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| Meeting: | Executive |
| Meeting date: | 12/10/2023 |
| Report of: | Report of the Corporate Director, Children's Services and Education |
| Portfolio of: | Executive Member for Children, Young People and Education, Councillor Bob Webb |

Decision Report: Capital Projects 2024/25 - Children, Young People and Education

Subject of Report

1. To approve the overall budget of £7,200,000 to enable the schemes in the Education Capital Programme, 2024/25 (the "**Programme**") to take place.
2. To maintain the Local Authority ("**LA**") School Building Estate.
3. To create enough pupil places and Special Educational Needs ("**SEN**") pupil places at St Oswald's CE VC Primary and Hob Moor Oaks Community Primary Academy.
4. To create SEN outdoor learning areas at Danesgate Community Pupil Referral Unit.
5. To refurbish the science labs at Huntington Secondary School.
6. Without these works, the LA School Building Estate could face severe risks in its ability to function and the LA sufficiency duty under section 14 of the Education Act 1996 would not be met.

Benefits and Challenges

Pros:

7. Keeping abreast of the condition works needed at LA maintained schools will ensure Best Value under its Best Value Duty set out in Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007).
8. The LA's sufficiency duty under section 14 of the Education Act 1996 to provide pupil places and SEN pupil places will not be breached.

Cons:

9. Not keeping abreast of the works needed to the declining condition of the School Building Estate will mean:
 - Greater maintenance costs in each year where works do not take place.
 - The LA failing in its sufficiency duty to provide enough pupil places.
10. The LA failing in its sufficiency duty to provide SEN pupil places.

Policy Basis for Decision

11. The council's commitment to provide access to *high quality education and skills for all* is consistent with the 10-Year Plan (York 2032), which sets out a vision for the city and five priorities. The priority Skills and Education sets an ambition that "all ages will have access to learning throughout their lives to equip them with the skills to success commercially, socially, locally and nationally".
12. This report responds to the Council Plan 2023-2027 - *One York for all*, which sets a vision for the Council that over the next four years we will "establish the conditions that would make the city of York **a healthier, fairer, more affordable, more sustainable and more accessible place, where everyone feels valued**, creating more regional opportunities to help today's residents and benefit future generations."
13. The report aligns to the below policy priorities in the Council Plan:
 - a. Health Generating City

- b. High quality skills and learning for all
- c. Sustainable accessible transport for all
- d. Cutting Carbon, enhancing the environment for our future

Cutting Carbon, protecting the environment

- 14. Reducing carbon emissions through the delivery of the capital maintenance schemes by for example:
 - a. insulating roofs,
 - b. replacing lead single glazed windows for double glazed efficient windows, and
 - c. refurbishing kitchens and science labs with sustainable, modern equipment,
 - d. that saves both time and energy.
 - e. Replacing old wiring and heating mains pipework.
- 15. New builds will be created to the most current building specifications.
- 16. Better tinted windows mean less solar gain, so rooms and corridors are not affected by extreme temperatures during hot summers and cold winters.

Sustainable accessible transport for all

- 17. By expanding at three (3) school sites (St Oswald's for mainstream pupils and Hob Moor Oaks Community Primary Academy and Danesgate Community Pupil Referral Unit for SEN pupils), the LA will prevent increased transport journeys and costs around the city.

Health Generating city

- 18. Better teaching environments are created when roofs are not leaking and heating is more temperate and more efficient.
- 19. Improved kitchen environments and equipment for catering staff means temperatures can be more easily controlled.
- 20. New kitchen equipment is easier to use and control, leading to healthier methods of providing meals.

High quality skills and education for all

21. Refurbished science labs will mean improved teaching facilities thereby encouraging pupils to choose science at GCSE and A level.
22. Expansion at St Oswald's CE VC Primary will create more teaching accommodation to aid education progression through the foundation stages and into key stages.
23. Expansion of alternative learning spaces at Danesgate Community Pupil Referral Unit and a science lab refurbishment at Huntingdon School will encourage pupils to succeed and go on into apprenticeships around the city.
24. For comments regarding the administration's four key manifesto pledges: Affordability; Environment; Equalities and Human Rights; and Health Inequalities see the Organisation Impact and Implications Section of this report.

Financial Strategy Implications

25. There is minimal impact on the overall financial strategy of the Council.
26. All of the schemes detailed in this report will be delivered within the Childrens Services and Education Capital Programme.
27. The four schemes proposed to be funded from Basic Need Capital Grant total £4.2m. Before the allocation to these schemes, the unallocated Basic Need grant is approximately £8.4m. Therefore, approving all of these four schemes at the budgeted cost will leave £4.2m to allocate to future schemes. At this point, no future Basic Need funding is expected to be allocated for at least 2023/24 and 2024/25.
28. The maintenance schemes will be funded from a combination of Condition and Maintenance Grant, a small amount of remaining council capital budget allocated via earlier CRAM rounds, supplemented by the addition of relevant Section 106 funding. At this point the best estimate of available funding for the 2024/25 maintenance programme is an amount of approximately £3m. This figure is based on the estimated spend on the 2023/24 programme, a prudent estimate of the 2024/25 grant funding which will not be confirmed until April 2024, and some already allocated Section 106 funding. The programme will be developed and then commissioned on the basis of remaining within the overall final

funding available. If further 106 funding is available this may increase the total budget available.

29. Updates on the progress of the budget and the eventual programme will be reported to Executive within the authority's quarterly capital monitoring process.

Recommendation and Reasons

30. Approve the £3,000,000 budget for capital maintenance works planned for 2024/25.

Reason: to complete the annual programme of maintenance works within the maintained school estate, dealing with the most urgent issues for 2024/25.

31. Approve the budget of £1,400,000 to build additional classrooms to accommodate a growth in pupil places at St Oswald's CE VC Primary.

Reason: To accommodate the demand for mainstream school pupil places.

32. Approve the budget of £1,100,000 to build additional classrooms to accommodate the demand SEN pupil places at Hob Moor Oaks Community Primary Academy.

Reason: To accommodate the demand for special school pupil places for those children with complex special educational needs.

33. Approve the budget of £1,100,000 to refurbish the science labs at Huntington Secondary School.

Reason: To resolve health and safety issues within the existing science labs that mean teachers are unable to deliver the full science curriculum. This will ensure these labs are future-proofed for existing pupil numbers prior to the increased pupil numbers expected from planned housing developments.

34. Approve the £600,000 budget to create outdoor learning areas at Danesgate Community Pupil Referral Unit.

Reason: To accommodate the increased demand for alternative teaching spaces for pupils with Social and Emotional Mental Health (“**SEMH**”).

35. Delegate approval of expenditure on individual schemes to the Corporate Director of Children’s Services and Education (or his delegated officers).

Reason: to ensure efficient spend and that decisions are made in a timely manner on individual schemes throughout the life of the capital programme.

36. Delegate authority to the Corporate Director of Children’s Services and Education (or his delegated officers), in consultation with the Director of Governance (or his delegated officers), to determine the provisions of any new works contracts necessary for the delivery of the Education Capital Programme, 2024/25, and to award and conclude each of these contracts following the appropriate competitive tendering processes.

Reason: This ensure compliance with LA’s Contract Procedure Rules and its obligations under Public Procurement Law, as well as enable the Education Capital Programme, 2024/25 to be delivered on time.

Background

37. This report provides an outline of the capital schemes proposed across the Local Authority’s maintained school estate, and one (1) school within the Ebor Academy Trust in 2024/25.
38. The budgets are based on estimates that at the time of writing this report the LA’s Property Services team still need to review.
39. Capital Maintenance Programme
40. The Education Capital Maintenance Programme 2024/25 is comprised of a number of schemes at LA maintained schools across the City. The Programme addresses the highest priority condition issues affecting the operational running of the schools, with the potential risk of school closure if not addressed.

41. During the initial stages of putting together the Capital Maintenance Programme a total of 24 potential schemes were identified with a high level budget estimate of £8,900,000.
42. A further prioritisation process, identifying only the schemes that would prevent schools from closing reduced the high level budget estimate to £4,700,000. This cost estimate for Capital Maintenance schemes exceeds the expected available budget of £3,000,000 by £1,700,000.
43. Following a further prioritisation process, the total number of capital maintenance schemes under the Programme will be reduced to meet the potential budget available of £3,000,000. It is hoped should any further funding be announced through the DfE Capital Allocations round or through available Section 106 that it can be incorporated into the Capital Maintenance budget.
44. Basic Need Programme
45. St Oswald's CE VC Primary
46. This scheme will increase the school from 1.5 FE to 2FE to accommodate the pupil place demand from the Germany Beck housing development. This proposal will provide additional classroom capacity, communal areas in school, and a multi-use games area ("**MUGA**").
47. St Oswald's CE VC Primary is a Private Finance Initiative ("**PFI**") school run by Sewell Facilities Management Limited ("**Sewell FM**"). Therefore the proposal will be developed and building works will be carried out by Sewell FM.
48. This additional places at St Oswald's CE VC Primary are required for September 2025.
49. Hob Moor Oaks Community Primary Academy
50. This scheme will address the increase in demand for SEN pupil places in the city for those with complex needs. This proposal will provide additional classroom capacity with internal remodelling of existing areas to maximise storage space for specialist equipment.
51. Hob Moor Oaks is a PFI school and also part of Ebor Academy Trust. Therefore the proposal will be developed in consultation with Sewell FM and Ebor Academy Trust. Procurement and delivery of the building project will be the responsibility of Ebor Academy Trust and works will be carried out by Sewell FM.

52. The additional places at Hob Moor Oaks are required for September 2024.
53. Huntington Secondary School
54. The Programme includes a scheme at Huntington Secondary School. This scheme, will refurbish four of eight science labs to address urgent electrical and gas issues and bring the science lab quality up to an acceptable teaching standard. The scheme will vastly improve energy efficiency due to bringing the electrics and gas provision in line with current building regulations.
55. Danesgate Community Pupil Referral Unit
56. The Danesgate Community Pupil Referral Unit scheme will create outdoor learning areas in the Walled Garden at the school. This will accommodate the increased demand for alternative, quiet teaching spaces for pupils with SEMH.

Consultation Analysis

57. The scope of the schemes on the Programme have been discussed with School Business Managers, Headteachers and Governing Bodies, where appropriate.
58. The scope of work for each of the schemes has been developed in conjunction with the LA's Property Services team.
59. Sewell FM will need to be consulted regarding the proposals at St Oswald's CE VC Primary and Hob Moor Oaks Community Primary Academy. Additional works at both schools will require variations of the existing PFI contracts.

Options Analysis and Evidential Basis

Option 1 – Delivery all of the proposed schemes

60. All of the schemes identified have urgent building issues affecting the condition of the buildings, teaching and pupil place demand.
61. Option 1 is to carry out:

- a. As many of the most urgent Capital Maintenance Schemes will be carried out as possible to meet the approved budget of three million Pounds (£3,000,000) or more should further funding be identified;
 - b. the expansion scheme at St Oswald's CE VC Primary for an estimated budget of one million, four hundred thousand Pounds (£1,400,000);
 - c. The expansion scheme at Hob Moor Oaks Community Primary Academy for an estimated budget of one million, one hundred thousand Pounds (£1,100,000);
 - d. The expansion scheme at Danesgate Pupil Referral Unit for an estimated budget of six hundred thousand Pounds (£600,000);
 - e. the science lab refurbishment at Huntingdon Secondary School for an estimated budget of one million, one hundred thousand Pounds (£1,100,000).
62. This means the estimated total budget for the Programme will be seven million, two hundred thousand Pounds (£7,200,000).
63. Some schemes will take more than a year to complete due to their complexity and timescales. Many maintenance schemes need to be phased, but if works can take place sequentially, year on year, then costs will be minimised.
64. the proposed Programme will continue to ensure all maintained school kitchens become energy efficient, meet Environmental Health standards and can operate as sustainably as possible to meet the needs of each school community's individual pupil population.
65. The LA will continue to ensure that all maintained schools provide suitable teaching accommodation that meets the needs of the curriculum, promotes good behaviour in the classroom and provides excellent learning environments.
66. By approving Option 1, the LA is offsetting the decline of its school estate through continuing its annual programme of essential

maintenance. It will ensure Best Value is met and that temporary patch repairs that lead to greater longer-term costs are minimised.

67. By approving Option 1, the work carried out will contribute towards the LA's target of an annual thirteen percent (13%) climate emission reduction target set out in LA's Climate Change Action Plan.
68. By approving Option 1, the LA will meet the requirements set out in the Inclusion Review and will ensure there are enough pupil places available in the areas identified. The LA's statutory sufficiency duty under the Education Act 1996 will also be met.

Option 2 – Deliver the Capital Maintenance schemes, only

69. Carry out all capital maintenance schemes with an estimated budget of three million Pounds (£3,000,000).
70. This will ensure that the LA is addressing as many of the current most urgent capital maintenance issues within the Maintained School Buildings Estate. This will reduce the budget request by four million, two hundred thousand Pounds (£4,200,000).
71. The impact on not addressing place planning and SEN places are as follows:

St Oswald's CE VC Primary

- Insufficient places within the pupil place planning area.
- A likely increase in the number of appeals.
- Increases in the costs of appeals to schools.
- Increases to officers' time and capacity to deal with the increased number of appeals.
- Create wider sufficiency implications across the city.
- Would increase school transport costs.
- Would create in-year sufficiency pressures.
- Would likely impact on the LA's reputation due to children not able to be allocated to their catchment school or a school within reasonable travelling distance of their home.
- A high number of military families send their children to St Oswald's CE VC Primary and whilst not part of a catchment, the school is a military family preference.

Hob Moor Oaks Community Primary Academy

- A likely increase in the number of appeals.
- Would potentially increase the number of tribunals.
- Increases the costs of appeals to schools.
- Would increase officers time and capacity to deal with the increased number of appeals.
- Create wider sufficiency implications across the city.
- Would increase school transport costs.
- Would increase the costs to send SEN children out of city.
- Would increase the number of SEN children in maintained and academy schools where their specific needs might not be met.
- Significant impact on officer, manager and senior manager time and capacity.

Danesgate Community Pupil Referral

- Create wider sufficiency implications across the city.
- Would increase school transport costs.
- Would increase the costs to send SEN children out of city.
- Would increase the number of SEN children in maintained and academy schools where their specific needs might not be met.
- Could impact upon other LA work areas, such as Safeguarding and Social Work.
- Significant impact on officer, manager and senior manager time and capacity.

Option 3 – Deliver the school expansion and science lab schemes only (St Oswald’s CE VC Primary, Hob Moor Oaks Community Primary Academy, Danesgate Community Pupil Referral, and Huntington Secondary School)

72. Carry out all capital expansion schemes with a budget of four million two hundred thousand Pounds (£4,200,000), funded by Basic Need.
73. Explore the option to add temporary classroom units to the Hob Moor Oaks site.
74. This will ensure that the LA is addressing the issues relating to pupil place demand existing in mainstream schools, in SEN at primary school level and a mix of primary and secondary at Danesgate Community Pupil Referral. This will reduce the budget request by three million, Pounds (£3,000,000).

However, not addressing the capital maintenance issues at maintained schools will:

- Increase the chances that a school/s will have to be closed due to a significant condition issue/s not having been addressed.
- Delays in resolving condition issues which then make the issues worse and leads to an increase in costs.
- The LA will not be able to keep up with the rate of decline in its School Building Estate.
- Reputational cost to the LA and parents viewing schools where decline is visible.
- An increase in the health and safety issues to staff and pupils.
- Classrooms/rooms in schools having to be closed off due to condition issues not having been addressed.
- **Climate change** – such as increasing rainfall accelerating the rate of building decline.
- **Energy efficiency** – a lack of investment in updated building materials (e.g., windows and roof insulation impacting upon the costs to e.g. heat a school in colder months).
- **Energy efficiency** – use of old, end of life equipment (e.g., school kitchens leading to additional energy costs and ability to produce school meals effectively).

Option 4 – Deliver all of the schemes excluding Huntington Secondary School

75. Carry out all schemes excluding Huntington Secondary School science labs refurbishment with a budget of four million one hundred thousand Pounds (£4,100,000).
76. This will ensure that the LA is addressing the issues relating to pupil place demand existing in mainstream and in SEND at primary school level.
77. It will ensure that the LA is addressing the majority of the most urgent capital maintenance issues currently in the Maintained School Building Estate.
78. This will not address the issues related to the poor condition of the existing science labs that originally received approval in 2020.

79. Not refurbishing the proposed science labs at Huntington Secondary School will leave this popular school with poor, malfunctioning science facilities. This could lead to an increase in negative learning experiences in science that could impact upon pupils' GCSE and A level choices and the school's reputation.

Option 5 – Do nothing

This could have an impact on:

- School closures.
- Obsolete equipment.
- Safe operation of schools.
- **Costs** – transport, time, energy inefficiency, not meeting climate change targets, greater building condition issues, increases in on-going maintenance and school operational costs.
- Not being able to meet the commitments set out in the SEND review.
- Officer and manager and senior manager time.
- A likely increase in appeals.
- A likely increase in tribunals.
- A possible impact on schools' and the LA's reputation.
- Failure of the LA to deliver its statutory sufficiency duties under the Education Act 1996.

Organisational Impact and Implications

80. Financial

All of the schemes detailed in this report will be delivered within the Childrens Services and Education Capital Programme.

The four schemes proposed to be funded from Basic Need Capital Grant total £4.2m. Before the allocation to these schemes, the unallocated Basic Need grant is approximately £8.4m. Therefore, approving all of these four schemes at the budgeted cost will leave £4.2m to allocate to future schemes. At this point, no future Basic Need funding is expected to be allocated for at least 2023/24 and 2024/25.

The maintenance schemes will be funded from a combination of Condition and Maintenance Grant, a small amount of remaining

council capital budget allocated via earlier CRAM rounds, supplemented by the addition of relevant Section 106 funding. At this point the best estimate of available funding for the 2024/25 maintenance programme is an amount of approximately £3m. This figure is based on the estimated spend on the 2023/24 programme, a prudent estimate of the 2024/25 grant funding which will not be confirmed until April 2024, and some already allocated Section 106 funding. The programme will be developed and then commissioned on the basis of remaining within the overall final funding available. If further 106 funding is available this may increase the total budget available.

Updates on the progress of the budget and the eventual programme will be reported to Executive within the authority's quarterly capital monitoring process

81. **Human Resources (HR)**

There are no HR Implications

82. **Legal**

Statutory Duties

a) Best Value Duty

As a Best Value Authority, the LA is under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

Under the Duty of Best Value, therefore, local authorities should consider overall value, including economic, environmental and social value, when reviewing service provision.

As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves.

To achieve the right balance – and before deciding how to fulfil their Best Value Duty – authorities are under a Duty to Consult representatives of a wide range of local persons; this is not optional.

Authorities must consult representatives of council taxpayers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services. In the interests of economy and efficiency, it is not necessary for authorities to undertake lifestyle or diversity questionnaires of suppliers or residents.

Authorities should be responsive to the benefits and needs of voluntary and community sector organisations of all sizes (honouring the commitments set out in Local Compacts) and small businesses.

b) Sufficiency Duties

Local Authorities have duties under Section 14 of the Education Act 1996 to ensure there is a sufficiency of school places available to meet the needs of all children and young people living within the authority area, or for whom they have responsibilities.

This includes having regard to the need to secure provision for children and young people with SEND. These duties are further strengthened under the Equality Act 2010 and the Children and Families Act 2014.

Procurement and Contract Law Implications

With regards to Options 1 to 4 set out in this report above, all works to be delivered under this Programme must be commissioned under a compliant, open, transparent, and fair procedure in accordance with the LA's Contract Procedure Rules and the Public Contract Regulations 2015. Further advice regarding the procurement process, selection and award criteria, timescales and documentation must be sought from Commercial Procurement (see below).

All works contracts must be produced with advice and support from Legal Services, and where necessary Property Services and (where necessary) the LA's duly appointed designers, architects, surveyors and/or project management and/or cost management specialists.

Access to any external professional services required must be arranged via Commercial Procurement.

Any variations to existing PFI contracts require the involvement of Legal Services to ensure that the correct contractual procedures are adhered to under the relevant contract(s), and to ensure compliance with the LA's Contract Procedure Rules and Regulation 72 of the Public Contract Regulations 2015.

83. Procurement

Options 1 to 4 set out in this report above, all works to be delivered under this programme must be procured via a compliant, open, transparent, and fair process in accordance with the council's Contract Procedure Rules and where applicable, the Public Contract Regulations 2015. Further advice regarding the procurement process, selection and award criteria, timescales and documentation must be sought from the Commercial Procurement team.

84. Health and Wellbeing

There are no direct health or health inequalities implications.

85. Environment and Climate action

Council maintained schools are responsible for 18% of our corporate emissions. The measures identified in this report will directly reduce emissions associated with heating and electricity usage while also facilitating further emission reduction measures in the future.

It is recommended that carbon impact is considered as outcome in the detailed feasibility stage and that a whole-building approach is taken when completing works to ensure that measures are complimenting other work and technologies on site.

When specifying works, consideration should be given to future potential for technologies such as roof-mounted solar PV and air-source heat-pumps to ensure these options remain viable.

86. Affordability

As identified in the Equalities Impact Assessment some schools in the programme have a demographic that has a high proportion of disadvantaged pupils with a wide range of needs including SEND, pastoral (including the health and wellbeing of children), speech and language, social and emotional mental health. The works to be carried out will contribute towards meeting these needs.

87. Equalities and Human Rights

The LA recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

Please refer to the Equalities Impact Assessment (“**EIA**”) at **Annex A** of this report.

88. Data Protection and Privacy

The LA recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

Please refer to the Equalities Impact Assessment (“**EIA**”) at **Annex A** of this report.

89. Communications,

With the exception of possible reactive media enquiries, which will be managed by newsdesk, there are no communications service implications of this report.

90. Economy

There are no Economy Implications.

Risks and Mitigations

91. Budget estimates and feasibility studies still need to be carried out.
92. Sewell FM still need to be consulted regarding the expansion proposal at St Oswald's CE VC Primary.
93. Hob Moor Oaks is part of Ebor Academy Trust and is a PFI school under Sewell FM. Both the Trust and Sewell FM are yet to be consulted on the expansion proposal.
94. All of the above will be consulted.
95. Timely decision making is required throughout the programme delivery process. This will ensure that quality, best value tenders are received and lead in times and delivery can be achieved.
96. Should no further funding be identified to carry out more of the most urgent Capital Maintenance issues then there is a risk:
 - Of an increase in the chances that a school/s will have to be closed due to a significant condition issue/s not having been addressed.
 - That delays in resolving condition issues will then make the issues worse and lead to an increase in costs.
 - That the LA will not be able to keep up with the rate of decline in its School Building Estate.
 - Of reputational cost to the LA and parents viewing schools where decline is visible.
 - Of an increase in the health and safety issues to staff and pupils.
 - That classrooms/rooms in schools having to be closed off due to condition issues not having been addressed.

Wards Impacted

97. All Wards are impacted.

Contact details

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Background papers

None

Annexes

- Annex A: Equalities Impact Assessment (EIA)