

Decision Maker: EXECUTIVE

29th November 2023

Date: For Pre-Decision Scrutiny by the Executive, Resources and Contracts Policy Development and Scrutiny Committee on Monday 27 November 2023

Decision Type: Non-Urgent Executive Non-Key

Title: OPERATIONAL PROPERTY REPAIR PROGRAMME UPDATE

Contact Officer: Graham Soars, Head of Special Projects (Interim), Strategic Property
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Chief Officer: Sara Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: All Wards

1. Reason for decision/report and options

1.1 In March 2023 the Executive approved the award of construction consultancy services to commence the delivery of the OPR Programme. This report is seeking approval to commence procurement of further design led multidisciplinary consultancy services and to progress the surface car parks works tender.

2. **RECOMMENDATION(S)**

2.1 That the Resources & Contracts Planning Development & Scrutiny Committee notes the contents of the report and makes any comments available to the Executive.

2.2 That the Council's Executive are recommended:

- 1) To note the contents of this report and to agree to the following recommendation.
- 2) To note that up to £1.046m of the OPR budget as planned will be used for the essential repair of surface car parks required to maintain statutory service.
- 3) To proceed to procurement for the works contract for the essential repair of surface car parks at an estimated value of up to £1m as set out in paragraphs 3.13, with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy and contract award.

- 4) To approve the procurement of Construction Consultancy Services via a competitive tender process utilising the NHS SBS framework for consultants that can provide a Building Surveying led multidisciplinary team to design and deliver the Strategic Property OPR Workstreams, with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy.
- 5) To note that up to an additional £0.95M of the OPR budget as planned will be used for Building Surveying led multidisciplinary teams to design and deliver the Strategic Property Workstreams. The total budget value of the appointment(s) is estimated to be £2.4m.
- 6) To agree to delegate authority to the Director of Corporate Services to enter and manage legal matters relating to these services and works to allow matters to progress.
- 7) Executive to recommend to Full Council a supplementary capital estimate of £3.0m for surveys and potential remedial works associated with Reinforced Autoclaved Aerated Concrete (RAAC).

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: £4.996m
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Not Applicable
 4. Total current budget for this head: Not Applicable
 5. Source of funding: Growth Fund
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Personnel

1. Number of staff (*current and additional*): Not Applicable
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Non-Statutory - Requirement
 2. Call-in: Not Applicable
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Procurement

1. Summary of Procurement Implications: The recommendation proposed in this report are in accordance with the Council's Contract Procedure Rules.
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Property

1. Summary of Property Implications: In accordance with the OPR report dated 30th November 2022 as considered and approved on 12th December 2022 at a meeting of the Council's Full Council.
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
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Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
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Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
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Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? As this affects all Wards individual Wards have not been consulted. However, Ward Councillors will be consulted as to the specifications developed in conjunction the service delivery areas and the appointed Construction Consultancy Services Provider as detailed within this report.
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Background

- 3.1. On 12th December 2022 the Council's Full Council Meeting considered and approved the Operational Property Review (OPR) dated 30th November 2022. This followed a review of the Council's operational property which had been undertaken to identify the optimal operational estate and understand the liability of it over a 10-year period together with the potential to undertake repair and minor refurbishments where appropriate to minimise future liability.
- 3.2. Following the approval of the OPR, a Programme Board has been established to ensure robust governance, overseeing all aspects of the programme including key decision making and cost management. A number of sub boards and working groups sit below the programme board and report monthly with updates and recommendations.
- 3.3. In March 2023 the Executive approved proceeding to procurement and award of consultancy services to scope the works that need to be undertaken, advise on the optimum delivery route and manage the delivery of the works. This was commissioned through the NHS SBS Framework and the consultant has undertaken condition surveys, initial scoping and cost estimates for the various sites.
- 3.4. Through the initial development of the programme, it has been established that the refurbishment works will require technical design led services to fully design and specify the contract works ensuring the tender process and delivery of the works provide best value whilst minimising the risks around delivery particularly where services must remain in operation during the works. It is now apparent that the consultant originally procured is unable to adequately resource such design services on a programme of this scale going forward and a new commission will be required.

Procurement of Consultancy Services to Design and Delivery Strategic Property OPR Workstreams

- 3.5. It is proposed to procure a consultant that can provide a Building Surveying led multidisciplinary design and delivery team with the following core disciplines to be applied across all the projects:
 - Building Surveyor (lead consultant and contract administrator)
 - Mechanical & Electrical Engineer
 - Principle Designer / Health & Safety Advisor
 - Quantity Surveyor
 - Clerk of Works
 - Sustainability Consultant

Additional services that will be included on specific projects will include but not be limited to:

- Architect
- Structural Engineer
- Fire Consultant
- Planning and Heritage Consultant

- 3.6. The services required are being scoped on a project led basis. They will form the basis of the overall tender and enable the council to obtain a fixed price contract.
- 3.7. To ensure the programme can be adequately resourced, the projects are to be tendered in lots. Multiple suppliers providing the professional services will ensure resilience to the delivery of the programme. A review to define the lots is ongoing and is to be agreed by the Programme Board.

- 3.8. In considering the preferred route to procure the consultancy services the option of an open tender has been assessed against the benefits of a framework. A framework is deemed preferential in this case as it will provide a restricted list of bidders that are consultancy professionals, negating the need for an initial pre-qualification process.
- 3.9. When reviewing the option to award contracts via frameworks there are those that include a sole supplier with pre tendered rates for the services and frameworks that have multiple suppliers to allow competitive tender. Both options have been reviewed for their benefits. On this occasion the preference is to utilise a framework with multiple suppliers to have competition in the tender process and be able to have separate commissions for the lots.
- 3.10. The NHS SBS Construction Consultancy Services Framework was previously recommended for consultancy services and still provides a suitable solution, offering a multidisciplinary design lot to place a tender. This has been assessed as the most appropriate route as the Council can ensure multiple suppliers are commissioned across the lots to provide resilience of resource and provide competition in the tender pricing element.
- 3.11. Having reviewed the procurement options available, it is recommended to progress the procurement of the new design led consultancy services through several separate commissions tendered as prioritised lots through the NHS SBS framework. A recommendation to award contracts will be brought back to Executive in the first quarter of 2024 dependent on the value of the tender returns linked to delegated approval thresholds.
- 3.12. The additional budget that will be required for the Building Surveying led multidisciplinary design services is estimated to be £0.95m. The existing workstream budgets will be utilised to cover the cost of this service. The total budget value of the appointment(s) is estimated to be £2.4m.

Priority Projects

- 3.13. The surface car park works have been identified as a priority workstream which can be progressed without the need for further design. The next steps will be to issue a full scope of works for each site to be priced. The procurement of the works is proposed either via utilising the existing term contracts the Council has in place for highways and car park maintenance, which would use the pricing mechanism and schedule of rates within the contracts where applicable, or using competitive open tendering ensuring Value for Money is obtained. The current approved budget for this work stream is £1.046m and up to £1.0m of this is to be used for the works. This report seeks approval to commission the surface car park works contracts utilising a compliant route as set out above with the detailed procurement strategy to be agreed by the Chief Officer allowing works to progress in early spring.
- 3.14. Children's Services are undertaking a review of the Youth centres to assess the service needs and this will inform the property works required. The Castlecombe Centre is being brought forward as an urgent project to undergo refurbishment. A Report has been provided to Executive requesting approval to progress the repair scheme through proceeding to procurement as part of the OPR Youth Centre workstream. The Report also seeks agreement to the Castlecombe Youth Centre building as a suitable location for the Mottingham Community Support Centre and that the works undertaken will need to ensure this wider service need is met.
- 3.15. The brief for the Astley Centre has been developed to incorporate the Independent Living Centre service that is moving in December. The works at the Astley centre will also modernise

this locally listed building providing fit for purpose facilities for the current centre users. This has been identified as a priority project in the programme.

3.16. The works to the Saxon Centre have been developed in detail and this project will be progressed as a priority once the new lease is agreed between the parties.

Budget

3.17. Following the OPR Report to Executive in November 2022, the programme was reviewed, and the recommended budgets required for the programme were approved at Full Council in December 2022. The current budgets are set out below.

Scheme	Total estimate
	£m
Adult day centres/care homes	12.853
Children and family centres	7.113
SEN services	0.500
Youth Offending Service	0.000
Youth Centres	3.610
Adult education centres	7.853
Surface car parks	1.060
Cemetery properties	0.912
Traveller sites	3.184
Libraries	11.125
Leisure centres (Gp 2)	27.600
Contingency budget	4.000
Risk provision - Churchill	5.000
Grand total - all programme	84.810

3.18. The cost of the consultancy services will be split across individual budgets for each workstream.

RAAC

3.19. Reinforced Autoclaved Aerated Concrete (RAAC) is a lightweight cementitious material used in building structures in the UK and Europe since the late 1950's. In the 1990s structural deficiencies became apparent; and these are discussed in papers by the Building Research Establishment. In May 2019 the Standing Committee on Structural Safety issued an alert after being notified of the failure of roof panels in a school.

3.20. Subsequently the Local Government Association has advised its members to check as a matter of urgency whether any buildings in their estates have roofs, floors, cladding or walls made of RAAC.

3.21. The Property Team is implementing a full review of the Council's estate for the presence of RAAC. A building surveying practice has been commissioned and surveys are progressing. It is anticipated this will take six months to complete. The properties in the OPR are being reviewed as part of this commission.

3.22. This report seeks a supplementary capital estimate of £3.0m to cover the costs of the RAAC investigative surveys and any potential remedial works required across the Council's property portfolio.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1. There is not considered to be an impact on Vulnerable Adults and Children as a consequence of this decision – other than that services will still continue to be provided from retained premises.

5. TRANSFORMATION / POLICY IMPLICATIONS

- 5.1. It is essential that the Council manages its assets so as to meet the Council's aims and objectives.

6. LEGAL IMPLICATIONS

- 6.1. This report primarily requests Members to: (i) approve the procurement of a works contract for the essential repair of surface car parks at an estimated value of up to £1m with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy and contract award; and (ii) approve the procurement of a Construction Consultancy Services contract via a competitive tender utilising the NHS SBS framework with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy. Further, the Executive is asked to recommend to Full Council a supplementary capital estimate of £3.0m for surveys and potential remedial works associated with Reinforced Autoclaved Aerated Concrete (RAAC)
- 6.2. This matter comes before the Executive as, in accordance with Contract Procedure Rules (CPRs), this is the only body within the Council that can approve the procurement of contracts with a value in excess of one million pounds.
- 6.3. Section 122 of the Road Traffic Regulation 1984 Act imposes a general duty on local authorities exercising functions under the Act to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of safe and adequate parking facilities on and off the highway.
- 6.4. The repairs to the car parks are works contracts as defined by the Public Contracts Regulations 2015 (the Regulations). As these works are “below financial threshold” contracts then officers are not bound to undertake a fully regulated procurement. Any procurement must, however, still comply with the lawful procurement requirements of transparency, non-discrimination and proportionality. If these works are to be procured via a variation to an existing Council contract, then it must also accord with Regulation 72 of the Regulations. Legal advice can be further given when the specific proposal is formulated.
- 6.5. The consultancy services to be procured are defined as a services contract under the Regulations. As the value of the services is above the threshold then these services must be procured according to the full requirements of the Regulations. Regulation 33 permits the Council to use a compliant framework agreement providing it complies with the processes detailed in that regulation. The Procurement comments below confirm the correct CPRs have been followed in agreeing to use this particular framework agreement.
- 6.6. The Council has the legal power to hold, maintain and develop its landholdings and buildings in connection with its functions and general powers in the way described in this report. Under Section 111 of the Local Government Act 1972 the Council has the power to do anything calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. In furtherance of these statutory powers, the Council may provide and commission through a contract, the consultancy services as more fully set out in this report.

- 6.7. The Executive is asked to recommend a supplementary budget to Full Council for the RAAC surveys. These must be done in accordance with the Council's statutory duties to ensure its properties are safe and well maintained in accordance with its duties both as a landlord and under established Health and Safety law.
- 6.8. Legal Services will continue to advise as the more detailed procurement strategies are developed by officers.

7. PROCUREMENT IMPLICATIONS

- 7.1. This report seeks to proceed to procurement for a construction consultant via a suitable framework.
- 7.2. In accordance with Clause 3.5 of the Contract Procedure Rules, the Head of Procurement has been consulted regarding the use of the NHS SBS Framework and must be consulted on other frameworks used. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 7.3. This action requires the following for authorisation; the formal Approval of the Executive following the Agreement of the Portfolio Holder, the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for actions of these values.
- 7.4. This report further seeks to proceed to procure surface car park works using the Council's Term Contractor or, if they are not able to undertake this work an open process, with an estimated value of up to £1.0m.
- 7.5. This is a works contract and the value of this procurement falls below the thresholds set out in Part 2 of the Public Contracts Regulations 2015, so is only subject to Part 4 of the Regulations.
- 7.6. Should the Council seek to use an open tender, as set out in 8.2.1 of the Council's Contract Procedure Rules, this procurement must make use of public advertisement, and therefore must also be advertised on Contracts Finder. In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council's e-procurement system.
- 7.7. The procurement must comply with PCR 2015 principles of transparency and equal treatment. Any time limits imposed, such as for responding to adverts and tenders, must be reasonable and proportionate.
- 7.8. The Council's specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the formal Agreement of the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a procurement of this value. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 7.9. 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.

8. FINANCE IMPLICATIONS

- 8.1. The proposed activity as outlined within the OPR project is fully contained within budgets agreed in the original report on the Operational Property Review to Executive dated 30

November 2022 and then again in the capital monitoring report to Executive dated 18 January 2023. The proposal as set out is fully compliant with Bromley’s financial regulations relating to capital expenditure.

- 8.2. The request on paragraph 3.22 of this report for a supplementary capital estimate of £3.0m to cover the costs of the RAAC investigative surveys and any potential remedial works required across the Council’s property portfolio, will be funded from a provision within the capital programme for uncertainty and future risks. This pot covers a 4-year period up until 27/28 and has been set aside for inflationary pressures, risks and future uncertainties across the whole capital programme, the RAAC issue significantly depletes this provision.

Non-Applicable Headings:	Personnel Implications, Property Implications, Carbon Reduction/Social Value Implications, Impact on the Local Economy, Impact on Health and Wellbeing, Customer Impact
Background Documents: (Access via Contact Officer)	Executive Report dated 12th December 2022 Executive Report dated Wednesday 29 March 2023