

Birmingham City Council

Report to Cabinet/

26 April 2022



Subject: Safety Works to Parks Pools 5 Year Programme of Works 2022/23 to 2026/27 – Full Business Case

Report of: Managing Director City Operations, Robert James

Relevant Cabinet Member: Councillor Tristan Chatfield, Cabinet Member Finance and Resources

Councillor O'Shea, Cabinet Member Street Scene and Parks

Relevant O &S Chair(s): Councillor Mohammed Aikhlaq, Resources
Councillor Kate Booth, Homes and Neighbourhoods

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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:		
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 To present a programme of works (Appendix 1) in the sum of £2.9m funded from Corporate Prudential Borrowing and a Full Business Case (FBC) (Appendix 2) to undertake statutory works to Category 1 pools, health and safety works to

Category 2 pools and brook course flood alleviation works as identified by the Environment Agency and the City's Flood Risk Management and Drainage Team who act as the City Council's managing agent ensuring the City meets its legislative obligations as outlined in the Reservoirs Act 1975 and the Flood Water Management Act 2010. This is mandatory and therefore the Council has a duty to carry out the identified works.

- 1.2 Assurance that the Council will be addressing its statutory obligations and ensuring that its pools and reservoirs are maintained and upgraded to meet health and safety requirements which is supported by a programme of works to be progressed over the next 5 year period.

2 Recommendations

That Cabinet:

- 2.1 Approves the FBC in Appendix 2 for the Safety Works to Parks Pools 5 year Programme 2022/23 – 2026/27 at an estimated total capital cost of £2.9m inclusive of works and fees.
- 2.2 Approves the procurement strategy for the works using the Council's Miscellaneous Drainage Works Framework Agreement.
- 2.3 Authorises the Assistant Director, Highways and Infrastructure, in consultation with the Cabinet Member for Finance and Resources to place orders (as per Appendix 1) not to exceed the sum of £2.9m in total for the works.
- 2.4 Authorises the Acting City Solicitor and Monitoring Officer to negotiate, execute and complete all necessary documents to give effect to the above recommendations.

3 Background

- 3.1 Birmingham Parks, within the Street Scene division of the City Operations directorate, holds responsibility for managing the reservoirs and pools. Birmingham has a total of 48 reservoirs and pools located around the City. Eleven of these pools are classified as reservoirs (Category 1) and are therefore governed by the Reservoirs Act 1975 (RA75); this includes all reservoirs with a capacity of over 25,000 cubic metres or more that could escape in the event of a dam failure and which must be registered with the Environment Agency. The remaining 37 (Category 2) have a capacity of between 10,000 and 25,000 cubic metres and are governed by the Flood and Waste Management Act 2010. Both categories of reservoirs and pools must be monitored and maintained to a high standard. Failure to do this would mean their physical condition would deteriorate and could pose a high risk to loss of land, property and life; Category 1 reservoirs must be managed in line with strict RA75 inspection guidelines.
- 3.2 The schedule attached in Appendix 1 outlines the priority pools for the next 5 year programme 2022/23-2026/27. 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. The programme has been collated from priorities identified by the Environment Agency and officers from the Parks Service and Flood Risk Management and Drainage Team.

- 3.3 **Reservoirs Act 1975** – the local authority has a statutory obligation to carry out works under our duty of care to the public. The Act is a public safety statute, enforced by the Environment Agency (EA), that seeks to minimise the risk of a reservoir failing. Each reservoir is inspected every 10 years by an independent engineer commissioned by the EA, who recommends a programme of works. The inspections are supported by twice yearly inspections by a supervising engineer who also reports on the condition with recommendations. The work identified by the EA is time limited with any associated landscaping to be established prior to the deadline date. If the work recommended is not carried out the EA will issue an enforcement notice followed by court proceedings.
- 3.4 **Flood Water Management Act 2010** - the 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 contribute towards the achievement of sustainable development when exercising their flood erosion risk management functions. 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),

4 Options considered and Recommended Proposal

- 4.1 Do nothing – this is not an option as the local authority has a statutory obligation to carry out the works outlined in this proposal and a duty of care to the public.
- 4.2 Recommended proposal – to progress the 5 year programme of works identified which will address safety issues and flood risk issues and ensure the Council meets its statutory obligations.

5 Consultation

- 5.1 The Leader of the Council and relevant Ward Members have been consulted on this proposal and support it going forward to the next stage of development.
- 5.2 Consultation has been carried out with Environment Agency who have advised on the programme of works to be carried out and will advise on any future works as required.
- 5.3 Friends groups elected members and other organisations e.g. Historic England will be further consulted on specific sites prior to work commencing. The consultation will be led by Parks Managers and Rangers who have detailed local knowledge. Press releases may be provided to consult in larger catchment areas. Consultation will involve contacting and inviting Councillors, local interested groups, residents, businesses, and partnership organisations to organised pre-contract site meetings to outline proposed works and their impacts. Details will be provided for any temporary works required for the works i.e. temporary fencing, temporary footpath closures. Details will include duration of contract and any environmental impact works i.e. flow control measures, diverting flows, dropping water levels, clearing vegetation for access etc. Scheme sign boards /information boards will be provided if required prior and during the works.

6 Risk Management

- 6.1 A risk register is appended to the Outline Business Case Appendix 2.
- 6.2 The main risk to the project at this stage is whether the budget will be sufficient to address all the priorities identified. If this is the case an informed decision will be made to what works can be progressed within the constraints of the budget. Works of a lesser priority will be slipped into future proposed programmes of work.
- 6.3 Future extreme weather events could impact on the scope of the works proposed in the 5 year programme. A review of the programme would be undertaken to reschedule individual schemes if required.

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 supports the Birmingham City Council Plan 2018-2022 (as updated in 2019) by contributing to the Council's Key Priorities, specifically; Outcome 4 Birmingham is a great, clean and green city to live in and Outcome 6 Birmingham is a city that takes a leading role in tackling climate change; The proposal will have a positive impact on the sustainable environment, protecting land and property by creating a healthy environment and ensuring public spaces are safe for its citizens whilst protecting the biodiversity and natural landscape.

7.1.2 The proposal supports the Birmingham Development Plan 2031 (adopted January 2017) by managing flood risk and protecting the natural environment and promoting biodiversity and ecosystems.

7.1.3 The proposal supports the Route to Zero. The programme of works outlined in this proposal addresses the impact of flooding due to climate change by ensuring the City's reservoirs and brook courses have capacity to deal with extreme weather events.

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR)

The Individual projects are below the threshold for works for the BBC4SR. However, the payment of the Real Living Wage will apply and form part of the conditions of the contracts.

7.2 Legal Implications

7.21 The Council is exercising functions under the Reservoirs Act 1975 and Flood Water Management Act 2010.

7.22 One of the objectives of the Reservoirs Act is the minimisation of the risk of a reservoir failing. It provides a legal framework to ensure the safety of reservoirs that hold at least 25,000 cubic meters of water.

7.3 Financial Implications

7.3.1 The total capital cost of the proposal is £2.9m for a 5 year programme of works. Spend will need to be contained within this amount and works managed accordingly within the budget. Any additional works outside of this 5 year programme would require further budget approval. This is to be funded from Corporate Prudential Borrowing as approved as part of the budget approval at Full Council in 2019. The funding is to be phased over the 5 year programme 2022/23 – 2026/27.

7.3.2 There is a sum of £0.700m in Parks revenue reserves to be used towards cyclical maintenance to support the programme of works.

7.4 Procurement Implications (if required)

7.4.1 The proposed procurement route is to use the Council's Miscellaneous Drainage Works Framework Agreement that commenced on 24th January 2022 for a 4 year period. The individual works will be called off in accordance with the framework protocol. Works required after 24th January 2026 will be called off any replacement framework agreement.

7.4.2 The contracts for the individual works will be managed by the Projects Leader Drainage on behalf of Street Scene and Parks.

7.5 Human Resources Implications (if required)

7.5.1 Professional services to support the project will be provided by Property, Finance, Procurement and Legal officers who will be engaged to deliver this

proposal with technical support from the Flood Risk Management and Drainage Team who will administer the contract.

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 3 ref EQUA545 The initial equality assessment discloses that the report recommendations will not have a negative impact on the characteristics and groups protected under the Equality Act 2010 and therefore it is considered that a full assessment is not required for this report.

List of appendices accompanying this report:

Appendix 1 - 5 year programme of works 2022/26-2026/27
Appendix 2 - Full Business Case
Appendix 3 - EINA