



## Mayor and Cabinet

### **Report title: Schools Minor Works Programme 2022: approval to procure and budget allocation**

**Date:** 09 March 2022

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Blackheath, Downham, Perry Vale, Bellingham, Whitefoot, and Forest Hill

**Contributors:** Acting Group Finance Manager, Director of Law, Governance and Elections, Procurement and Commercial Services Manager, and SGM Capital Programme Delivery

### **Outline and recommendations**

This report seeks:

- Approval to procure capital works contracts to deliver the SMWP 2022,
- Delegated authority to the Executive Director for Children and Young People to finalise the programme of works to be delivered as part of the SMWP 2022, and
- Delegated authority to the Executive Director for Children and Young People to award works contracts to deliver the SMWP 2022.

## **Timeline of engagement and decision-making**

School Condition Surveys carried out between August and October 2021

Findings from School Condition Surveys shared with schools for comment in December 2021

Projects shortlisted for School Minor Works Programme 2022 between January and February 2022

### **1. Summary**

- 1.1. This report seeks approval to procure capital works contracts to deliver the School Minor Works Programme 2022, which is a repair and replacement programme of works funded by the School Condition Allocation grant from the Government. The report also seeks delegated authority for the Executive Director of Children and Young People award contracts to deliver the School Minor Works Programme.

### **2. It is recommended that the Mayor and Cabinet:**

- 2.1. Note the proposed use of the anticipated School Condition Allocation (SCA) 2022/23 funding to deliver the proposed programme of works for the School Minor Works Programme (SMWP) 2022, as set out in section 5.
- 2.2. Approve the procurement of capital works contracts to deliver the SMWP2022, as set out in section 5.
- 2.3. Delegate authority to the Executive Director for Children and Young People to finalise the programme of works for the SMWP 2022.
- 2.4. Delegate authority to the Executive Director for Children & Young People to award contracts to deliver the SMWP 2022.

### **3. Policy Context**

- 3.1. The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory age and, within financial constraints, accommodation that is both suitable and in good condition.
- 3.2. The proposal within this report is consistent with the Corporate Strategy 2018-2022, in particular the Corporate Priority of *'Giving children and young people the best start in life: Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential'*.
- 3.3. As owner of the school buildings and the employer, the Council has a statutory duty under the Health & Safety at Work Act 1974 and associated approved codes of practice, to ensure that schools are fit for purpose and used by pupils and staff. Whilst schools are responsible for day to day maintenance of their buildings, any significant expenditure on capital schemes has to be funded by the Council.

## 4. Background

- 4.1. This programme is funded by the Education and Skills Funding Agency (ESFA) through the School Conditions Allocation (SCA). The SCA supports essential capital works in community schools to prevent disruption to the day-to-day running of schools, and ensure they are safe for the pupils, staff and visitors. These works usually take the form of roof and heating system replacement. Multi-Academy Trusts (MATs) and larger Voluntary Aided (VA) school bodies receive direct SCA to invest in priorities across the schools for which they are responsible. Smaller or stand-alone academy trusts, sixth form colleges and smaller or stand-alone VA school bodies are able to bid to the Condition Improvement Fund (CIF).
- 4.2. In order to determine where the SCA funding was most needed, the Council commissioned building condition surveys of 49 community schools. These schools were chosen based on the age of their buildings and advice from the Council's Estates Team, who are responsible for the maintenance of community school buildings.
- 4.3. Further details on how the scheme was developed in the past and the current approach can be found in the Appendix to this report.

## 5. School Minor Works Programme 2022

- 5.1. The primary source of information used to develop the School Minor Works Programme (SMWP) was the McBains School Condition Surveys which were completed last year. These surveys reported on the condition of community school buildings, and their mechanical and electrical services, highlighting works that were required over a 4-year period.
- 5.2. Schools were also asked to review the reports that were produced from the inspections and identify any inaccuracies or omissions.
- 5.3. Based on all the information gathered and assessed the following list of works has been shortlisted for the SMWP 2022.

School	Description of Works	Budget Estimate
Brindishe Lee	Window replacement of Block A and associated asbestos removal works	See Part 2
John Ball	Roof replacement of Block and remedial works to retaining wall	See Part 2
Launcelot	Replacement of rainwater goods across whole site	See Part 2
New Woodlands	Replacement of roof to main building	See Part 2
Perrymount	Replacement of Block A primary heating system	See Part 2
Athelney	Replacement of primary and secondary heating across whole site	See Part 2
Elfrida	Replacement of primary heating system to main building	See Part 2
Downderry	Replacement of primary heating system to main building	See Part 2
Forster Park	Structural remediation works to nursery building	See Part 2
Horniman	Resurfacing and fencing of external area	See Part 2
<b>Total</b>		See Part 2

- 5.4. The above works were selected based on the technical advice of McBains Ltd, issues highlighted by individual schools and the future plans of the Children and Young People Directorate for buildings in the community school estate. The criteria for prioritising works for the SMWP were issues that: required action with an estimated value of over £50k (considered to be beyond the means of schools to address); presented a significant risk to the health and safety to children and staff; and would have a substantial impact on the operation of a school.

- 5.5. Due to the limited budget available, not all the urgent works identified in the McBains reports could be included in the SMWP. The projects that were prioritised for the SMWP were those considered to have the greatest potential impact on school operations. There were, however, a number of urgent works that would have been addressed as part of the SMWP if the budget allowed. These works are listed below as reserved projects, which will be undertaken if there is available budget – either because the Council receives more SCA funding than anticipated or the proposed SMWP is delivered below budget.

School	Description of Works	Budget Estimate
Kender	Replacement of Block A roof	See Part 2
John Stainer	Replacement of Block A roof	See Part 2
Brindishe Lee	Replacement of Block A floor coverings	See Part 2
Brindishe Manor	Full refurbishment required following roofing works and asbestos removal	See Part 2
Kender	Remove trees causing the issues to external hardstanding and re-surface affected areas	See Part 2
Forster Park	Remove trees causing the issues to external hardstanding and re-surface affected areas	See Part 2
Marvels Lane	Replacement of non-compliant internal doors	See Part 2
<b>Total</b>		See Part 2

- 5.6. In addition to the above works, the McBains surveys identified a number of issues that require further investigation. A budget of £50k has been allowed for these investigations. Depending on the findings, the required remedial works may form part of next year's SMWP. The list of schools and issues have been listed below.

School	Description of Issue
Forster Park	Drainage and blockage problem with toilet block
Holbeach	Non-compliant lighting and crack in building wall
Horniman	Significant cracks to building walls
John Ball	Failed flooring within rear hall area
Kender	On site facilities team advised have ongoing issues with standing water and stagnant water within subfloor void at ground floor level
Kilmorie	Multiple drainage problems to external fabric of main building
Launcelot	Sub-floor flooding in main hall, cracking and leaning of boundary wall, and water ingress in boiler house
Marvels Lane	Tarmac pathway is significantly fractured and cracked alongside of building under canopy close to concrete retaining wall.
Myatt Gardens	Horizontal cracking to dining room walls
Sandhurst	Risk of asbestos containing material in the form of pipework beneath foiled wrapped and MMMF insulation in boiler room.
Torridon	The structural floor within block B2 has excessive movement

- 5.7. The SCA grant, which will be funding the SMWP as set out above in 5.3, has not yet been announced and will not likely until the new financial year. This means that the Council does not know how much will be received. It is anticipated that the Council will receive circa £3.4m based on previous years. The actual amount received, however, may be lower or higher than this figure, so the programme of works undertaken may be reduced or increased (to include reserve projects at 5.4) accordingly.

- 5.8. It is therefore recommended that Mayor and Cabinet delegate authority to the

Executive Director for Children and Young People to finalise the programme of works to be delivered as part of the SMWP 2022, in line with the budget set out in 8.4.

5.9. If the list of schools changes significantly, an updated report will be brought back to Mayor and Cabinet for approval.

#### 5.10. **Procurement method for contractors to deliver the SMWP 2022**

5.10.1. The construction works for SMWP 2022 will be tendered externally because the Council has neither the skills nor capacity to deliver such building works. Setting up the required infrastructure to enable this function does not represent good commercial or practical sense, given the nature and scale of works.

5.10.2. The Council will in-source other elements required to successfully undertake and maintain the works, including: project management, clienting, stakeholder management, and ongoing asset and latent defect management.

5.10.3. Officers will draw on the industry experience and knowledge of McBains Ltd (see section 6) to determine the most cost effective way of packaging works for procurement. In past years, this has been done by packaging works of a similar nature together, up to a certain size, to achieve economies of scale, and reduce the risk of failure by ensuring they can be delivered by one contractor during the school summer holiday.

5.10.4. All works will be procured in line with the Council's policies and procedures via the London Tenders Portal. Frameworks, such as the London Construction Programme (LCP), have been considered but will not be used because of the uncompetitive prices and low number of responses that have been received in the past.

5.10.5. Tenders will be evaluated on a 50/50 basis (price/quality). The quality weighting will include 5%-10% for Social Value in line with the Council's procurement policies. The exact evaluation method will be developed with the advice of officers in the Council's Procurement team.

5.10.6. A separate contract award report will be prepared seeking authority to appoint the winning bidders, in line with the Council's procurement rules and procedures. McBains Ltd will administer the contracts that are awarded and will be responsible for ensuring the works are carried out as required.

5.10.7. Due to the tight timescales associated with this programme and the need to undertake intrusive works during the school holidays, however, it is recommended that Mayor and Cabinet delegate authority to the Executive Director for Children & Young People to award and enter into contracts to deliver the SMWP 2022.

5.10.8. Proposed procurement timetable:

<b>Activity</b>	<b>Date</b>
Tender Issue	March 2022
Tender Returns	April 2022
Evaluation	May 2022
Award	June 2022
Start on site	July 2022

## **6. Contract administration**

6.1. McBains Ltd was appointed as the Council's term consultants to provide professional services for the SMWP from 2022 to 2025. Its responsibilities include developing designs and preparing contract specifications for the works, as well as overseeing works and issuing completion certificates. Its contract period commenced in February 2022 and will run for a period of 4 years, with the option to extend for a further year at the sole discretion of the Council.

6.2. McBains's fees are calculated at 6.45% of the cost of works, which is in line with the

terms of their contract with the Council.

- 6.3. The services provided by this contract are vital to the successful delivery of the programme, and include: surveying schools to understand the works required; advising on solutions to resolve identified issues; fulfilling Principal Designer responsibilities (see Glossary); designing and preparing specifications and other technical documents for the agreed solutions; preparing technical and design documents for tendering works; providing technical expertise to assist with evaluating tender returns; administering works contracts; overseeing works on site; and signing-off works upon completion.

## 7. Small Works Fund and Emergency Works Fund

- 7.1. The McBains Ltd surveys identified many other urgent remedial works which fall short of the criteria required to be considered for the SMWP. This is because either the estimated cost of the remedial action was below £50,000, or the issue that was identified was considered not to have a significant impact on the operation of the school. The Council has shared these reports with schools to encourage them to address the issues and to assist with their Planned Preventative Maintenance.
- 7.2. To further support schools in undertaking urgent required works, officers recommend that £200,000 of the anticipated SCA funding is allocated to the Small Works Fund. This fund will enable schools to bid for up to £50,000 to carry out work themselves, oversight from Council officers.
- 7.3. Applications will be prioritised in order of risk to health and safety of school staff and pupils.

## 8. Budget allocation

- 8.1. Based on previous years, it is expected that the Council will receive circa £3.4m from Education and Skills Funding Agency (ESFA). The exact amount is expected to be announced in April 2022.
- 8.2. The proposed programme of works set out in this report is just as large and diverse as previous years. Therefore it is recommended that the Mayor and Cabinet delegate authority to the Executive Director for Children and Young People to approve use of an additional contingency of £250,000 from the CYP Asset Management Fund if required. This additional funding will be used in the event that the proposed programme of works set out in this report exceeds the anticipated School Condition Allocations budget of £3.4m.
- 8.3. A sum of £200,000 has been set aside to remediate fire safety issues that are identified as part of a fire safety audit of community schools. Approval has already been received to procure a consultant to undertake the audit, and the appropriate authority will be sought to procure the remedial works.
- 8.4. The table below provides details of the expected funding:

Proposed cost	Amount	Comments
2022/23 SCA	~£3,400,000	Noted at 10.1
CYP Asset Management Fund	£250,000	Noted at 10.2
Total	~£3,650,000	

- 8.5. The table below provides a breakdown of the budgets that will be funded by the Council's 2022/23 SCA.

Description	Budget	Comments
SMWP 2022 Works	See Part 2	See section 5

SMWP 2022 Fees	See Part 2	See section 6
Further Investigations	£50,000	See section 8
Small Works Fund	£200,000	See section 7
Project Management	£250,000	Cost of internal project management resource
Fire Safety Works	£200,000	Noted at 8.3
Total	See Part 2	

- 8.6. There is a risk that Brexit and COVID-19 could prolong and increase the cost of works but officers believe the additional £250,000 noted at paragraph 8.2 provides sufficient extra contingency for the programme. Officers will nonetheless work with colleagues in Legal to ensure the contract terms for the works mitigate the associated risks as much as possible.

## 9. Financial implications

- 9.1. It is estimated that Lewisham Council will receive approximately £3.4m from the Department for Education (DfE) for the School Condition Allocation (SCA) in 2022/23. This funding is to help maintain and improve the condition of schools building and grounds. This is a capital grant and so the funding must be used for capital purposes, enhancing the long-term benefit of Council assets.
- 9.2. The budget of £3.4m will cover the costs of the;
- improvement works across at least ten schools;
  - fees paid to McBains Ltd;
  - £50k preliminary investigations for work proposed for 2023/24
  - £200k small works fund for schools to bid against for urgent, low cost works
  - £250k of internal project management, to include staff costs
  - £200k fire safety costs
- 9.3. An additional contingency budget of £250k may be drawn upon to cover unexpected costs. This is budgeted for within the Council's capital programme, bringing the total budget to £3.7m
- 9.4. There is a risk that if the £50k of preliminary investigations deem that a proposed project for 2023/24 does not progress, the associated costs can no longer be capitalised and must be allocated to revenue.

## 10. Legal implications

- 10.1. The Council has a statutory duty to provide primary and secondary education as well as a duty to ensure that all educational premises are in a good and safe state of repair.
- 10.2. Approval is sought to tender works under the Schools Minor Capital Works Programme 2022/2023. Given the value of an individual works a contractor may be awarded a combination of contracts which may exceed £1,000,000 in total and so it is for Mayor & Cabinet to give pre-tender authorisation under section 3 of the Council's Contract Procedural Rules (CPR).
- 10.3. The procurement for the works contracts, SMWP Consultant and School Conditions Survey Consultant are set out in report above and are in compliance with the Council's

Contract Procedure Rules. It is anticipated that the individual works contracts will fall below the OJEU threshold of £4,551,413.

- 10.4. The award of the Contract must be made in accordance with the Council's Scheme of Delegation. The proposed value of individual works contracts under the School Minor Capital Works Programme 2021/2022 are likely to be Category B contracts. Therefore the Executive Director for Children and Young People can award those contracts and it is recommended that this done on the advice of the Executive Director for Corporate Resources and the Executive Director for Housing, Regeneration and Environment.
- 10.5. This is a key decision and is therefore required to be included in the publication of key decisions.
- 10.6. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.7. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
  - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 10.8. The duty continues to "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 10.9. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 10.10. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
  1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required,

as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## 11. Equalities implications

- 11.1. The services provided will benefit all pupils and staff in the schools. No individual person or group will be disadvantaged.

## 12. Climate change and environmental implications

- 12.1. The School Minor Works Programme will improve the energy efficiency of school buildings by upgrading boiler systems to more eco-friendly models, improving insulation and installing LED lighting. With advice from the Council's Sustainability Manager, officers will explore further options to support efforts to make Lewisham carbon neutral by 2030.
- 12.2. Officer will also actively work with the Council's Sustainability Manager to apply for further funding from initiatives, such as the Public Sector Decarbonisation Scheme (PSDS), to cover the additional cost of undertaking more energy efficient solutions in schools where boilers have been earmarked for replacement.

## 13. Crime and disorder implications

- 13.1. The proposed windows and doors replacement works at Drumbeat School may have security implications. Officers will work to ensure the building is no less secure as a result of the works, and, where possible, improve the current security on site. There are no other implications arising from this report.

## 14. Health and wellbeing implications

- 14.1. The School Minor Works Programme will help to improve the health and wellbeing of staff and children by creating a safer environment and better functioning facilities within school buildings.

## 15. Background papers

- 15.1. None.

## 16. Glossary

- 16.1. Terms used in report:

Term	Definition
SCA	School Condition Allocation – a grant funded by the Education and Skills Funding Agency (ESFA)
SMWP	School Minor Works Programme
MEP	Mechanical, Electrical and Plumbing
Principal Designer	An organisation or individual who is appointed by the client to take the lead in planning, managing, monitoring and coordinating health and safety during the pre-construction phase (design and planning stage) of a project, as set out in the Construction Design and Management Regulations 2015

## **17. Report author and contact**

17.1. Lemuel Dickie-Johnson, Project Manager - Lemuel.Dickie-Johnson@lewisham.gov.uk, 07990 796219

## **18. Comments for and on behalf of the Executive Director for Corporate Resources**

18.1. Sofia Mahmood, Group Finance Manager – [Sofia.Mahmood@lewisham.gov.uk](mailto:Sofia.Mahmood@lewisham.gov.uk)

## **19. Comments for and on behalf of the Director of Law, Governance and Elections**

19.1. Sohagi Patel, Commercial and Employment Lawyer – Sohagi.Patel@lewisham.gov.uk, 020 8314 7368