

<b>Decision maker:</b>	<b>Cabinet member commissioning, procurement and assets</b>
<b>Decision date:</b>	<b>Friday 6 March 2020</b>
<b>Title of report:</b>	<b>Property Services Planned and Reactive Maintenance Programme 2020/21</b>
<b>Report by:</b>	<b>Capital programme and maintenance manager</b>

## **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.

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 agree the property services planned and reactive maintenance programme 2020/21 to ensure the continuing upkeep, improvements and maintenance of the council's property assets and also to allow the council to fulfil its obligations to carry out statutory compliance inspections and related remedial works.

The maintenance budget of £2,397,790 is to be spent on the continuing upkeep, cleaning and maintenance of the council's 295 key property assets and also to allow the council to fulfil its obligations to carry out compliance checks and best practice inspections so as to maintain a safe environment for the users of the buildings and for the upkeep of the property.

## Recommendation(s)

That:

- (a) the 2020/21 cleaning, planned and reactive maintenance budget of £2,397,790 be allocated between maintenance undertakings as follows and as set out in appendix B:
- £1,551,907 on cyclical, planned and reactive maintenance;
  - £243,803 on statutory compliance inspections;
  - £602,080 on cleaning;
- (b) the assistant director for technical services be authorised to take all operational decisions necessary to implement the above recommendation and spend within the approved budgets including realigning budget between maintenance undertakings provided that individual budget allocations do not vary by more than 35%; and
- (c) the maintenance work is delivered through the authorised building maintenance and cleaning services provider at that time.

## Alternative options

1. Not undertake statutory checks, planned and reactive maintenance. This is not recommended as property assets will not then be compliant, are liable to deteriorate and potentially be in breach of legislation, which will have an impact on any services located in such properties, with particular reference to the safety of premises to the extent that they may have to be closed and service delivery would be severely impacted.
2. Reducing statutory checks, planned and reactive maintenance to property assets. This is not recommended as this will escalate the risk of increasing a maintenance back-log, contribute to the deterioration of property assets or impair the asset from being kept compliant and potentially be in breach of legislation. This will have an impact on any services located in such properties, to the extent that they may have to be closed. Service delivery would be severely impacted.
3. If reactive maintenance or statutory checks and subsequent planned remedial work is not carried out, or is reduced below required thresholds in buildings which house council employees, third parties and visitors due to inadequate funding; the council may be liable should an individual be found to have been injured or suffered loss as a result of the council not carrying out its statutory obligations.
4. If premises are not cleaned or there is a reduction in the cleaning regime, operational property will become unsuitable, un-hygienic and not fit for use by staff, visitors and the public. Carrying out regular cleaning of council's key property assets is essential as it will ensure they will remain fit for use.
5. If the council's estate assets are not subject to continuous maintenance so that they are held at an appropriate standard fit for their purpose, they will not be in a condition necessary for transferal to our communities under the community asset transfer process should a decision be made to convey the ownership of particular assets

## Key considerations

6. The planned maintenance programme incorporates the inspection of property assets such as offices, libraries and public buildings (excluding schools) to ensure they are compliant with legislation e.g. asbestos condition surveys, legionella testing, and the related expenditure ensures properties adhere to statutory requirements and are cleaned. Prioritisation of expenditure is therefore primarily based upon the degree of action required to meet statutory compliance to ensure properties are safe and secure environments. There are varying cycles of inspection e.g. fire alarm service testing is done annually, as the inspections/tests are generally determined by legislation (aside from good practice).
7. Maintenance of schools is not part of this programme as individual schools are responsible for their own routine maintenance programmes, compliance checks and cleaning. The same can be included for council properties that are leased to tenants on a full repairing and insurance basis that require tenants to maintain the buildings they occupy.
8. Reactive maintenance works covers incidents that occur on a day to day basis and are unpredicted but needs to be carried out to maintain the council's buildings; to keep them fit for purpose and ensure they are safe and secure environments. Prioritisation of these works are based upon the impact and urgency of the incident. There are 295 property assets (excluding schools) which are maintained and or cleaned under these budgets.
9. The overall effectiveness of the expenditure on planned maintenance certifies that properties remain compliant and the regime of inspection and testing ensures that non-compliance issues are addressed and do not require further action. There are various types of inspection and testing and the frequency basis of each is carried out with regard to statutory requirements and risk assessments. The programme of statutory inspection work for 2020/21 is identified in appendix A and the activities reflect current industry practice. Continuing to carry out these planned activities will help maintain the fabric of buildings and allow the life of mechanical and electrical equipment within buildings to be extended and ensures their efficient running will help keep costs down
10. The effectiveness of expenditure on reactive maintenance is, in the immediate sense, easy to measure e.g. a leaking pipe is fixed. Monitoring of high volume call outs to properties is used to assess whether there are inherent problems with particular properties which therefore require detailed inspection and more robust remedial work.
11. The budget is monitored at monthly meetings with the council's provider to ensure expenditure is kept in line with projected spending limits and is identified in appendix B (budget split). The providers performance is also scrutinised monthly ensuring their KPI's are met.
12. The cyclical maintenance and cleaning service which includes statutory and compliance requirements is delivered through the current building maintenance and cleaning service contract. The contract is based upon the NEC3 (New Engineering Contract, or Engineering and Construction Contract). The contract provides clear visibility of delivery, cost and an early warning culture for positive partnership working and effective management of budget. The council's contract management service manage the contract and have a number of processes and procedures for the NEC contract model, along with a bespoke ICT system for change control and reporting. Value for money is tested at various stages of the

commissioning process, along with continuous improvement group to improve value for the council.

13. Single small work projects could be delivered through a formal tendering exercise that would be undertaken in line with the council's contract procedure rules. Alternatively, works below the value of £250,000 could be delivered through the current building maintenance contract which was awarded in compliance with the scheme of delegation in 2018 following an OJEU compliant tendering exercise and approved at Director level. The principles of best value are observed throughout this contract and value for money is fundamental to the procurement activity Herefordshire Council carries out. Thus, on medium value works (+£25,000) the provider has to consult with at least 3 sub-contractors in their supply chain in order to procure the most appropriate solution (based on quality and cost). This is further monitored through the council's contract management service to ensure Herefordshire Council are getting value for money for works going through the contract.

## **Community impact**

14. Ensuring that property assets are maintained, cleaned and compliant as set out in the council's corporate buildings maintenance strategy as referred to in the corporate property strategy 2016-2020 and will mean that they are fit for purpose and safe environments for visitors and members of the public in so far as they comply with the council's health and safety policy which is based on requirements of the management of health and safety at work regulations 1999 and HSE health and safety publications.
15. Property assets that are correctly maintained will, as appropriate, be open and accessible to the public.
16. The council is committed to providing a healthy and safe environment for all individuals impacted by the council's funded activities. The council endeavours to ensure that the work they and their partners undertake, does not adversely affect the health, safety or welfare of members of the public especially visitors. Therefore council partners are expected to work to the same health and safety standards and codes of practice as the council, as far as is reasonably practicable. This requirement will be included in the final contract terms with the successful contractor and be part of the ongoing contractor review meeting agendas
17. These proposals will contribute towards the delivery of the aims within the council's corporate plan to 'support improvement in the quality of the natural and built environment' and 'to make best use of the resources available in order to meet the council's priorities' as well as improve the council's energy efficiency, reduce its carbon footprint, provide cost savings by reducing reactive repair works

## **Equality duty**

18. The planned maintenance budget takes into account keeping buildings compliant and ensuring they are accessible for persons with disabilities.

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.
19. Ensuring that statutory compliance checks are undertaken will ensure that the council's equality responsibilities are met in so far as the physical built environment is managed in such a way as to comply with the Equality Act.
20. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

## Resource implications

21. Expenditure of the 2020/21 planned maintenance programme £2,397,790 is in line with the revenue base budget of £2,440,243 less target savings of £42,453. The impact on reducing budgets will be to reduce certain maintenance undertakings with the risk of increasing a maintenance back-log, contribute to the deterioration of property assets or impair the asset from being kept compliant.

<b>Funding streams</b>	<b>2020/21</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>
<i>Property Maintenance</i>	<b>2,397,790</b>	<b>2,397,790</b>
<b>TOTAL</b>	<b>2,397,790</b>	<b>2,397,790</b>

## Legal implications

22. This is an executive function under the Council's Constitution Part 3 Section 3 and 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 in Herefordshire) affected. It is also likely to result in the council incurring expenditure which is, or the making or savings which are, significant having regard to the council's budget for the service or function concerned. The leader has delegated this key decision to the cabinet member commissioning, procurement and assets as it relates to their portfolio.

23. The council has a number of statutory obligations as any landowner or occupier in England has, which make it a statutory requirement to undertake regular improvement and maintenance on council owned or operated properties. These obligations include the Health and Safety at Work Act 1974, the Building Act 1984 and the Equality Act 2010 and other related legislation. The council must also be aware of the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 which came into force on the 1 April 2019 which make detailed amendments to the MEES Regulations. The council could be at risk of criminal proceedings and/or civil claims should buildings not be maintained to lawful standards
24. There are no other legal considerations

## Risk management

25. The following risk and mitigations have been taken into account when considering the spend of the planned maintenance budget.

Risk / opportunity	Mitigation
Not having a maintenance and reactive budget for buildings will contribute to the deterioration of property assets	Any budgets allocated to maintenance and reactive works will help to extend the life of the property asset and its value
Any deterioration of a building may result in its closure and affect those services delivering a service out of them.	A maintenance budget will help allow pay for work that will ensure the building is fit for purpose and keep services running.
Not having a maintenance budget to spend on buildings will impair the asset from being kept compliant	Repair works will keep buildings compliant and safe to users, the public and visitors
The current contract is scheduled to end on 31 August 2020. If the contract terminates without a provider being in place there is a risk that cleaning and reactive maintenance works do not take place.	Property Services is being reviewed and the maintenance and cleaning service contract forms part of that review subject to due diligence, governance and in compliance with contract procedure rules

## Consultees

28. Political groups have been consulted as part of this decision and no objections have been received.

## Appendices

Appendix A – Cyclical activity schedule

Appendix B – Allocation of property budget split 2020/21

## **Background papers**

None identified.