


Cabinet 13 May 2015	 TOWER HAMLETS
Report of: Robert McCulloch-Graham Corporate Director Education, Social Care and Wellbeing	Classification: Unrestricted
2015/18 Education, Social Care and Wellbeing Capital Programme	

Lead Member	Cllr. Gulam Robbani, Cabinet Member for Education and Children's Services
Wards affected	All
Community Plan Theme	A Prosperous Community
Key Decision?	Yes

Executive Summary

This report advises Cabinet on the 2015/18 Education, Social Care and Wellbeing (ESCW) Capital Programme and seeks various approvals as set out in the report.

Recommendations:

The Cabinet is recommended to:

1. Note the contents of this report and specifically the anticipated out-turn for the 2014/15 ESCW Capital Programme (detailed in Appendix A) and proposed allocation of the funding available in 2015/18 (as detailed in Appendix B);
2. Approve the adoption of capital estimates for the 2015/16 capital condition and improvement programme schemes in schools and service premises as shown in Appendix C (Schools and Children's Services) and Appendix D (Adult Services) and authorise expenditure;
3. Approve the adoption of a capital estimate of £350,000 for the additional dining accommodation at Oaklands School;
4. Note the completed projects within the Primary Capital Programme (PCP) schemes as shown in Appendix D;
5. Note the Primary School Expansion Programme as detailed in Appendix E;
6. Approve the adoption of a capital estimate of £750,000 to cover the costs of developing proposals to be considered for inclusion in the capital programme and authorise expenditure;
7. Approve the adoption of a capital estimate of £300,000 for the costs of providing additional short term accommodation if required for additional pupils

until major works have been carried out to provide permanent additional school places and authorise expenditure;

8. Note progress with creating early education provision and further consultation with providers as shown in Appendix D;
9. Note the proposed procurement approach for the capital works to provide 6th form accommodation at Stepney Green School (paragraph 3.55);
10. Agree that Council-approved Frameworks be used, where appropriate, to deliver the various projects within the approved programmes;
11. Authorise the Corporate Director of ESCW, in respect of all proposed tenders referred to in this report, to agree tenders for projects within the approved programmes and capital estimate;
12. Authorise the Corporate Director of ESCW to prepare and carry out a Bill of Reductions for any scheme exceeding the approved budget, where relevant to ensure expenditure is contained within the agreed costs

1. REASONS FOR THE DECISIONS

- 1.1 The Local Authority (LA) has a responsibility to maintain its properties to ensure that they are safe and secure for staff and users. In the case of schools, the LA also has a statutory responsibility to provide sufficient places for children and young people of school age. Cabinet is asked to note the programme and approve the adoption of the capital estimates so that the required works can proceed.
- 1.2 A separate report on this agenda deals with proposals for new projects to provide primary school places. Subject to decisions on that report, the projects will be included in the ESCW capital programme.

2. ALTERNATIVE OPTIONS

- 2.1 When identifying which works to include within the capital programme, alternative options are always considered. This is to ensure that the projects both meet value for money and address the needs identified. Expansion projects are recommended following options appraisals and to select the options which best meet the location needs of the rising school age population.

3. DETAILS OF REPORT

3.1 Allocations and Funding

- 3.2 In the 4th February 2015 Report to Cabinet on the Council's capital position, Members were advised on the ESCW capital programme for 2015/16 to 2017/18, based upon the anticipated out-turn for 2014/15. The commitments and funding for 2015/16 to 2017/18 amounted to £57.658m.
- 3.3 The carry forward for 2014/15 is expected to be £24.987m (see Appendix A), from the total Resources available of £46.428m. This together with the expected further funding, including the allocations in paragraph 3.4, makes the total amount available for 2015/16 to 2017/18 of £74.543m (Appendix B).
- 3.4 Confirmation has now been received from the government on the Capital Maintenance grant for 2015/16. The amount for community schools in Tower Hamlets for 2015/16 is £3.2m, with similar amounts in 2016/17 and 2017/18. An additional £3.162m has also been announced for Basic Need in 2017/18. This is in addition to the Basic Need capital grant for 2015 to 2017, amounting to £21.328m

3.5 Capital Condition and Improvement Projects 2015/16

- 3.6 The projects at schools and other premises that are proposed to be included within the programme for Schools and Children's Services are listed in **Appendix C**. Projects are included on the basis that they are necessary to rectify serious building or supply faults to ensure safe and continued operation of premises by users, to meet statutory requirements eg. accessibility, fire protection, etc. or service improvements.
- 3.7 **Appendix D** includes projects for Adults Services. Further projects for adult services properties are being developed and will either be funded from the

remaining unallocated Adult Personal Social Services capital grant or subject to bids against the funds within the Better Care Fund.

- 3.8 Where appropriate Council approved Frameworks will be used to deliver the various projects within the approved programmes.

3.9 Oaklands School – Additional Dining Facilities

- 3.10 The School has the capacity for 4 Forms of Entry, which allows for up to 600 students, and a Sixth Form. With the increasing number of students choosing to join the Sixth Form this is putting some pressure on the existing facilities, particularly the dining accommodation.

- 3.11 The current dining area is slightly below the size required for a 4 Forms of Entry secondary school. However, the school have been able to manage because of the number of students actually having a hot meal. More recently, with the increasing number of students having a hot meal and also the increase in the number of students staying on into the Sixth Form, the existing dining hall is not able to accommodate all the students. The school has maximised efficiency as far as possible by phasing of the lunchtimes for the year groups.

- 3.12 To provide the additional space required for the students having a hot meal, the school have made temporary arrangements to use makeshift areas around the building and classrooms. This is causing increasing problems for the school both in additional supervision and cleaning costs, as well as health and safety issues in transporting the meals to these areas.

- 3.13 The school has two blocks. A proposal has been developed to provide an additional dining area on the roof of the block which includes the existing kitchen and dining facilities. There is already a lift near to allow the hot meals to be taken up to the new facility. Although the facility will be used for dining during the lunch period, it would also provide other uses for the school during the school day and the opportunity for community use after school. Planning permission will be sought with the aim to complete the new accommodation for September 2015.

- 3.14 The estimated cost of the new facility is £350,000 and the school has agreed to contribute one third of the cost. It is recommend that a capital estimate of £350,000 is adopted to provide the additional facility to be funded from the Capital Maintenance grant and the school's contribution.

3.15 Primary Capital Programme (PCP)

- 3.16 The PCP has been completed. The remaining projects are where final accounts are being agreed and the expected costs are listed in Appendix D.

3.17 Primary School Expansion Projects (Appendix E)

- 3.18 In 2014 Cabinet approved funding for a number of projects within the Primary School Expansion programme amounting to £67.440m. The work at Stebon Primary school has been completed.
- 3.19 The development of the St Paul's Way Trust School to provide 2 Forms of Entry primary provision is progressing. In September 2014, two Reception classes were provided in temporary accommodation, which also has provision for Year 1 classes from September 2015. Accommodation within the new school will be available by September 2016 so that the temporary accommodation can be removed.
- 3.20 The scheme costs for the permanent accommodation are now being assessed based on tenders.
- 3.21 A separate report on this agenda refers to the provision of additional primary school places at the Former Bromley Hall School site and the former Bow Boys' School site. The financial provision noted in Appendix E is subject to decisions on that report.

3.22 Project Development and Provision for Temporary Accommodation

- 3.23 There is a need to continue with development of a number of proposals to provide additional capacity. Feasibility studies will continue to be undertaken to develop the programme. It is proposed to recommend to Cabinet that a sum of £750,000 is included in the programme to fund the feasibility studies and scheme development. Schemes will then be brought back to Cabinet for approval to implement.
- 3.24 In the short term it may be necessary to identify suitable school sites to locate the additional pupils in temporary accommodation until major works have been completed to provide the places needed in the longer term. It is recommended that a sum of £300,000 is included in the programme as a financial provision.
- 3.25 With both the above allocations, where funds are not required they will be included in the main programme for re-allocation.

3.26 Early Education Provision

- 3.27 The projects that have already been approved as part of the provision are listed in Appendix D. Consultation is taking place with providers to develop further provision and formal approval will be requested in due course.

3.28 Stepney Green – Sixth Form Extension

- 3.29 The ESCW Capital Programme report to Cabinet in July 2014 recommended the adoption of a capital estimate to provide a new block to accommodate the 6th form. Because the site is included in the Grouped Schools PFI contract, we will work with THSL (Tower Hamlets Schools Ltd) to procure capital works. This is a model used for other sites in the contract, such as the works to rebuild Olga School. The contractor has a long term interest in the site (until 2027). The cooperation and consent of the PFI contractor and its funders is

required in order to carry out the building works and so the PFI contractor will act as the Council's agent to procure works and appoint a construction contractor following a competitive tender. This ensures that the scheme is jointly developed. Using an alternative contractor for the works would take more time and create additional costs for the Council in obtaining the relevant consents. It could also lead to potential contractual disputes during the works and in the subsequent delivery of ongoing facilities management services.

- 3.30 The Council and THSL will enter into a deed of variation to the contract for the terms of the works. The Council will assess the value for money of the construction works before completing the agreement. As part of the procurement process, the Council will set out local supply chain and local employment requirements comparable to the requirements of the Council's own procurements.
- 3.31 Procurement of the capital works by this method includes agreement with THSL on any adjustment to the ongoing charges and services for the property. This takes account of the enhancement of the property as well as any increase or decrease in the overall floor area. The school pays the ongoing services charges from its budget.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The Education Social Care and Wellbeing capital budget for 2015/16 to 2017/18 of £57.658m was agreed at Cabinet on 4th February 2015. The budget reflected the profiled position based on spending to the end of quarter 3 2014/15 and expected government grants known at that point in time.
- 4.2 This report now provides an update on the budget to reflect the quarter 4 2014/15 spend, known government grants for 2015/16 to 2017/18 and any further changes either affecting the profile of spend or the priorities. Appendix B proposes the allocation of funding in light of more recent information.
- 4.3 The effect of the changes discussed in 4.1 in relation to 2015/16 is an overall increase in funding of £3.571m from the MTFP position of £26.404m reported to cabinet in February 2015. The spending plans currently developed for 2015/16 are to the value of £24.757m and reports seeking the requisite approval for individual schemes will come to cabinet as required. A separate report on this agenda deals with proposals for new projects to provide primary school places

5. LEGAL COMMENTS

- 5.1. The Council's chief finance officer, for the purposes of section 151 of the Local Government Act 1972, has put in place financial regulations and procedures for the proper administration of the Council's financial affairs. Pursuant to financial procedures FP 3.3(5) and 3.3(6), senior managers may only proceed with projects when there is a capital estimate adopted and adequate capital resources have been identified. Cabinet must approve capital estimates in excess of £250,000.

- 5.2. Before the capital programme is agreed, the Cabinet should be satisfied that the projects are capable of being carried out within the Council's statutory functions. As the projects are concerned with works to schools, this appears generally to be the case, having regard both to the Council's duty under the Education Act 1996 to provide sufficient schools for Tower Hamlets and its associated obligations to maintain such schools. However, each project should be subjected to scrutiny in respect of the Council's specific relevant powers prior to any tendering commencing.
- 5.3. Any required capital finance for the projects should be treated in accordance with the requirements of Part 1 of the Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. These regulations determine how capital financing and in particular borrowing relating thereto should be dealt with by the Council including but not exclusively the setting of maximum borrowing limits in respect of each Council as a whole. In effect the main purpose is to ring fence monies deemed to be capital receipts to ensure that they are subsequently spent on items which count as capital expenditure.
- 5.4. It will be the responsibility of officers to ensure that individual projects are carried out lawfully within the Council's statutory functions. This will include complying with the terms of any related funding agreements and or complying with the terms and ring fencing of any funds received from central government for a particular purpose.
- 5.5. Officers will need to ensure the Council complies with its obligation as a best value authority within the meaning of the Local Government Act 1999 to secure continuous improvement in the way its functions are exercised having regard to the combination of economy, efficiency and effectiveness. The Council must comply with the new Public Contract Regulations 2015 and its own procurement procedures in relation to the projects in respect of the expenditure of both capital funds and any other funds required to fulfil any of the projects. Where the procurement relates to the award of a works contract, the threshold of approximately £4,322,000 still applies to the requirement for publication in Europe.
- 5.6. The report proposes the use of Council approved frameworks to deliver the various projects. In order for the Council to be able to procure in reliance on a framework agreement, the framework itself must have been procured in compliance with the European law and additionally the following requirements must be satisfied:
- The Council is immediately identifiable in the relevant OJEU advert as a potential user of the framework;
 - The OJEU advert includes the types of works required by this development; and
 - The estimated value of the overall framework has sufficient capacity to include the full cost of the procured development.
- 5.7. Before selecting projects for inclusion in the capital programme, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need

to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). Some form of equality analysis is required which is proportionate to the selection being made. There is information in section 6 of the report relevant to these considerations.

- 5.8. Section 9GB and paragraph 1 of Schedule A1 of the Local Government Act 2000 make provision in respect of Mayor and Cabinet executives. Sub-paragraph 1(8) of Schedule A1 specifies what happens if for any reason the both the elected mayor and deputy mayor are either unable to act or their offices are vacant. In that case, the executive must act in the elected mayor's place or must arrange for a member of the executive to act in the elected mayor's place. In Tower Hamlets, Cabinet is the executive, i.e. the elected mayor and two or more councillors appointed to the executive by the elected mayor.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The implementation of the ESCW capital programme is part of the LA's strategy to improve achievement by improving the teaching and learning environment.
- 6.2 Strategies to raise educational attainment, including improving quality of school buildings, support students moving into employment.
- 6.3 The expansion of schools under the capital programme is necessary to ensure the Council meets its legal obligation to secure sufficient schools for Tower Hamlets, but will also promote equality of opportunity for children and young people (including within the meaning of the Equality Act 2010). Equality considerations will be further taken into account in the planning, procurement and delivery of individual projects.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The new projects subject to decisions in this report will be procured in accordance with the Council's procedures. Where possible, pre-approved frameworks will be used to minimise the time taken in procurement.
- 7.2 Capital investment projects aim to ensure that the value of assets is enhanced and that the best use can be made of existing assets.
- 7.3 Each project is subject to consultation with the relevant stakeholders, including building users.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 The proposed capital works aim to improve and preserve the quality of the building stock. Sustainability considerations are applied as far as possible to design and materials used. Major projects included are expected to obtain a minimum rating of Very Good in the BREEAM Assessment.

9. RISK MANAGEMENT IMPLICATIONS

9.1 The individual projects will be closely monitored to ensure that programmes are completed on time and within the budget provision.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 There are no specific implications arising.

11. SAFEGUARDING IMPLICAITONS

11.1 There are no specific implications arising.

APPENDICES

Appendix A - ESCW Capital Out-Turn 2014/15
Appendix B - Proposed Allocation of Funds 2015/16 to 2017/18
Appendix C - ESCW Condition and Improvement Programmes
Appendix D - Primary Capital Programme
Appendix E - School Expansion Programme
Appendix F – Finance Comments – supporting tables