

PART 1 - PUBLIC

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Decision Maker: Executive

Date: 2 February 2011

Decision Type: Non-Urgent Executive Key

Title: **GATEWAY REVIEW 0, 1 & 2.
APPROVAL OF 2011/2012 CYP BUILDING MAINTENANCE
BUDGETS, CYP PLANNED MAINTENANCE PROGRAMME
AND PREFERRED PROCUREMENT OPTION**

Contact Officer: John Turner, Chief Property Officer
Tel: 020 8461 4404 E-mail: john.turner@bromley.gov.uk

Chief Officer: Marc Hume - Director of Renewal & Recreation

Ward: Borough Wide

1. Reason for report

Property Division is responsible for carrying out planned maintenance works to the Council's portfolio of CYP buildings.

This report sets out the budget for the proposed programmes and the criteria used to assemble them. Once agreed the programmes will be circulated to all schools and education properties for comment.

The report also addresses the strategic assessment and business justification for the programmes and the preferred procurement option for completing them.

A summary of the Gateway Process is given in Appendix A.

A copy of the proposed CYP planned maintenance programme is available within the Members room.

2. RECOMMENDATION(S)

Members are asked to:

(i) Approve overall expenditure for the Maintenance Budget for CYP Properties in 2011/2012 of £7,387,000.

- (ii) Consider the criteria used to assemble the planned maintenance programmes. (Gateway review 0 & 1)
- (iii) Consider the initial CYP planned maintenance programme. A copy is available in the Members room.
- (iv) Delegate authority to the Chief Property Officer to vary the planned programmes where such action is considered necessary to either protect the Council's assets or make the most effective use of resources.
- (v) Approve the preferred procurement option and method to be used. (Gateway review 2)
- (vi) Delegate authority to the Chief Property Officer to select the most economically advantageous tender for any individual item of expenditure under the approved programmes referred to at (i) – (iv) above.
- (vii) Agree that the Director of Renewal & Recreation be authorised to submit planning applications where appropriate in respect of schemes set out in this report.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: Estimated cost £7,387,000
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: Property Division, Renewal & Recreation Department
 4. Total current budget for this head: £7,387,000
 5. Source of funding: Funded from capital budgets
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Staff

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: Statutory requirement.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough Wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Property Division is responsible for delivering the planned maintenance of the Council's portfolio of CYP buildings. The Council has a five year maintenance programme of CYP properties that is reviewed by officers each year. It is based on available funding, condition and priority and urgent items that arise inter-year. As part of this process schools are formally consulted on the priorities for support during the year ahead.

Based on previous budgets, officers compiled a planned programme of high priority building works estimated to cost £3.7M. The criteria used to identify these works are set out below. It is proposed that this draft programme form the nucleus of CYP 2011 – 2012 planned maintenance expenditure. This would enable officers to start the design and specification process of the highest priority projects with a view to their completion during the summer holiday period 2011. This draft plan is available to view in the Member's room. It is proposed that the remaining budget is directed to an ongoing programme of works aimed at reducing the Council's backlog maintenance and those schemes that will contribute to energy savings.

The CYP building maintenance planned programme has historically been funded from the Capital Maintenance Grant with a revenue contribution from the Dedicated Schools Grant (DSG).

Due to the Comprehensive Spending Review and the Government's Education Capital Review announcement of the Council's 2011/12 capital maintenance allocation was delayed. The Government have now announced next year's settlement, which is for a single year. Allocations for the rest of the spending review period will be informed by the outcome of the capital review, which is due to be published shortly. According to the Government, whilst the allocation and management of education capital programmes may change to reflect the recommendations of the review, it is expected that the funding available for basic need and capital maintenance of schools will be roughly in line with the funding for 2011-12.

For 2011/12 the Government have announced that Bromley's capital maintenance grant is £5.687m. As part of the consultation on the use of the 2011/12 Dedicated Schools Grant there is a proposal to reduce the annual revenue contribution by £1.5m from £3.2m to £1.7m. This is subject to consultation with Members, Governors and Head Teachers and final decisions will be made by the Children and Young People Portfolio Holder. The increase in grant funding will remove the need for the Council to make a contribution from capital receipts.

Subject to this consultation, the amount available to fund the maintenance programme will be £7.387m.

PLANNED MAINTENANCE

The planned maintenance programme is established by identifying, costing and prioritising works needed to safeguard the long-term life of the Council's property portfolio.

The condition assessment module of Bromley's Asset Management Plan has been used as the basis to formulate the 5-year planned programme. It is also recognised that the local knowledge of Headteachers is invaluable in identifying issues. They have therefore continued to be involved in the development and management of the programme.

The condition assessment survey predicts when expenditure may be required in the future. Each element of a building is awarded a condition and priority classification by the inspecting surveyor or engineer. Property Division uses the following grading criteria which accords with Government guidelines:

Condition

- Grade A – Good. Performing as intended and operating efficiently.
- Grade B – Satisfactory. Performing as intended but exhibiting minor deterioration.

- Grade C – Poor. Exhibiting major defects and/or not operating as intended.
- Grade D – Bad. Life expired and/or serious risk of imminent failure.

Priority

- Grade 1 – Urgent work that will prevent immediate closure of premises and/or address an immediate high risk to the health and safety of occupants and/or remedy a serious breach of legislation.
- Grade 2 – Essential work required within two years that will prevent deterioration of the fabric or services and/or address a medium risk to the health and safety of occupants and/or remedy a less serious breach of legislation.
- Grade 3 – Desirable work required within three to five years that will prevent deterioration of the fabric or services and/or address a low risk to the health and safety of occupants and/or remedy a minor breach of legislation.
- Grade 4 – Long term work required outside the five year planning period that will prevent deterioration of the fabric or services.

Members should be aware that even with the increase in budget available for 2011 – 2012 only the very highest priority schemes have been programmed for completion. This strategy carries two significant risks:

Firstly, some building elements for which work is scheduled for later years may fail earlier than anticipated. For 2011 - 2012, as in previous years, the following criteria have been applied to arrive at a programme of work that can be contained within the available funding:

- Include only those items that meet condition “D” or “C” of the AMP assessment or Bromley’s previously assigned equivalent and are considered by officers to have the highest risk of failure.
- Generally apply de minimis levels of £5K for primary schools and £25K for secondary schools.
- Include a contingency sum to deal with works that are currently not funded but where there is a risk of failure and where they are likely to be outside the scope of many schools to deal with.

Secondly, a budget driven programme is likely to produce a backlog of high priority maintenance issues.

- These figures reflect only those building elements that are in poor condition and require immediate attention. Other serious works are being set aside and although they are reviewed as part of the process, elements will inevitably deteriorate to a point where they will become critical.
- For the seventh year running it has not been possible to fund a redecorations programme for education properties. Members will appreciate the adverse effect such a strategy will have on both the condition and aesthetics of the Council’s building stock.

Previously the Chief Property Officer has been authorised to vary the programmes during the course of the year where such action is considered necessary to either protect the Council’s assets or make the most effective use of resources. It is proposed that this delegated authority should continue.

4. POLICY IMPLICATIONS

Building Maintenance is an important part of managing the Council’s Property Assets. LB Bromley’s Asset Management Plan 2006-11 sets out the important role that asset management plays in delivering the Council’s priorities and achieving value for money in the delivery of services and management of the council’s property portfolio.

The Council acknowledges its social, economic and environmental aims and targets set within its existing policy framework: Building a Better Bromley 2020 vision, Local Area Agreement and Portfolio Plans and its duty to promote social, economic and environmental well being.

The Council has a policy of supporting local business and Small Medium Enterprises, (SME's). The procurement strategy outlined in paragraph 13 directly encourages this support.

5. FINANCIAL IMPLICATIONS

Since the 2006/07 financial year the building planned maintenance programme has been funded from a combination of the Modernisation Fund capital grant (£1M in 2010/11), a revenue contribution from the Dedicated Schools Grant (DSG) (£3.2M in 2010/11) with the balance being met from capital receipts (£0.1M in 2010/11).

For 2011/12 the Government have announced that Bromley's capital maintenance grant (The Modernisation Fund) is £5.687M. The increase in grant funding will remove the need for the Council to make a contribution from capital receipts.

As part of the consultation on the use of the 2011/12 DSG there is a proposal to reduce the annual revenue contribution by £1.5M from £3.2M to £1.7M. This is subject to consultation with Members, Governors and Head Teachers and final decisions will be made by the Children and Young People Portfolio Holder at his meeting on 15 March 2011. The increase in grant funding will remove the need for the Council to make a contribution from capital receipts.

Subject to this consultation, the amount available to fund the maintenance programme will be £7.387M (£5.687M Modernisation Fund plus £1.7M contribution from the DSG).

Planned maintenance at Community and Voluntary Controlled Schools is funded and managed by Property Division staff. The funding for planned maintenance at Foundation Schools is devolved to individual schools who are then responsible for ensuring that the identified projects are managed in accordance with the relevant Construction and Financial legislation. Planned Maintenance at Academies will not be funded via this process. Schools that convert to Academy status will be removed from the Council's property portfolio. The legal status of schools will be considered prior to any expenditure.

6. LEGAL IMPLICATIONS

The value of planned maintenance projects described in this report will exceed the EU threshold for Works, (£3.9M). The Council may however make due allowance for elements already let via financially compliant processes. Because this aspect of the EU regulations is so complex it is proposed that the Chief Property Officer will seek further guidance from the Council's Procurement Team before contracts are let.

The Council's own Contract Procurement Rules provides that dependent upon the estimated value of any item of work a variety of procurement processes may be followed. The availability of an approved selected list of contractors for a variety of trade specialisms (the EXOR list), allows a relatively cheap and efficient means of securing value for money. The EXOR list also allows an opportunity for local SME's to participate in the process.

Where there are insufficient providers on the EXOR list to permit the Council to obtain the minimum recommended number of quotes or tenders a waiver would be obtained in accordance with CPR 13 or, if it was considered the value of the works justified it, a one off tendering exercise involving firms outside the EXOR list might be conducted. Where appropriate use will also be made of EU compliant frameworks where these are deemed to be advantageous to the Council.

Any contract over £50K will be subject to the maintenance of a risk register with suitable contingency measures in place in the event of default of the provider.

Should there be any individual contracts for works exceeding £200K these are to be the subject of monthly reviews which are designed to ensure the Council's requirements for performance, compliance with the specification, cost, value for money and client satisfaction. They will be recorded in the Corporate Contracts Register.

7. PERSONNEL IMPLICATIONS

None

8. PROCUREMENT IMPLICATIONS

Once the programmes of work have been finalised, officers will need to look at the values of work/ services and supplies that the Council is incurring on its own behalf. From this can be determined the Council's "requirement". Within this requirement the EU aggregation rules need not be applied to a small contract, (less than £810,580) providing the aggregate value of that contract and any other contracts is less than 20% of all contracts to be entered into. Although the programme comprises predominantly work(s) it also includes elements of services and supplies and these will be identified and incorporated as appropriate into the contracting strategies to ensure their treatment in line with the relevant legislation. Further advice on this issue will be sought at the appropriate stage from the Council's Procurement Team.

9. CUSTOMER PROFILE

The programmes outlined in this report represent the cornerstone of Property Division's operational responsibilities. The ongoing maintenance of the Council's CYP buildings has an impact on all Teaching staff, school pupils and visitors. The Council has a statutory responsibility to maintain its buildings in a condition fit for purpose.

10. STAKEHOLDER CONSULTATION

The proposed 2011/2012 programmes will be sent to all schools and education properties for comment. Where possible, changes requested by end users will be incorporated. A copy of the programme is lodged in the Members room.

It is proposed that any subsequent significant variation to the CYP planned programme is reported to a later meeting of the Executive. The programme will also be reported for information to the Children and Young People portfolio holder early in 2011.

11. SERVICE PROFILE / DATA ANALYSIS

Recent reviews have endorsed the service and value for money provided by Property Division on behalf of the Council and its customers:

- Chartermark December 2008; the assessor said that the Division is a forward looking service using innovative ideas to the benefit of the Community and the Council.
- The Member led Property Working Group report found that Property Division was well managed and offered good value for money.
- The Asset Management Foundation Review said; Property Division has a strong property maintenance function in place.

12. MARKET CONSIDERATIONS

Contractors are usually, but not exclusively, selected to tender via the EXOR auto rotation process. The exceptions are specialist contractors where a category is not available within EXOR.

Since the introduction of LBB's new Contract Procedure Rules, SME's and local contractors have been encouraged to sign up to the EXOR approved list. Property Division works closely with the Procurement Team to ensure that SME's are aware of LBB's procurement route for projects of the size described within this report.

13. OUTLINE CONTRACTING PROPOSALS & PROCUREMENT STRATEGY

The original programme outlined in this report comprises a number of discrete building maintenance projects. The estimated values are:

62 projects < £50K
20 projects between £50K - £200K
2 projects > £200K

Historically the procurement route for these programmes has been via the traditional JCT form of contract, tendered competitively. Where appropriate discrete projects of a similar type of work, such as window replacements, have been grouped and tendered together.

Contractors are drawn by auto rotation from an "Approved" list managed by EXOR. This system has the benefits of distancing the project surveyor/engineer from the invitation process. It also ensures all contractors registered on EXOR are given the opportunity to tender.

All compliant tenders are assessed and contracts are awarded in accordance with Bromley's "Contract Procedure Rules". In the case of discrete building maintenance projects the contracts are awarded on the criteria of lowest price.

14. SUSTAINABILITY / IMPACT ASSESSMENTS

In formulating its service and contracting strategies the Project Board has considered their impact on a number of issues, collectively referred to as "Sustainability" matters. These matters are associated with Economic, Social and Environmental considerations. They are also addressed in the Council's "Building a Better Bromley" policy statement which has been agreed with its Local Strategic Partners and its own Sustainability Policy.

Consideration has been given to optimising the opportunities around these programmes for SME's. Members will be aware that the Division's Reactive and Cyclical maintenance contracts have been designed to specifically encourage participation by SME's.

The larger planned maintenance programmes offer a range of small/medium projects that will attract SME's via the traditional JCT form of contract.

All successful contractors will be asked to support and facilitate the use of sustainable arrangements in the delivery of the service. This in turn will contribute to the reduction of the Council's carbon footprint.

This decision has been judged to have no or a very small impact on local people and communities.

APPENDIX A

The Gateway Process examines a project at critical stages in its lifecycle to provide assurance that it can progress successfully to the next stage. It is designed to be applied to projects that procure services, construction/property, IT – enabled business change projects and procurements utilising framework contracts. The Gateway Review process applies equally for those Directorates that already have strategic partnering arrangements in place.

There are six Gateways during the life cycle of a project, four before contract award and two looking at service implementation and confirmation of the operational benefits. The process emphasises early review within projects for maximum added value.

Gateway Review 0 – Strategic assessment

This gateway relates to the report of procurement needs resulting from a Best Value or service review and the suggested implementation plan. Elements of the other gates may be rolled up into this process; for example options around Procurement routes/Strategies where they need to be predetermined to enable project progression. They should, however, be confirmed as the appropriate solution at the relevant stage.

Gateway Review 1 – Business Justification

This gateway relates to the option appraisal stage of a procurement exercise.

Gateway Review 2 – Procurement Strategy

This gateway confirms the preferred procurement option and method to be used, (open, restricted, competitive dialogue or negotiated etc.).

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| Non-Applicable Sections: | [List non-applicable sections here] |
| Background Documents: (Access via Contact Officer) | [Title of document and date] (Appendices to be Included) (Version 1.3July09) |