

Public Report

Birmingham City Council

Report to Cabinet

13th November 2018



Subject: Full Business Case: Safety Works to Parks Pools and Flood Alleviation Works 3 Year Programme

Report of: Acting Corporate Director - Place

Relevant Cabinet Member: Councillor Sharon Thompson, Cabinet Member for Homes and Neighbourhoods

Relevant O &S Chair(s): Councillor Sir Albert Bore, Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 004511/2018		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

1.1 The City Council has a statutory obligation to safely manage the 11 reservoirs (category 1) and the 37 pools (category 2) which are covered by the Reservoirs Act 1975 and the Flood Water Management Act 2010, together with other water courses managed by Parks and Nature Conservation. The pools are inspected by the Environment Agency (EA), who put forward recommendations of work to be carried out. This is time limited and non-compliance can result in an enforcement notice being served.

- 1.2 The programme of work at a total capital cost of £2.483m, identified in Appendix 1A of the Full Business Case aims to reduce flood risk and mitigate/eliminate any risk associated with the loss of land, property and life. The work includes desalting, improvements to spillways, replacing penstocks to control the water levels and works to inlets and outlets as well as structural improvements and will be phased over a 3 year period.

2 Recommendations

- 2.1 Cabinet approves the Full Business Case (Appendix 1) outlining the Safety Works to Parks Pools and Flood Alleviation Works Programme at an estimated cost of £2.483m phased over a 3 year period.
- 2.2 Cabinet approves prudential borrowing of up to £2.483m to fund these works, as set out in paragraph 7.3.1.
- 2.3 Cabinet notes the summary of works outlined in Appendix 1A of the Full Business Case.
- 2.4 Cabinet authorises the Acting Corporate Director Place to place orders as per appendix 1 for the programme of works not to exceed £2.483m with approved term contractors.
- 2.5 Cabinet notes that an annual contribution of £0.250m from Parks and Nature Conservation revenue budget will be set aside as a reserve to fund future programmes of work as of 2021/2022+ with future programmes managed to be met from within this resource.
- 2.6 Cabinet authorises the City Solicitor to negotiate, execute, seal and complete all necessary documents to give effect to the above recommendations.

3 Background

- 3.1 A capital budget totalling £2.75m and associated programme of works was approved at Cabinet on 8th March 2010 to address the City's statutory obligations in the safe management of its reservoirs and pools through a programme of capital works and improvements. This programme of works has now been completed and all funding expended. A new programme of works has been drawn up based on the Environment Agency's recommendations and health and safety issues which totals £2.483m over a 3 year period.
- 3.2 The Reservoirs Act 1975 seeks to minimise the risk of a reservoir failing. The Act is enforced by the Environment Agency. Each reservoir is inspected every 10 years by an independent engineer who recommends a programme of works. These 10 year inspections are supported by twice yearly inspections by a supervising engineer who also reports on the condition with recommendations. The work identified by the Environment Agency is time limited with any associated landscaping to be established prior to the deadline date. If the work

recommended is not carried out the Environment Agency may issue an enforcement notice or pursue court proceedings.

- 3.3 Flood Water Management Act 2010 - The Flood and Water Management Act places a duty on all flood risk management authorities to co-operate with each other. The act also provides lead local flood authorities and the Environment Agency with a power to request information required in connection with their flood risk management functions. The Act requires flood risk management to aim to contribute towards the achievement of sustainable development when exercising their flood erosion risk management functions. Serious flooding can happen at any time. Climate projections suggest that extreme weather will happen more frequently in the future. This act aims to reduce the flood risk associated with extreme weather. This Act requires all pools above a minimum volume capacity of 10,000 cubic metres to be included on the Environment Agency's register. This change impacts on a further 26 pools (identified as category 2 pools) within the city rather than just the 11 pools identified as reservoirs (category 1),
- 3.4 Flood Risk Regulations 2009 - This places duties on the EA and local authorities to prepare flood risk assessments, flood risk maps and flood risk management plans to assist in establishing a framework for assessing and managing flood risk.
- 3.5 The Council has responsibility for 11 reservoirs (category 1), 37(inclusive of 26 category 2 pools) pools and numerous water courses throughout the city which it has responsibility for. The programme of works attached in appendix 1 outlines the works that have been identified for this new programme. Generally the works required under the Acts for the category 1 and 2 reservoirs and pools include improvements to the spillways and penstocks. In addition to these works further works are required from a safety perspective which includes de-silting, infrastructure works and works to inlets and outlets to mitigate the risk of flooding which could culminate in the loss of land, property and life. The identified works will ensure that the reservoirs can accommodate excess flow during times of inclement weather without risk of the dams bursting and the embankments collapsing.
- 3.6 The programme of works (Appendix 1) has been developed in line with the Environment Agency's recommendations to ensure the continued future safety of the reservoirs and pools that sit within the stated legislation together with flood alleviation works in areas of high risk. The Drainage and Local Engineering Team within Highways and Infrastructure have worked with the District Parks Managers to identify health and safety risks associated with the pools and water courses that could impact on life and property and the works required to mitigate these risks.
- 3.7 The programme of works is phased over 3 years in line with the inspections carried out by the Environment Agency with the first phase of works commencing in 2018/19.

4 Options considered and Recommended Proposal

4.1 The recommended proposal is for the council to carry out the programme of works identified by the EA and Highways Infrastructure, addressing its statutory obligations and ensuring that its pools and reservoirs are maintained and upgraded to meet health and safety requirements and protect land and property from flooding. Other options have been considered.

4.2 Do nothing – the condition of the pools and water courses will continue to deteriorate and the works originally identified by the supervising EA engineer will of, in some cases increased. Doing nothing could be deemed a criminal offence with the Environment Agency taking enforcement action against the Council.

4.3 Decommission all structures associated with the pools and reservoirs. This would be extremely complex, expensive, and impractical and contravene our statutory obligations.

- Water bodies are critical in storing and channelling rainwater and provide natural flood alleviation features playing a major role for the management of flood risk.
- Many of the pools are naturally fed by springs.
- Many of the reservoirs are directly linked to our rural and industrial heritage and in some cases are covered by the status of the park e.g. Sutton Park has been designated as a National Nature Reserve, a Scheduled Ancient Monument and a Site of Special Scientific Interest.
- Under section 40 of the Natural Environment and Rural Communities Act 2006 public authorities must, in exercising their functions, have regard to the purpose of conserving biodiversity.
- Aquatic habitats are amongst some of the most diverse we have in Birmingham and are home to a number of endangered and scarce species e.g. Great Crested Newts and White Clawed Crayfish.

5 Consultation

5.1 Internal: The Deputy Leader and Cabinet Member for Transport and Environment have been consulted on this proposal. The Constituency Parks Managers have all been consulted on the individual proposals. The consultation will be ongoing with the Executive Members for the affected Constituencies together with the ward members as individual projects are progressed and delivered. Initially the proposed programme of works has been shared with ward members. Finance, Legal and Procurement officers have been involved in the preparation of this report.

- 5.2 External: Highways Drainage and Resilience Team will keep the Environment Agency informed of progress on individual projects as they are developed and delivered as part of the phased programme. The Constituency Parks Managers will engage with the public to ensure they are kept informed of the proposals as they are progressed.

6 Risk Management

- 6.1 A risk register is appended to the Full Business Case Appendix 1.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 The proposal contributes towards: Birmingham City Council Plan 2018-2022, specifically supporting the strategic outcome 'Birmingham is a great city to live in' by creating a healthy environment and ensuring public spaces are safe for its citizens. The proposal will have a positive impact on the sustainable environment, protecting land and property.

7.2 Legal Implications

- 7.2.1 The Council is exercising functions under the Reservoirs Act 1975, Flood Water Management Act 2010 and Flood Risk Regulations 2009. The consequences of not carrying out the works could lead to court proceedings for BCC brought about by the Environment Agency and also land and property owners in the event of damage caused by flood waters.

7.3 Financial Implications

- 7.3.1 The cost of the proposed programme of works is estimated at £2.483m over 3 years. This is proposed to be funded from prudential borrowing, funded through treasury management budgets as supported by the Capital Board on the 1st August 2018. The funding is to be phased; 2018/19 £0.416m, 2019/20 £1.291m and 2020/21 £0.776m.
- 7.3.2 There is a balance of £0.132m in the revenue reserve made up from contributions from revenue provision of £0.066m p.a in the service budget to meet the costs of routine annual cyclical maintenance. A condition of securing the funding from capital resources is that an additional revenue contribution from the Parks and Nature Conservation revenue budget of £0.250m per annum is made to the reserve so that sufficient funds are available at the end of this 3 year programme 2018/19 – 2020/21 to fund future works. The reserve contributions will be delivered through a reprioritisation of activity within the Parks and Nature Conservation service, including consideration of the frequency of grass cutting and types of planting undertaken. This will then be available to fund the next programme of works for 2021/2022+ which will be required to be delivered within the resources set aside in this way.

7.4 Procurement Implications

7.4.1 The works will be procured via the Highways Miscellaneous Drainage Works Framework agreement (P331). The Framework includes priced specific items of work operating on a taxi rank basis, allowing for contractors to be directly allocated. Tenders were scored on a weighted assessment of Quality 30%; Price 60%; Social Value 10%. The contract began on the 4th February 2017 and runs for a period of 20 months with the option to extend a further 12 months, giving a total of 32 months.

7.5 Human Resources Implications

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 A copy of the Equality Act 2010 – Public Sector Duty statement together with the initial equality assessment screening are appended – Appendix 2 (ref EA002485). A full assessment is not required.

8 Background Documents

8.1 Cabinet Committee Property Report: Project Definition Document Safety Works to Parks Pools Ph1 14th October 2010.

8.2 Appendix 1. Full Business Case

8.3 Appendix 2. Public Sector Equality Duty Statement and Equality Analysis