Contact Procurement.support@enfield.gov.uk for any support.
53. For any subsequent contract over £100,000 in value the CPR's state that the contract must have a nominated contract owner in the Council's e-Tendering portal.
54. For any subsequent contract over £500,000 in value, the CPR's state that the contract must have a nominated Contract Manager in the Council's e-Tendering portal and there must be evidence of contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment uploaded into the Council's e-Tendering portal.

Risk Implications

55. No implications to be noted

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Date of report 22nd March 2024

Appendices

EQIA

Confidential Appendix - Table of CCP works

Background Papers

None.