

2.4 Approves the PDD for the Healthy Pupils Fund Programme (**Appendix 2**) and the allocation of £751k for the delivery of this programme (**Appendix 1**).

- 2.5 Authorises the City Solicitor to negotiate, execute, seal and complete all necessary documents to give effect to the above recommendations.

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### **3. Consultation**

#### **3.1 Internal**

The proposals contained within this report have been shared with Ward Councillors and Executive Members and they support the proposals going forward for an executive decision.

Officers from Legal Services, City Finance and Procurement have been involved in the preparation of this report.

#### **3.2 External**

The requirements for sufficient early years and school places have been previously shared with Head Teacher representatives from Primary, Secondary and Special School Forums, representatives from the early years sector, Professional Associations and Trade Unions. A series of workshops sharing the Education Sufficiency Requirements were run during November / December 2016 to which all schools, Accountable Bodies and Elected Members were invited. A targeted approach has been adopted to engage Multi-Academy Trusts or discuss sufficiency requirements with individual schools. Schools are reminded annually of their duty to co-ordinate their admission numbers with the Council and are required to notify the Council of any changes to their admission arrangements. Ongoing consultation will continue to take place as required with key external stakeholders in all projects within the Schools Capital Programme.

### **4. Compliance Issues**

#### **4.1 Are the recommended decisions consistent with the Council's Policies, Plans and Strategies?**

The Schools' Condition Programme 2018-19 is necessary for the Council to meet its statutory duty to provide sufficient early years, primary, secondary and special school places in safe and compliant school buildings and early years' settings. City-wide, the School Condition programmes will support the Council Priorities:

- A great city to grow up in and make the best use of our unique demography
- Create a safe and secure city for our children to learn and grow in', by ensuring the provision of school places in safe, suitable school buildings,
- Enable children to benefit from a great education offer.
- Impact on developing skills and employment opportunities

- Ensure alignment with public health and community cohesion.

#### Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions for all contractors selected to deliver City-wide Basic Need and School Condition projects (including school led programmes). Prior to contract award an action plan proportionate to the contract sum will be evaluated and agreed with them on how the Charter principles will be implemented and monitored during the contract period.

#### 4.2 Financial Implications

4.2.1 The programme is primarily funded from the Department for Education's School SCA, HPCF and BN grant allocations and other resources as indicated in **Appendix 1**.

4.2.2 In the event that capital resource availability for these purposes is changed, then the programme will be amended to reflect such changes through the existing quarterly review process with detailed approval to be sought through the appropriate governance procedures.

#### 4.2.3 Update on Basic Need Stage 5

**Appendix 1** provides an update on the current expenditure forecast for Stage 5 against the anticipated requirements and proposed funding envelopes that were outlined in the Cabinet Report approved in April 2017.

#### Proposals for School Condition Stage 6

4.2.4 The key investment priorities for School Condition Stage 6 are set out in the School Condition PDD (**Appendix 2**). They seek to address the state of repair of school buildings and reduce the risk of school closure resulting from asset failure.

4.2.5 The Stage 6 School Condition programme will be £10,310k and the options and recommended approach are set out in the School Condition PDD (**Appendix 2**). The programme is split into 5 work streams with each addressing key priority condition items across all Local Authority maintained schools. The available SCA grant is split between the 5 work streams to address the highest priority condition need (**Appendix 2**).

4.2.6 Individual schools are not identified in the PDD for the Stage 6 School Condition programme as they are in various stages of identification and development. Individual schools will be identified at FBC / Chief Officer Delegation stage.

4.2.7 Structural investigations have identified a number of school buildings with major structural issues that are beyond economic repair. In order to mitigate any potential health and safety risks these buildings need to be demolished and rebuilt if required. Any immediate health and safety issues will be funded through the Emergency Unscheduled Repairs funding within the SCA (see **Appendix 2**) whilst a longer term plan is developed to replace the blocks or the whole school as appropriate. £2,760K of SCA has been identified to undertake reparation works to address immediate concerns. In addition 10% of the £5,250k from work stream 1 is held back as a contingency and applied upon relevant approvals in place to allocate such contingencies.

4.2.8 Schools that demonstrate experience and capacity in delivering their own capital schemes and agree to part fund the works will be able to submit a Dual Funding application (**Appendix 3**). The available funding will be allocated on first come first serve basis.

- 4.2.9 Consequential revenue costs and any ongoing day to day repair and maintenance of the asset will be met by schools via the formulaic Dedicated Schools Grant.

#### 4.2.10 Priority School Building Programme

The Priority School Building Programme (PSBP) has previously been delivered centrally by the Education & Skills Funding Agency (ESFA). However, in phase 2 (PSBP2) one of the schools - Kings Norton Boys School, is being delivered locally by the Council. The capital cost will be funded directly by central Government using DfE's Capital Grant. The amount of funding and when this will be allocated has not yet been advised by the ESFA. Consequential revenue costs and day to day repair and maintenance of the assets are the responsibility of the school and will be funded from their delegated school budget. As with centrally delivered projects, the Local Authority, as landowner, is expected to pick up costs with regard to ground contamination and for works outside the site boundary e.g. Section 278 highway works, which are unknown and unquantified at this stage. Any such costs will be funded from the School Condition Allocation of **£5,250k**.

- 4.2.11 The other Birmingham schools and Academies included in PSBP2 will be delivered by the ESFA and handed back to BCC upon completion. Whilst PSBP2 does include funding for certain fixed furniture, fittings and equipment and for ICT network infrastructure, it does not include any funding for loose furniture and equipment (including ICT equipment). As such the school will be expected to re-use as much of its existing furniture and equipment as it considers necessary in the new building and to make up any deficit for itself.

- 4.2.12 The Local Authority, as landowner, is expected to meet the costs with regard to ground contamination and for works outside the site boundary e.g. Section 278 highway works, which are unknown and un-quantified at this stage. Any such costs will have to be funded from the School Condition Allocation of £5,250K and will be confirmed at FBC / Chief Officer delegation stage. The Council also has the opportunity to provide additional funding to create additional places should there be a need in the area.

#### 4.2.13 Healthy Pupils Fund Programme

£100m of revenue generated from the Soft Drinks Industry Levy is being redistributed through the Healthy Pupils Capital Fund (HPCF) via the Education & Skills Funding Agency (ESFA). This fund is for one year only and is intended to improve children's and young people's physical and mental health by improving and increasing availability to facilities for physical activity, healthy eating, mental health and wellbeing and medical conditions. The HPCF is being allocated to the Local Authority through existing mechanisms for schools' condition funding. We have received a direct allocation of £751k for Community, Foundation and Voluntary Controlled schools. We will be allocating this funding directly to eligible schools in the form of a grant to develop projects in line with the grant criteria.

#### 4.3 Legal Implications

This report exercises legal powers which are contained within Section 14 of the Education Act 1996, section 22 of the School Standards and Framework Act 1998, by which the LA has a responsibility to provide places and maintain schools, this includes expenses relating to premises.

#### 4.4 Public Sector Equality Duty

A Full Equality Analysis (EA0001202) was carried out in May 2016 for the Schools' Capital Programme 2018–2019. The outcomes from the consultation demonstrate that proposed capital developments support positive outcomes for children, young people, their families and carers. No negative impact on people with Protected Characteristics was identified. It was concluded that sufficiency of educational places and opportunities for all children and young people contributes to providing positive life chances, and supports a positive approach to Safeguarding in Birmingham actively reducing the number of children and young people out of school helps to mitigate risk to their safety and wellbeing.

### 5. **Relevant background / chronology of key events:**

5.1 While the Council's maintained schools portfolio has been reduced as a result of the Academies programme, the Council remains the single largest Accountable Body and Landlord for education in Birmingham and receives an annual grant funding to fulfil its statutory duties in relation to the schools' estate. As at December 2017, the Council maintained 197 schools, 174 of which are owned by the Council, 5 are Voluntary Controlled and 18 are Foundation Schools. There are also 64 Voluntary Aided schools that receive LCVAP capital funding from DfE, which is administered by the Education Infrastructure (EdI) team. At the time of writing this report, the City was leasing a further 123 school assets to Academies at a peppercorn rent.

5.2 As proprietor, the Council must fulfil responsibilities in relation to the health and safety and statutory compliance of the council's maintained schools portfolio. The School Condition Programme, which sits within the Schools Capital Programme 2018-19, addresses these issues through annual planned maintenance projects and reactive emergency repairs to LA maintained schools (with the exception of Private Finance Initiative (PFI) operated schools). The SCA grant that the Council receives is not sufficient to meet the substantial backlog maintenance requirements across our maintained schools estate. Therefore, prioritisation of maintenance projects, based upon the risk of a maintenance issue resulting in school closure, is therefore necessary, along with leveraging of joint funding with schools wherever possible.

#### 5.3 Future Governance

Projects will be subject to approval through the Council's Gateway process, utilising a programmed approach where appropriate. The works will be carried out using existing and approved contractor framework partners who will be project managed by Acivico, with the exception of school managed Dual Funding projects. Project implementation will be fully compliant with planning approval and building regulations as required. EdI Officers will work with Acivico to ensure that schemes are programmed with minimum disruption to schools. Both the EdI team and Acivico have extensive experience of delivering capital projects in schools.

5.4 Key risks associated with the Schools Capital Programme 2018-19 are detailed in the PDD for School Condition and the Healthy Pupil Fund (**Appendix 2**).

5.5 An annual report will be presented to Cabinet, updating Cabinet on progress, delivery, outcomes and to seek approval for future stages.

## **6. Evaluation of alternative option(s):**

- 6.1 The option of relaxing the Council's commitment to providing school places within recommended travel distances would reduce the risk of capital funding shortfalls but would increase the need for young people to travel further to attend school with the subsequent, documented risk of non-attendance and underachievement .
- 6.2 The option of reducing the maintenance programme to emergency repairs only would lead to increased risk of school closure from asset failure and would reduce the value for money that can be secured through effective planned maintenance.

## **7. Reasons for Decision(s):**

- 7.1 To support delivery of the Schools Capital Strategy as an integrated strand within the Council's development and regeneration strategy, to maximise opportunities and prioritise resources to meet local needs, in order to improve outcomes for children, young people, their families and the wider community.
- 7.2 To fulfil the Council's statutory duty to provide sufficient, local, safe school places for all Birmingham young people.

### **Signatures:**

Cllr Ian Ward .....  
The Leader

Date: .....

Cllr Jayne Francis .....  
Cabinet Member for Education, Skills and Culture

Date: .....

Cllr Brett O'Reilly.....  
Cabinet Member for Finance and Resources

Date: .....

Anne Ainsworth .....  
Acting Corporate Director, Children & Young People

Date: .....

**Report Version     9     Dated     22<sup>nd</sup> August 2018**

### **List of Background Documents used to compile this report:**

1. Schools Capital Programme 2017 - 2018 Cabinet Report April 2017 Education Sufficiency Requirements, December 2016 Birmingham Development Plan Council's Financial Plan 2017+

### **List of Appendices accompanying this Report:**

1. Schools Capital Programme 2018-19 Requirements and Financial Model
2. Project Definition Document, Stage 6 School Condition Programme
3. Dual Funding allocation criteria