



CABINET

9th July, 2019

Subject Heading:

Housing Estates Improvement Programme

Cabinet Member:

Councillor Joshua Chapman – Lead
Member for Housing

SLT Lead:

Gerri Scott – Interim Director of Housing

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Policy context:

This report sets out in broad terms the scope of works and the geographical locations for the Estate Improvements Programme approved by Cabinet in February 2019 and subsequently ratified by Council

Financial summary:

This report identifies in more detail where, and on what, the £10,000,000 Estates Improvements budget for 2019/20 will be spent

Is this a Key Decision?

Key Decision:

- (a) Expenditure or saving (including anticipated income) of £500,000 or more
- (b) Significant effect on two or more Wards

When should this matter be reviewed?

December 2019

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

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SUMMARY

1. At 13th February 2019 Cabinet meeting, approval was given to the proposals for the HRA Major Works Capital Programme 2019/20 – 2023/24.
2. This included a budget provision of £10,000,000 for an Estates Improvements Programme.
3. This report presents to Cabinet proposals on how that budget can be spent, the criteria applied to identify and prioritise areas for expenditure and the programme for delivery.

RECOMMENDATIONS

For the reasons set out in the report, that Cabinet:-

1. Approve the proposals for the Estates Improvements Programme as set out in Appendix 3 to this report.
2. Authorise officers to commence the tendering process to procure suitable contractors, in accordance with the Council's Contract Procedure Rules, to deliver the programme.
3. Authorise officers to carry out leaseholder consultation in accordance with Section 20 of the Landlord and Tenant Act 1985 as amended by S151 of the Commonhold and Leasehold Reform Act 2002.
4. Note the preference of Members to cap service charges where possible to a maximum level of £250.
5. Delegate decisions on reductions, waivers or caps of service charges, on a scheme by scheme basis to the Director of Housing in consultation with the Lead Member for Housing.
6. Authorise that, in the event that the full programme of works is not delivered during financial year 2019/20, the remaining budget is carried forwards to 2020/21 in order to complete the approved works
7. Authorise the Director of Housing to be responsible for the implementation of the programme in consultation with the Lead Member for Housing.

REPORT DETAIL

1. Background

- (i) In order to enhance and maintain the communal areas of our housing estates, both internal and external, in good repair and decorative order, a provision of £10M has been made in the HRA Capital Programme for 2019/20
- (ii) This provision is in addition to other planned programmes of works and is intended to deliver repairs and improvements to whole estates rather than isolated blocks or properties.
- (iii) With the Council's Regeneration programme leading the way across London in delivering high quality affordable homes, this £10M investment fund is designed to target those estates not within an existing regeneration programme, to ensure investment in our existing stock and a focus on maintenance needs, public realm and tackling crime and deprivation.
- (iv) Investment on this scale will allow the Council to make significant improvements to the public realm, for example by improving refuse areas, re-establishing defensible spaces through fencing and gates or remodelling block entrances. A core focus of this work is to find simple ways to design out crime from estates.

2. Scope of Works

- (i) This funding will be directed towards improving the external look and feel of estates, to include the refurbishment of the exteriors of blocks and the surrounding environment.
- (ii) The focus will be on:-
 - Improving the security of blocks and the safety of residents as they move around their neighbourhoods; this might include:
 - fencing
 - door entry systems
 - lighting
 - Designing out crime; working closely with the Police Secure by Design team.
 - Improving the look and feel of estates; this might include:
 - external decoration of blocks
 - internal decoration of blocks
 - landscaping

- re-paving
 - re-arranging refuse disposal areas
- Improving accessibility; this might include:
 - installing ramps
 - widening entrances
 - repairing paving
 - improved signage
- Improving parking provision; this might include:
 - demolishing un-used garage blocks
 - extending parking on verges
 - introducing parking controls
- Improving the longevity of estates by replacing high-maintenance elements with those which are more robust or require lower maintenance

(iii) Since February, officers in the Council's Housing and Environment departments have been identifying potential works on a block by block basis and the majority of estates identified for investment would benefit from a relatively small range of works to address the issues above.

3. Methodology and Criteria for Inclusion in Programme

- (i) Council housing in Havering is predominantly in three areas: Harold Hill, Rainham and Collier Row, which contain approximately 80% of the stock, with some large areas of the borough with very few remaining Council homes.
- (ii) The Council owns just under 10,000 rented homes, and a further 2,500 leasehold homes which, for the purposes of asset management, have been split into 47 separate estates on a geographical basis; so far as possible these have similar property numbers with defined boundaries.
- (iii) In areas such as Harold Hill, estates are adjoining such that they effectively comprise single, much larger estates and this has been considered in the prioritisation.
- (iv) Officers have looked at a variety of information about each of those estates in order to identify the work that is needed and to prioritise it.
- (v) Those estates which are part of the "12 Estates" joint venture with Wates have been excluded from consideration, with the exception of the Delta TMO Estate where the regeneration will be in-fill and does not involve existing buildings.

(vi) A set of criteria has been established and agreed with the Lead Member for Housing (See Appendix 1) by which the estates have been scored, using:-

- investment data from Keystone (our asset management database),
- the Council's own data on anti-social behaviour,
- crime and deprivation data from Government reports,
- "on the ground" scores from Tenancy Sustainment, Estate Management and Maintenance staff.

(vii) Application of the criteria identified those estates which it was felt would most benefit from investment under the Estates Improvements Programme, and a subsequent tour of the borough by Cabinet members supported the approach taken and the preliminary scope of works for inclusion under the programme.

(viii) Each of the criteria is scored in line with Appendix 1, giving an overall score for each estate. The higher the score, the higher the priority the estate is given. The resultant prioritised list is included as Appendix 2.

(ix) Two other estates were also considered, at least in part:

White Hart Lane on the basis that a new-build development is poised to commence on two sites behind the shops, and behind Durham House and adjoining blocks as these areas may subsequently suffer by comparison

Rainham and Wennington on the basis that whilst the overall estate does not score highly, St. Helen's Court is a pocket of blocks which do need investment.

(x) Appendix 1 also includes a worked example of the scoring methodology and Appendix 2 shows the ranking of all of the estates.

4. Proposals

(i) Appendix 3 sets out in broad terms the works which are proposed for each of the prioritised areas along with the estimated costs. Full details will be confirmed following further consultation.

(ii) Items 1-40 are ordered to reflect the estate priority derived from Appendix 2 and are therefore proposed generally as the priority order for the works.

(iii) It must be noted that the overall budget of £10M includes for any professional fees and statutory costs associated with the works.

5. Consultation

- (i) Subject to agreement of the works in Appendix 3, consultation will be undertaken with residents on each of the affected estates to present the outline proposals and to draw up detailed plans with the benefit of that feedback.
- (ii) This will allow the proposals to be tailored to the specific needs of those most affected by the improvements.
- (iii) Consultation will also be carried out with other departments within the Council, in particular Highways and Environment, with the intention of coordinating and maximising the impact of respective plans and budgets and deriving added benefit from these proposals.
- (iv) Housing officers have also and will continue to liaise closely with the Regeneration team where proposals may be affected by current or potential regeneration plans.
- (v) Further consultation will be carried out with partner organisations, in particular the Police and London Fire Brigade to ensure that proposals draw upon their specialist knowledge of the estates, and accord with best practice regarding safety and security.
- (vi) It should be noted that the number and percentage of leaseholders on an estate has been recorded and in some cases approaches 50% of the total properties but this has not been applied to the scoring and ranking.
- (vii) The works are subject to the requirements for consultation with Council leaseholders under Section 20 of the Landlord and Tenant Act 1985 as amended by S151 of the Commonhold and Leasehold Reform Act 2002.
- (viii) The works are of a nature for which leaseholders could be charged their relevant contribution under their respective leases and Cabinet is asked to authorise officers to carry out consultation under the Act.
- (ix) If formal consultation is not carried out, or not carried out correctly, leaseholder contributions are capped at £250 per property, which is the maximum allowed under the Act.
- (x) At this stage, it is not possible to provide an estimate of the total, or any individual leasehold costs nor therefore the total which would not be recovered should leasehold contributions be capped. These estimates will be provided to leaseholders through the consultation process.
- (xi) Those figures can only be provided with any accuracy once the specific scope of works is agreed through stakeholder consultation and is estimated more accurately, and the liability of each leaseholder is determined through reference to the individual leases.

6. Issues

- (i) The housing stock has been divided into estates for ease of analysis and the prioritisation has been carried out on whole estates but it is acknowledged that within estates with a better level of repair can sit properties requiring maintenance.
- (ii) The Keystone data used contains records of rented and leasehold properties only. No account can be taken of the condition of privately owned properties which may impact upon the overall impression of the estate, and which will benefit from any investment without contribution.

7. Programme and Delivery

- (i) The Estate Improvements Programme is being overseen by a dedicated officer within the Land and Property Services team in Housing Services.
- (ii) Additional external resources will be procured as part of this programme to assist with the detailed consultation, specification and procurement of contractors to deliver the works.
- (iii) It is intended to utilise a mixed approach to delivery of the basket of works, with existing framework contractors undertaking work within the scope of their contracts, such as highways and parking improvements, and separate contractors being procured on the basis of a framework contract to deliver the rest of the work.
- (iv) Cabinet is asked to authorise officers to undertake the necessary tender processes in accordance with the Council's contract procedure rules to procure contractors to deliver the programme. This is to be delegated to the Director of Housing in consultation with the Lead Member for Housing.
- (v) It is proposed to commence detailed resident consultation in June 2019 and to tender for contractors in July and August 2019. Works will commence once all statutory consultation and procurement tender processes have been complied with, which is expected to be by October 2019 and it is expected completion of the approved works will be by July 2020.

REASONS AND OPTIONS

Reasons for the decision:

- (i) The decisions are required in order to deliver the Estate Improvements Programme approved by Cabinet in February 2019.
- (ii) Approval is required to the proposed scope and locations of work to allow officers to proceed with detailed consultation, specification and subsequent delivery of works.
- (iii) Approval is required to commence the tendering process in order to procure the contractors necessary to carry out the works, in accordance with the Council's contract procedure rules.
- (iv) Approval is required to authorise officers to undertake consultation with Council leaseholders under Section 20 of the Landlord and Tenant Act 1985 as amended by S151 of the Commonhold and Leasehold Reform Act 2002.
- (v) Approval is required to delegate to Officers decisions regarding the reduction or waiving of leaseholder service charges in accordance with the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 as the values involved on each estate are expected to be below that which require Member or Cabinet decision.
- (vi) In the event that the full programme of works is not delivered during financial year 2019/20, the remaining budget is to be carried forwards to 2020/21 in order to complete the approved works, due to the complex nature of the works and the degree of both statutory and non-statutory consultation required.

Other options considered:

- (i) The Council has already confirmed its intention to undertake a £10,000,000 Estates Improvements Programme.
- (ii) This report presents the proposals from officers for expenditure and delivery of that programme, based upon a methodology approved by the Lead Member for Housing and site surveys by officers.
- (iii) Other prioritisation criteria have been considered and rejected but Cabinet may wish to adopt a different methodology, or to prioritise different works in different locations.
- (iv) The report proposes that Council leaseholders are consulted in accordance with Section 20 of the Landlord and Tenant Act 1985 as amended by S151 of the Commonhold and Leasehold Reform Act 2002

- (v) The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 provides social landlords a discretion to waive or reduce service charges by an amount the landlord considers to be reasonable.

IMPLICATIONS AND RISKS

Financial implications and risks:

- (i) A budget provision of £10,000,000 from the HRA has been approved by Cabinet in February 2019 for this work.
- (ii) As the work is proposed to be undertaken using a mixed approach to contracts and procurement, care must be taken that the total of authorised works and any subsequent variations does not exceed the approved budget.
- (iii) As stated above, the Council owns just under 10,000 rented homes, and a further 2,500 leasehold homes
- (iv) £10,000,000 expenditure on 12,500 properties equates to approximately £800 per property, which if the consultation process was followed is mostly recoverable.
- (v) The recommendation to note the preference of Members to cap service charges where possible to a maximum level of £250. If charges are capped at £250, this will result in the HRA having to cover the cost of one- off expenditure of £1,375,000 and additionally ongoing borrowing costs in the region of £41,250 per annum.
- (vi) This will have detrimental financial impact on HRA balances and could also restrict borrowing for future opportunities.
- (vii) Procurement of contractors for programme delivery will be subject to further approvals and the financial implications will be considered further in those reports.

Legal implications and risks:

- (i) Officers have been advised that while budget provision has been granted, procurement procedures have not yet been complied with, and that the Contract Standing Orders and governance requirements for contracts must be followed.
- (ii) Statutory consultation of leaseholders is required under s20 Landlord and Tenant Act 1985 (as amended by the Commonhold and Leasehold Reform Act 2002) and subject to the Service Charges (Consultation Requirements)

(England) Regulations 2003 (“the Regulations”). Consultation is required for “Qualifying Works” which are defined as work on a building or any other premises; and entering into “Qualifying Long Term Agreements” which is any agreement entered into by or on behalf of the Landlord for a term of more than 12 months.

- (iii) The Regulations set out different requirements for consultation, depending on what is proposed, be it: a Qualifying Long Term Agreement; Qualifying Works arising under a Qualifying Long Term Agreement; or a stand alone contract for Qualifying Works. It would appear that the latter will be the most likely scenario for this project, but given the proposal for a mixed approach to contracts and procurement there needs to be an early identification of which consultation obligation arises, to ensure that the correct consultation process is followed.
- (iv) The implication and risk of failing to properly comply with the consultation process would be that the service charges recoverable from leaseholders would be capped at £250 (in relation to Qualifying Works) or £100 per service charge year (in respect of a Qualifying Long Term Agreement). This is likely to be significantly less than the costs it is possible to recover from the leaseholder if the consultation process is followed.
- (v) It is possible to apply for dispensation from statutory consultation of leaseholders after the event or where a mistake has been made, however, there would have to be very good reason to do so and also it would be necessary to demonstrate that no prejudice had been caused to leaseholder(s). The process would of course be costly and subject to litigation risk. Given the nature of this project as planned works, it is not recommended that dispensation is relied on; rather that correct statutory consultation of leaseholders is conducted before the event as proposed.
- (vi) As set out above statutory consultation applies to Qualifying Works, which are works to a building or premises. There may be additional works within the scope of this project, for example to communal areas, that it is also proposed will be recovered from leaseholders, but which are not subject to statutory consultation, but are subject to other requirements within the Landlord and Tenant Act 1985 or the Lease, for example around providing estimates. Whether works are subject to consultation or not, there must be provision within the Lease for recoverability of those costs from the leaseholder. There may be variance within the terms of the Leases which could affect the levels of recoverability of certain items of works.
- (vii) When service charges are raised to the leaseholders only relevant costs are payable if they are reasonably incurred and if the services or works are of a reasonable standard. If leaseholders do not agree that these provisions are met then the Council could be subject to legal challenges to the service charges levied.

- (viii) It is noted that Members preference is to cap service charges at the maximum level of £250 where possible. The Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 (“the Directions”) give the power to a social landlord to waive or reduce service charges by an amount the landlord considers to be reasonable. Paragraph 3 sets out the criteria the social landlord should apply when deciding whether to waive or reduce the charges. A decision under the Directions can be made at the time the service charges are raised or afterwards.
- (ix) If a decision to waive, reduce or cap the service charges is to be made prior to the time at which service charges are raised, then it would fall outside the Directions and fall within the general competence of the Council (section 1 Localism Act 2011). The Programme is at an early stage and there are insufficient facts available to make the decision to waive, reduce or cap charges at this point, including detailed financial analysis referred to at 5(x) and (xi) above, but that is not to say that the decision cannot be made once there is further information and the issues set out in (x) below have been addressed.
- (x) It is noted that the funding for the Programme is from the HRA budget, and before any decision is made regarding reduction, waiving or capping the service charges, advice should be sought regarding the financial implications. In particular, it should be ascertained whether there is an obligation to the HRA fund to recover monies to the fund where there is a power to do so, i.e. under the terms of the Lease. It must also be ensured that any such decision would not breach any financial regulations regarding the HRA.

Human Resources implications and risks:

- (i) There are no direct HR implications or risks to the Council or its workforce that can be identified from the recommendations made in this report.
- (ii) TUPE (Transfer of Undertakings (Protection of Employment) Regulations) will not apply as there will be no transferring staff.

Equalities implications and risks:

- (i) The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
- a. the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - b. the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
 - c. foster good relations between those who have protected characteristics and those who do not.

- (ii) Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.
- (iii) The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.
- (iv) An Equality & Health Impact Assessment has been carried out and the Estates Improvements Programme is considered to have a neutral or positive impact against all Protected Characteristics and on Health and Wellbeing. (See Appendix 3)

BACKGROUND PAPERS

None

Appendices

- 1. Estate Prioritisation Criteria**
- 2. Top 20 Scoring Estates**
- 3. Proposed Schedule of Works**
- 4. Equalities and Health Impact Assessment**