Leeds CITY COUNCIL

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Report of Director of Resources

Report to Corporate Governance and Audit Committee

Date: 23rd January 2012

Subject: Capital Programme Approvals

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. The Capital Programme approvals framework is set out in the Council's Financial Procedure Rules. Some minor changes to delegations and financial limits have been made in 2007 and 2009 but no major review of the approvals have taken place.

2. In the current budget climate, with staffing numbers reducing, it is appropriate to review our approvals framework to try to streamline the process and improve accountability whilst maintaining an adequate level of control and assurance regarding capital expenditure.

3. The report incorporates the recommendations of a recent Resources and Council Services Scrutiny Board Working Group into decision making issues, following a Scrutiny Call in.

4. The report sets out some proposed changes to the Capital Approvals framework which, if put in place, will strengthen accountability for capital decisions and streamline the decision making process whilst still ensuring there are adequate checks in place to control capital expenditure across the Council.

Recommendations

Members are asked to consider the proposed changes to the Capital Programme approvals process.

1 Purpose of this report

1.1 This report outlines some proposed changes to the Capital Programme Approvals framework. Some minor changes were made in 2007 and 2009. Within the current financial constraints, staffing numbers within the Council are reducing leading to a reduction in capacity across service areas. There is a wish to remove unnecessary bureaucracy to ensure that staff can be as effective and productive as possible. It is therefore an appropriate time to review our approvals framework to try to streamline the process but also to improve accountability whilst maintaining an adequate level of control and assurance regarding capital expenditure.

1.2 The report also incorporates the recommendations from the Resources and Council Services Scrutiny Board Working Group held on 1st December 2011 in relation to capital decision making.

2 Background information

2.1 The capital approvals framework is made up of a number of stages which are designed to ensure that:

- Authorisation is given before schemes are injected into the capital programme
- The Council's own resources are prioritised and controlled
- The Director of Resources has assurance that resources are available to finance schemes
- Authority to progress a scheme is sought at the appropriate stage of its development
- The relevant checks have been made before tenders are invited on a scheme

2.2 The capital approvals framework sets different approval requirements and limits depending on the nature and value of the capital scheme. Schemes are classified depending on the nature of the works as follows:

- Category A – New assets or enhancement of existing assets; e.g. refurbishment programmes. Individual named schemes; e.g. new build, refurbishment, etc.

- Category B – Provisions for repair and maintenance of existing assets. Specific replacement and renewal programmes; e.g. boiler replacement.

- Category C – Works requested and funded by a third party; e.g. Highways Section 278 works.

- Category D - Schemes to provide Information Technology Systems.

The existing capital approvals framework is attached at **Appendix A** and includes the following stages:

2.3 Injection to the Capital programme – this is approval for a scheme to be included in the capital programme but does not commit the authority to proceeding with the scheme. The level of approval required depends on the value of the scheme and how it is funded. More control needs to be exercised on schemes which use the Council's money whether that is in the form of borrowing, non-specific grants, capital receipts or revenue contributions.

2.4 Authority to Spend – this is approval for a scheme to progress and is often referred to as a commitment to invest. It is the stage of a project at which the design is 'frozen', the cost estimate of the design is updated, resources are confirmed to be in place, the scheme is confirmed as being value for money and any revenue cost implications are identified and confirmed to be available. The level of approval depends on the nature and value of the scheme. A higher level of approval is required for higher value schemes and those which are for new developments or assets as opposed to maintaining existing assets. It is at this stage of the Capital Approval's Framework that a Key Decision is made if the cost of the scheme exceeds the financial threshold set out in the Constitution.

2.5 Authority to tender – this is a technical approval which is a best practice measure. Checks are undertaken before tenders are invited to ensure that a project is ready to be tendered. Discovering gaps in technical details such as the form of contract being used, planning or listed building consents or pre-tender estimates can lead to increased costs once tenders have been accepted. As a direct consequence of the Authority to Spend this will be an Administrative Decision.

2.6 Chief Officer Approval – this check takes place after tenders are received and prior to awarding a contract for the works to take place. It is a final affordability check which takes place on all capital schemes with approval given by the Director of Resources. Following this services can award contracts and the scheme moves from being contractually 'uncommitted' to contractually 'committed'. As a direct consequence of the Authority to Spend this will be an Administrative Decision.

3 Main issues

Recommendations of Scrutiny Working Group

3.1 Scrutiny Board (Resources and Council Services) considered a Call In of an officer delegated decision on 9th November 2011. The issue related to the relocation of a service. One of the issues behind the call in was when the pivotal decision was made and therefore the point in which decision makers could be and should be held to account.

3.2 The Scrutiny Working Group met on 1st December 2011 to consider this and other related aspects of the process. The recommendations in relation to capital decision making are as follows:

a) **That a single delegation report for capital schemes be introduced. This report would be similar in content to those submitted to Executive Board. This report to be signed off by the service directorate after**

appropriate consultation with finance. This report and decision would be the published delegated decision notice.

b) **That all delegated decision reports detail, where appropriate, the Member consultation taken place including date and with whom.**

c) **That officers be provided with appropriate training to ensure that delegated decision reports are of the standard expected by Executive Board**

3.3 With regard to the first recommendation, an amendment is proposed to the Authority to Spend decision making so that Service Directors will now give Authority to Spend on capital schemes up to £500k, the limit previously given to the Director of Resources. For schemes above this level, Executive Board approval will still be required. In order to ensure that resources are available for schemes, the Director of Resources will become a mandatory consultee and will be required to sign off “funding approval” prior to a Service Director taking the Authority to Spend decision.

3.4 Discussions will take place with Corporate Governance regarding how this check will be evidenced on the delegated decision notification to ensure that delegated decisions, which have inadvertently bypassed this check, cannot be published.

3.5 With regard to the other recommendations, officers will be made aware of the importance of including details of consultation in delegated decision reports and of the standard of reporting expected.

Injections to the Capital Programme funded by borrowing

3.6 For schemes funded from borrowing where the costs are met by the Council, approval to include schemes in the capital programme has always been treated as a LCC injection to the capital programme, even though the revenue funding to pay for the borrowing is within the revenue budget. Up to £100k these can be approved by the Director of Resources but where the scheme exceeds £100k, Executive Board approval is required.

3.7 This particular approval requirement does seem onerous and does cause some operational issues particularly where replacement equipment or vehicles are required to operate a service. The same applies where there is a need to remove asbestos from a building or demolish a building where the cost of borrowing can be met from running cost savings.

3.8 Subject to the approval of a relevant business case, it is proposed that the Director of Resources will have the authority to inject schemes to the Capital Programme, up to £500k, for the type of schemes listed below which are funded by borrowing. This will apply to schemes for:

- Vehicle and equipment replacement
- Demolition of property
- Asbestos removal and other health and safety works

- Energy Efficiency projects (where capital investment is funded by savings on energy costs)
- Any other spend to save/operate where a business case has been approved

3.9 Where it is proposed to use borrowing to fund new developments/assets, it is proposed that the Director of Resources will have authority to inject a scheme up to £250k (an increase from the current £100K) with schemes above this requiring Executive Board approval.

3.10 As the injection of a scheme into the Capital Programme does not commit the authority to proceed with the scheme this would not be a Key Decision, as defined by the Constitution. There would therefore be no requirement to include the scheme in the Forward Plan prior to the injection, neither would there be a requirement to give notice of the proposed decision. This does not however prevent appropriate consultation taking place with relevant Members and such consultation will be recorded in the report upon which the Director of Resources, or Executive Board are invited to make their decision.

Injections to the capital programme funded by external grant

3.11 Currently Departmental Directors can inject fully externally funded schemes to the capital programme up to £100k and the Director of Resources can approve without limit. There has been a change recently in the flexibility of Government grants with a move to more grants being “unringfenced” (i.e. can be spent as the local authority wishes) rather than being ringfenced to specific projects. Whilst in theory this gives the authority a choice on how to use the funding, it can be difficult to divert grants which have been awarded by Government for a particular purpose to spend on other priorities, for example, primary basic need grant.

3.12 It is proposed to amend the existing approvals to reflect this change and to increase the delegation to Directors for **ringfenced** grants (Government or other) without limit. Where grants are **unringfenced**, it is proposed that injections to the capital programme are approved by the Director of Resources up to a £250k limit and above this they would require Member approval. As more government grants are now non-ringfenced, this could lead to an increase in the need to report to Executive Board unless another route to engage Members in the decision on how to allocate the resources is established.

3.13 Again as the injection of a scheme into the Capital Programme does not commit the authority to proceed with the scheme this would not be a Key Decision, as defined by the Constitution. There would therefore be no requirement to include the scheme in the Forward Plan prior to the injection, neither would there be a requirement to give notice of the proposed decision.

3.14 The requirement that injections to the Capital Programme of over £250k funded by unringfenced grants should be approved by Executive Board ensures consultation with Members in relation to these schemes. There is no reason why consultation should not take place with relevant Members in relation to smaller schemes funded by unringfenced money or by those schemes funded by ringfenced money and such consultation will be recorded in the report upon which the Departmental Director or Director of Resources is invited to make a decision.

Authority to Spend

3.15 Currently Departmental Directors can give Authority to Spend on category A schemes (new build, major refurbishment, new assets) up to £100k, the Director of Resources can approve up to £500k and thereafter approval is required by the Executive Board. These limits have been in place since 1999 and it is proposed to increase the limits to generally reflect the increase in building costs that has occurred since the limits were established but also to give more accountability to Directors for approval of capital schemes.

3.16 As already referred to in paragraph 3.3, it is proposed that the Authority to Spend decision now falls to Departmental Directors and the existing delegated limit of £500k will remain for category A schemes. All Authority to Spend approvals on category A schemes in excess of £500k will require the approval of the Executive Board.

3.17 Different delegated limits apply for other categories of scheme, e.g. repairs and renewals and ICT investment and these will remain at current levels.

3.18 Also known as 'Commitment to Invest', the Authority to Spend is the point at which a Key Decision is made in the Capital Programme Approvals Framework. Article 13 of the Constitution defines a Key Decision as 'an Executive decision likely to incur expenditure/make savings over £250,000 pa; or which is likely to have a significant effect on communities living or working in an area comprising two or more wards' If the scheme triggers this threshold the decision will be a Key Decision. It will therefore be necessary to include the scheme in the Council's Forward Plan for the month in which it is proposed to make the decision, and to give 5 clear days notice of the report upon which the decision will be based. The decision will also be open to Call In.

Authority to Tender

3.19 When the Authority to Tender process was first established, approval for all schemes in excess of £250k was given by the Director of Resources and below this the approval was given by the Departmental Director. It was intended that once project officers were familiar with the process and the need to perform the technical checks required, more delegation could be passed to Departmental Directors. The limit was increased to £500k in 2008.

3.20 It is considered that the process for carrying out these pre-tender checks is now well established within Directorates and that Departmental Directors should now have full authority and accountability to approve schemes as ready to tender. It is proposed therefore to reflect this within the capital approvals arrangements.

3.21 The Authority to Tender is a direct consequence of implementing the Key Decision made at the Authority to Spend stage of the process. In accordance with the definition of a Key Decision set out at Article 13 of the Constitution this will not therefore be another Key Decision regardless of the amount of the spend, or the impact on communities. This decision will be an Administrative Decision.

3.22 All the proposals set out in section 3 are reflected in the revised approval table at **Appendix B.**

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 This report is seeking the views of the Corporate Governance and Audit Committee in relation to these proposals. Discussions have also taken place with the Director of Resources and capital programme managers within Service Directorates. The recommendations of the Resources and Council Services Scrutiny Board working group are also incorporated in the proposals outlined in the report.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 This report does not have any direct equality and diversity/cohesion and integration issues.

4.3 Council Policies and City Priorities

4.3.1 The schemes in the Capital Programme support the Council's City Priority Plans and Council Business Plan. The approvals process for the Capital Programme is consistent with the Business Plan priority of ensuring there are good rules and procedures to govern the Council's business.

4.4 Resources and Value for Money

4.4.1 The approvals process and the level of delegated authority allowed needs to ensure adequate control of resources and integrity of financial information whilst not placing an unnecessary burden on service directorates regarding the seeking of approvals to progress schemes.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The capital programme approvals form part of the Council's Financial Procedure Rules (FPRs) and any changes made will be reflected within the FPRs.

4.5.2 The report sets out proposed changes to the FPRs in advance of taking a decision the Director of Resources seeks the view of the Corporate Governance and Audit Committee.

4.5.3 The report sets out the position in relation to the governance of decision making in relation to the various approvals described. The Monitoring Officer has authority to amend the Constitution for the purposes of clarification and will consider whether any amendments are necessary as a result of this statement of position.

4.5.4 There are no other legal or Access to information issues arising from this report.

4.6 Risk Management

4.6.1 If the capital rules are not adequate, there is a risk that capital expenditure will be committed for which no resources are available. Equally, if rules are too onerous, delays will be incurred in putting approvals in place which can result in delays in delivering projects and/or cost increases.

5 Conclusions

5.1 This report makes proposals for some changes to the capital approvals process. It is considered that the changes proposed will improve accountability and streamline the process without reducing control of capital expenditure and the project delivery process.

6 Recommendations

6.1 Members are asked to consider the proposals contained within the report.

7 Background documents

There are no background papers.