

Meeting:	Cabinet
Meeting date:	Thursday, 28 June 2018
Title of report:	Local authority schools maintenance programme
Report by:	Sufficiency Planning and Capital Investment Manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Countywide

Purpose and summary

To approve the proposed expenditure of capital grants for school building and maintenance works.

The Department for Education provides capital funding to local authorities responsible for schools. This funding includes the Schools Condition Allocation which is intended for the maintenance of community and voluntary controlled schools, and the basic need allocation which

is intended for the addition of school places to meet the needs of growing populations.

Herefordshire council has been allocated £1,232,573 Schools Condition Allocation and £1,048,294 basic need allocation.

In addition £651,632 has been allocated to voluntary aided schools in Herefordshire. The council co-ordinates this funding with the diocesan boards of education and school endowment trusts. However the funding is then passed directly from the ESFA to the schools.

The distribution of this funding is determined in accordance with the principles set out in the schools capital investment strategy and is based on regular condition surveys in respect of maintenance, and regular assessments of current and forecast demand for places in respect of basic need.

Appendix 1 provides an overview of the proposed expenditure of maintenance, Basic Need and LCVAP (local authority co-ordinated voluntary aided programme) funding. Appendix 2 provides the details of the schemes being proposed as part of this programme of works.

Recommendation(s)

That:

- (a) **The school maintenance schemes as set out in appendices 1 and 2 be approved spending £1m on basic need to provide sufficient high quality places, £1,457k to address maintenance issues and £651k allocated to schemes funded through the Local Authority Co-ordinated Voluntary Aided Programme; and**
- (b) **Authority is delegated to the interim education and capital manager to take all operational decisions necessary to implement the above recommendations within the approved budgets.**

Alternative options

1. The capital and maintenance grants supporting building works in schools could be profiled differently. The schemes have been determined from the latest available condition reports for each school. The profile has been considered extensively by the schools capital investment strategy team, the council's property services section, the capital strategy consultative group (involving headteachers), and the LCVAP (local authority co-ordinated voluntary aided programme) group comprising diocesan, arch-diocesan and endowment trust representatives. The proposed works are addressing the known priorities.
2. Basic need could be allocated to different schools. The priorities have been formulated on the best information and advice available and consulted upon. Basic need allocation is being directed to projects that are clearly adding new capacity.
3. No funding is spent on maintenance or accessibility works in schools and children are required to attend different schools. There is a statutory process which requires the council to arrange the admission of a child with a disability or an education health and care plan to the parents/carers preferred school, unless it can be shown that to do so would prejudice other children or it would be unreasonable to do so. The excessive financial cost of making the adaptations could be considered unreasonable.

Key considerations

4. The funding streams provided to the council by the Education and Skills Funding Agency (ESFA) for school capital works are to be used as follows:
 - a. Maintenance grant – to support large scale improvement work in community and voluntary controlled schools. Grant monies not allocated or spent within a financial year can be retained by the council for use in the following years. The council must complete statutory returns which include details of where the funding has been spent.
 - b. LCVAP funding – to support large scale improvement work in voluntary aided schools. The council has a duty to ensure that grant monies are spent effectively. Monies allocated must be spent in the same financial year. This funding does not pass through the council's accounts. The council has a role in co-ordinating its distribution. Schools then apply direct to the ESFA for their agreed allocation.
 - c. Basic need grant – this is to be used to create additional pupil places where there is demand and could be directed to any school including academies. In the absence of any identified funding for accessibility works, the basic need grant is also used to cover these areas. The council must complete statutory returns which include details of where the funding has been spent.
5. The national schools funding formula means all schools receive a relatively small devolved formula capital allocation to support minor maintenance or improvement works. Schools may convert revenue budgets to capital to assist with these works. Bigger maintenance schemes like the replacement of a roof, a new heating system or windows are funded through the central maintenance grant awarded to the council for community and voluntary controlled schools. Denominational schools have use of the LCVAP grant to support these large schemes. It is expected that schools make a contribution to works by utilising their devolved formula capital allocation. Some schools may also be able to contribute funding from their balances. These opportunities will always be explored by council officers in discussion with schools.
6. Academy and free schools have access to the Education and Skills Funding Agency's condition improvement fund for building works, both maintenance and improvements. They cannot utilise the maintenance grant or LCVAP funding.
7. The majority of the 2016/17 and 2017/18 maintenance programmes previously approved were delivered in 2017/18.
8. The carry forward (appendix 1) has arisen mainly as a result of the share of budget delegated to schools being charged incorrectly against the central local authority maintenance budget. This was corrected at a stage where it was not appropriate or possible to commission approved works – many of which have to take place over the school summer holiday period. The result was that last year's maintenance budget is shown as underspent. The plans for the current year's maintenance programme (2018/19) take into account this year's allocation and the carry forward from previous years.
9. The sums allocated to local authorities are determined by the Department for Education and ESFA and published on the government website. The process for locally determining its expenditure is based on the council's schools capital investment strategy. Maintenance work is prioritised on the basis of condition surveys. An outline of the scope, forecast cost and schools involved in the 2018/19 programme are set out in appendices 1 and 2.

10. There is a backlog of urgent and essential maintenance works at local authority maintained, voluntary controlled and voluntary aided schools. There is insufficient budget to address all the maintenance and condition issues in schools, as reported in the latest condition surveys available. In order to prioritise the expenditure, all maintained school condition surveys have been scrutinised to identify the most significant and pressing work. In addition, priority has been given to health and safety work regarding fire safety identified arising from routine inspections of schools by qualified fire safety officers.
11. The council is constantly reviewing the safeguarding arrangements at all its schools to ensure they meet current expectations. The council is expected to rectify fencing that is considered a potential safeguarding risk. Some allocations have been made to address safeguarding issues.
12. It is not always possible to foresee all schemes that need to be undertaken in any one year. An element of emergency/contingency funding therefore is set aside to cover such events that cannot wait to be included in a future year's funding.
13. On detailed examination and specification of the work identified in appendix 1 there may be differences in the cost or scale of works required. Sometimes when preparations are made for maintenance work additional problems are discovered which may require the work to be modified and the final cost will alter as a consequence.
14. Approval for variations that can be covered within the available budget will follow the council's governance processes. Where there is insufficient budget to cover the work required consideration will be given to reduce the scope of works or defer the scheme to a future year.
15. In order to ensure the works at schools are properly targeted, it is important that accurate and up-to-date condition surveys are undertaken. All schools that fall within the responsibility of the council (community and voluntary controlled only) will have a new survey produced this financial year to further inform the school capital investment strategy and to enable a five year maintenance programme to be created. Some funding has been set aside to cover this programme of surveys (appendix 1).
16. The locally coordinated voluntary aided programme (LCVAP) has been compiled based on issues raised in the condition reports. All schemes have been agreed with the Church of England diocesan board of education, the Roman Catholic archdiocese and the endowment trust of voluntary aided schools not part of diocesan arrangements, before being included in the programme.
17. The current years' basic need allocation will contribute to the enlargement of Marlbrook Primary School. Marlbrook Primary School in south Hereford is an Ofsted rated "outstanding" school that has been oversubscribed in recent years. The school has taken in an extra form of entry with the support of the council to accommodate parental preference. Provision has already been made to create additional classrooms at the school as the first stage towards an extension to expand the school from a two to a three form entry school. To enable the remaining classrooms to be built, an allocation from the basic need funding has been made towards the scheme.
18. The council has a duty to ensure that any child with special needs attending a mainstream school can be reasonably accommodated. Pembridge C of E Primary School was considered mostly accessible but required some further adaptations to enable it to meet a current pupil's needs. The scheme was completed in April 2018. As a voluntary aided school, half the costs of the scheme were to be met through the LCVAP. At the end of the

2017/18 financial year, there was an amount of LCVAP funding unallocated, which was redirected to the Pembridge scheme, so that it was not lost. This reduced the required council contribution towards the scheme.

19. St Joseph's RC Primary School in Ross-on-Wye requires some adaptations to enable it to accommodate a child at the school. As a voluntary aided school some funding will be contributed towards the scheme from the 2018/19 LCVAP allocation. The remaining costs will be covered by the redistributed council funding originally earmarked for Pembridge.
20. Wigmore School is considered mainly accessible but requires some further adaptations to enable it to meet current pupil needs. Analysis of the space in the school suggests the facility could be made without compromising other space e.g. classroom, storage, and administration space.
21. Westfield Special School requires some internal adaptations to create a physiotherapy room to accommodate pupils attending the school in September 2018.
22. John Kyrle High School in Ross-on-Wye requires some further adaptations to enable it to meet current and future pupil accessibility needs.
23. The schemes at Wigmore High School, John Kyrle High School and Westfield Special School will be funded using part of the balance of the individual pupil needs budget, which consists of basic need and maintenance monies contributed in previous years.
24. All capital work will be procured in accordance with the council's contract procedure rules.

Community impact

25. Schools are a key part of communities and as such it is important they are well maintained. Parents are encouraged to choose a suitable school for their child. The basic need proposals support schools that are in demand from parents.
26. Using the resources available to the council to ensure that Herefordshire's school buildings are well maintained and fit for purpose supports achievement of the council's corporate plan priorities to 'keep children and young people safe and give them a great start in life' and to 'secure better services, quality of life and value for money'. The proposed works include mitigation of potential health and safety and safeguarding risks, aim to provide well maintained buildings which are more cost effective to run and therefore benefit all pupils, including looked after children and care leavers.

Equality duty

27. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 28. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation. Any building works carried out within schools will be compliant with the Disability Discrimination Act and support improved accessibility.
- 29. The proposed capital and maintenance schemes have given due consideration to equalities issues particularly in relation to disability. The council maintains an accessibility strategy.

Resource implications

- 30. The maintenance grant received for 2018/19 is £1.232m.
- 31. The basic need grant received for 2018/19 is £1.048m.
- 32. The LCVAP grant for 2018/19 is £651k. This money is distributed by agreement between the council and the diocesan and endowment bodies and then applied for directly to the ESFA by the schools concerned.
- 33. The schools capital investment strategy sets out the expectation that where appropriate, schools contribute to the costs of capital works. Schools have their own devolved formula capital to cover minor maintenance works. Where the works are of a greater scale, or encompass some minor maintenance works, schools are asked to contribute alongside consideration of the council's responsibilities for maintenance of maintained schools.

Legal implications

- 34. The recommendation in this report may be approved by the Cabinet in accordance with the constitution paragraph 3.3.9(a) as the decision is key and relates to more than one cabinet portfolio being property and education.
- 35. The council has a duty to provide and support places of education that are both fit for purpose and health and safety compliant. The proposals set out in this report and its appendices support the council in meeting these duties.
- 36. Failure to make repairs to known defects (such as those set out in this report and its appendices) increase the risk to the council of litigation from matters arising from these defects.
- 37. The funding streams set out are provided to the council by the Education Funding Agency as a grant.
- 38. Section 31 of the Local Government Act 2003 states that a Minister of the Crown may pay a grant to a local authority towards expenditure incurred or to be incurred by the local authority. The section further defines amounts payable and provisions for grant conditions.
- 39. The contents of the funding agreement sets out the terms under which the grants are provided, including amounts to be paid and how payment will be made; what the grant is

to be used for; the council's obligations (including reporting and monitoring requirements); breach procedures for both minor and serious breaches and termination clauses.

40. The terms set out in this agreement are acceptable to the council.

Risk management

41. By not undertaking the maintenance programme, more children will be attending schools with defects, including those that are considered health and safety concerns. This programme will address the highest known risks within the funding available.
42. The final scheme costs are significantly above or below the forecast. All schemes will be monitored by the capital strategy consultative group and a property liaison group with council officers from education, health and safety, estates and property services. The group will meet monthly to review schemes. Where there are variances to works, or tender prices, these will be subject to the council's governance arrangements.

Consultees

43. The Cabinet member for young people and children's wellbeing has been consulted and is supportive of the programme of works as set out.
44. The Cabinet member for contracts and assets has been consulted and is supportive of the programme of works as set out.
45. The LCVAP group with diocesan and arch-diocesan representation meet at least termly. At the meeting on 24 January, the 2018/19 programme as outlined was agreed.
46. The capital strategy consultative group, with a number of head teachers and property services officers, meet at least termly. At the meeting on 14 February, the outline proposals were agreed as a constructive way forward for the use of the grant.
47. Political groups have been consulted and no objections or comments were received.

Appendices

Appendix 1 – Proposed profile of expenditure

Appendix 2 – Schemes associated with schools

Background papers

None