

**Council**

**27 February 2020**

Joint Report of the Deputy Chief Executive/ Director of Customer and Corporate Services (Interim Head of Paid Service) and Corporate Finance and Commercial Procurement Manager (Interim s151 Officer)

Portfolio of the Leader and Deputy Leader of the Council

**Recommendations of Executive on the Council's Financial Strategy 2020/21 to 2024/25, Capital Budget 2020/21 to 2024/25, Capital Financing and Investment Strategy and the Treasury Management Strategy Statement and Prudential Indicators for 2020/21 to 2024/25**

**Summary and Background**

1. This report presents to Council the recommendations of Executive for approval in respect of the revenue budget proposals for 2020/21, the Capital Budget for the period 2020/21 to 2024/25, the Capital Financing and Investment Strategy and the Treasury Management Strategy for the period 2020/21 to 2024/25. This report should be read in conjunction with the reports presented to Executive on 13 February.
2. On 13 February the Executive met to consider the revenue and capital budgets and the Treasury Management Strategy. The following reports, copies of which Members have previously received, were considered;
  - i) Financial Strategy 2020/21 to 2024/25
  - ii) Capital Budget 2020/21 to 2024/25
  - iii) Capital Financing and Investment Strategy
  - iv) Treasury Management Strategy Statement and Prudential Indicators 2020/21 to 2024/25.

## **Consultation**

3. The council's budget has been widely consulted upon. Please refer to the relevant section of the Financial Strategy report for further details.

## **Options**

4. Options open to the Council are to approve Executive's recommendations or to approve any amendments that may be moved by other Members of Council.

## **Specialist Implications**

5. Implications in respect of setting the budget are contained in the Executive reports. Member's attention is drawn in particular to the legal advice of the Council's Monitoring Officer and the statutory advice of the Section 151 officer as set out in the Financial Strategy report and repeated in the following sections.

## **Legal**

6. The council is required to set a council tax for 2020/21 before 11 March 2020. It may not be set before all major precepts (i.e. precepts from the Police and Fire Authorities) have been issued or before 1st March 2020, whichever is the earlier. The decision to set the level of council tax is reserved to Council and cannot be taken by Executive or delegated to officers, although Executive has to recommend a budget to Council. These comments are intended to apply to both the Executive meeting and the subsequent Council meeting.
7. Before determining the level of the tax, the Council must estimate its proposed revenue expenditure, taking into account amounts required by way of contingency, any need to raise reserves and any other amounts which the Council is legally required to transfer between funds. It must also estimate its anticipated income, any relevant transfer between funds and any proposed use of reserves. It must then calculate the difference between the two which is the council tax requirement.

8. The Council's Chief Financial Officer (under s151 Local Government Act 1972) is required to report to the Council on the robustness of the estimates made for the purposes of the calculations, and the adequacy of the proposed financial reserves. The Council must have regard to the report when making decisions about the calculations in connection with which it is made. The Chief Financial Officer has a statutory duty under section 114 of the Local Government Finance Act 1988 to issue a written report if he considers that a decision taken by the Council would be unlawful and likely to cause a financial deficiency.
9. In reaching decisions on these matters, Members are bound by the general principles of administrative law. Lawful discretions must not be abused or fettered and all relevant considerations must be taken into account. No irrelevant considerations may be taken into account, and any decision made must be one which only a reasonable authority, properly directing itself, could have reached. Members must also balance the interests of service users against those who contribute to the Council's finances. The resources available to the Council must be deployed to their best advantage.
10. Members must also act prudently. Members must also bear in mind their other statutory duties to have regard to certain matters when making decisions. The report identifies proposals which, if approved, may potentially have an impact on children, older adults and persons with disabilities all of which groups are statutorily protected equality strands under the Equalities Act 2010. In making their decision, Members must have due regard to their public sector equality duties and the need to eliminate discrimination, to mitigate against negative impacts where these are known and to promote equality when making decisions. Members must also take into consideration the need to consider any crime and disorder implications of the decision. A failure to follow these principles could open the Council to judicial review.
11. Members have a fiduciary duty to the council tax payers and others in the local authority's area. This means that members must behave responsibly in agreeing the budget. Members have no authority to make anything other than a balanced budget.
12. Among the relevant considerations which Members must take into account in reaching their decisions are the views of business ratepayers and the advice of officers. The duty to consult representatives of non-domestic ratepayers on the Council's expenditure plans is contained in Section 65 of the Local Government Finance Act 1992.

13. In considering the advice of officers, and the weight to be attached to that advice, Members should have regard to the personal duties placed upon the s151 Officer. Members are obliged under the Code of Conduct to have regard to the advice of the s151 Officer and Monitoring Officer. The Council may take decisions which are at variance with their advice, providing there are reasonable grounds to do so. However, Members may expose themselves to risk if they disregard clearly expressed advice, for example as to the level of provision required for contingencies, bad debts and future liabilities. In addition, if Members wish to re-instate savings recommended by the Corporate Finance and Commercial Procurement Manager in order to balance the budget, they must find equivalent savings elsewhere.
14. The Corporate Finance and Commercial Procurement Manager is required by Section 151 of the Local Government Act 1972 and by the Accounts and Audit (England) Regulations 2011 (as amended) to ensure that the council's budgeting, financial management, and accounting practices meet relevant statutory and professional requirements. This is in addition subject to the requirements set out above.
15. Members must also have regard to, and be aware of, the wider duties placed upon the council by various statutes governing the conduct of its financial affairs. These include the distinction between revenue and capital expenditure and the requirement to set prudential indicators in line with capital investment plans that are prudent, affordable and sustainable.
16. Section 106 of the Local Government Finance Act 1992 makes it a criminal offence for any Member with arrears of council tax which have been outstanding for two months or more to attend any meeting at which a decision affecting the budget is to be made, unless the Member concerned declares at the outset of the meeting that he or she is in arrears and will not be voting on the decision for that reason. The Member concerned must not vote but may speak. The application of Section 106 of the 1992 Act is very wide and Members should be aware that the responsibility for ensuring that they act within the law at all times rests solely with the individual Member concerned.
17. If a referendum is held after the beginning of the relevant financial year, the higher rate of council tax will be payable unless and until it is overturned by a 'no' vote in the referendum. It must also provide "substitute calculations" which need to be presented to Council setting

out what the alternative budget would be. This means that that if a party proposes a council tax above the referendum limit they must also produce “substitute calculations” within the referendum limit, to be used in the event that the referendum would reject the increase. In the event that a referendum rejects the increase, the billing authority would be able to issue new bills, offer refunds at the end of the year or allow credits against liability the following year, although individual council taxpayers would be entitled to a refund on demand.

## **Statutory Advice from the s151 Officer**

### Introduction

18. The Local Government Act 2003 places responsibilities upon the council's Chief Finance Officer to advise the council on the adequacy of its reserves and the robustness of the budget proposals including the estimates contained in this document. This section also addresses the key risks facing the council in relation to current and future budget provision. The following paragraphs outline my assessment of the budget proposals outlined in this report, including reserves and general robustness of the process. Section 25 (2) of the 2003 Act requires the council to have regard to this assessment in approving the annual budget and setting the council tax.

### Robustness of proposals and process

19. The preparation of a budget relies on estimates, which are made at a point in time, and clearly there are a number of factors that can influence actual expenditure throughout the year. However, there are processes in place to ensure that assurance can be given that this budget has been constructed using the best available information and assumptions at the time of preparation. These include:
- regular budget monitoring to ensure known pressures are reflected
  - involvement of directorate management teams in development of the proposals
  - regular scrutiny of the proposals by Executive members, including separate budget Executive Member Decision Sessions held during January
20. Considerable reliance is also placed on budget managers having proper arrangements in place to identify issues early, project the likely demand for services, and consider value for money and efficiency.

21. In order to provide assurances that the budget estimates are robust the following factors have been considered:
- overall funding available including specific grants and other funding available from central government, along with locally raised income from council tax and business rates,
  - progress made in delivering 2019/20 savings
  - whether the budget decisions outlined in this report are achievable
  - the current and anticipated budget pressures arising from services such as social care
  - the forecast impact of inflation and pay awards
  - the financial sustainability of the council and the effectiveness of the financial management arrangements in place
  - the affordability and sustainability of the capital investment plans outlined in the capital programme report elsewhere on this agenda and the revenue impact of this expenditure
22. In addition, the council has a demonstrable track record of delivering budget savings and has sound financial management procedures in place. This has been recognised by favourable audit reports in respect of financial management and processes and overall the financial planning process is sound and effective.
23. A range of pressures have been identified and built into the budget presented in this report, including a contingency sum of £500k as in previous years. There are also significant savings, reflecting the scale of the challenge facing the council. There should be no understatement of the scale of this challenge that continues to face the council, given the general upward cost profile of adult care and children's services.

### Risks

24. The report outlines the key risks to the 2020/21 budget and these are considered further in the following paragraphs.
25. A key risk facing the council is the number of complex capital schemes it is currently undertaking, and which are still at relatively early stages of development. Should schemes not progress to full completion there remains a risk that costs currently assumed to be capable of being capitalised must be written off to revenue. There are also increased borrowing levels resulting in increased revenue costs of debt in coming years. This is highlighted in the medium term plan figures.

26. A further key risk in relation to the capital programme is that some major capital projects may have short/medium term cash flow impacts. For example York Central, and Castle Gateway will be major schemes, which will result in additional business rates, income or capital receipts, but that may require short term borrowing prior to income being received to cover the costs. As identified in previous budget reports, the Venture Fund will be used to support early years cash flow deficits on major strategic capital projects.
27. The current pressures being experienced within both adults and children's services are of concern and the ongoing action being taken, as outlined in the finance and performance report elsewhere on this agenda, will need to continue and be given a high priority. Specific attention is drawn to the national picture regarding these services, which are recognised as being under increased pressure. Whilst this council has invested in these services in recent years, the risks remain, and it is essential the council continues to make adequate budgetary growth provision to deal with the significant cost pressures these services are experiencing, along with savings programmes to mitigate pressures. The budget proposals properly recognise these pressures.
28. Brexit remains an area of risk that will require continued monitoring. There do not appear to have been any significant issues to date but there are clearly potential future implications, such as increased inflation or difficulties securing goods. Additional funding has been provided by Government and £139k of this funding remains unallocated to cover any potential costs in the coming year.
29. The reduction in New Homes Bonus Funding will also require careful planning to ensure expenditure currently funded from this source can be met from council tax/retained business rates. Again, provision has been made for this in future years.
30. The council has declared a climate emergency and funding has been allocated within the budget to coordinate, develop and implement the council's ten year plan to deliver a zero carbon future for York. The potential future costs (and savings) that may result from this work is still relatively unknown and will therefore require careful monitoring and further consideration in future years budgets.
31. Clearly, there are risks in the achievement of some of the proposed savings and, in assessing this risk, I cannot guarantee that every single proposal will be achieved. I do however consider the overall package to

be prudent. As outlined earlier, processes are in place to ensure the robustness of the proposed savings. A risk assessment of the individual savings proposals has been conducted and discussed with senior management. Where savings are not delivered, services are fully aware of the need to find compensating savings.

32. Finally, there remains the potential for significant changes to the system of local government finance in coming years. The government originally launched the Fair Funding Review in 2016 scheduled for implementation in April 2020, however, implementation was postponed. This policy is likely to change the needs assessments of local authorities and therefore the distribution of funding between different councils. The government has recently announced that they are making progress on the review and that they will be consulting on further details of the proposed reforms soon. Officers will continue to monitor any developments in this area.

#### Other issues

33. CIPFA's Financial Resilience Index is a comparative analytical tool for use by chief financial officers to support good financial management. The index shows a range of measures that CIPFA have determined are associated with financial risk. In considering the budget the index has been reviewed and particular attention given to reserves sustainability, interest payable as a proportion of net expenditure and business rates growth. All these areas have been considered within the budget and appropriated provision made.
34. In October 2019 CIPFA issued a Financial Management Code to support good practice in financial management and assist in demonstrating financial sustainability. The Code sets out the standards of financial management and 2020/21 will be the first year of full compliance to reflect that councils will need time to consider the contents of the code. We will use the forthcoming financial year to prepare for full implementation and demonstrate our compliance with the Code.
35. In November CIPFA issued Guidance on Prudential Property Investment which includes details of how councils can calculate whether their property investments are proportional to the size of their revenue budgets. Whilst this council has only made relatively modest investments in commercial property, in comparison to other councils, this is an area of potential risk so this guidance will also be reviewed during coming



months and in future years will form part of the budget preparation process.

### Reserves

36. CIPFA guidance states that, in order to assess the adequacy of reserves when setting the budget, chief finance officers should take account of the strategic, operational and financial risks facing the authority and that the many factors involved when considering appropriate levels of reserves can only be assessed properly at a local level.
37. Determining the appropriate levels of balances is therefore a professional judgement based on local circumstances including the overall budget size, risks, robustness of budgets, major initiatives being undertaken, budget assumptions and other earmarked reserves and provisions.
38. Furthermore, part of the risk management process involves taking appropriate action to mitigate or remove risks, where this is possible. This in turn may lead to a lower level of reserves being required, and it would be appropriate to consider reducing the level of balances held where appropriate action to mitigate or remove risks has been successfully undertaken. As part of the year end process, a review is undertaken and any balances that are no longer required, or that can be reduced due to action taken to reduce or mitigate the relevant risks, will be reported to Executive as part of the year end outturn report.
39. The proposed 2020/21 budget seeks to keep reserves to an amount of £1,042k above their minimum levels. This recognises that, in difficult financial times and alongside general uncertainty regarding the economy, it is advisable to ensure sufficient reserves are in place.
40. The recommended minimum reserves for 2020/21 are £6.4m and this is considered within the report. Whilst I have identified in earlier paragraphs the risks facing the council I do not consider that reserves require any increase, but as in previous years, would caution against any reduction at this stage as there remain risks within the capital programme and social care in particular.

### Summary

41. The continuing reduction in public spending coupled with increasing demand for services means financial planning needs to be robust. For

future budget planning, further action will be needed to focus resources on the highest priority services to reduce demand, as well as creating capacity to make investment in key front line services and essential capital investment. Therefore, the major financial challenge facing the council in coming years remains the need to secure further savings and for cost pressures to be managed effectively. Given the current financial pressures referred to in previous paragraphs there will need to be continued careful monitoring of the achievement of the savings outlined in this report. The council also has strong financial health in terms of its overall level of unallocated reserves.

42. I have given careful consideration to the proposals outlined in all the budget reports on this agenda and particularly the risks associated with the proposals. Prudent and realistic assumptions have been made and the financial implications of known pressures have been included. Therefore, I am satisfied that they represent a robust budget on which the council can rely in setting council tax.

## **Recommendations**

### **Revenue Budget**

43. Executive recommends that Council:
- i. Approve the budget proposals outlined in the Financial Strategy report and in particular;
    - a. The net revenue expenditure requirement of £127.223m
    - b. A council tax requirement of £93.808m
    - c. The revenue growth proposals as outlined in the body of the report
    - d. The 2020/21 revenue savings proposals as outlined in annex 2
    - e. The fees and charges proposals as outlined in annex 3
    - f. The consultation feedback as set out in annex 4
    - g. The Housing Revenue Account (HRA) growth set out in annex 5 and the HRA savings proposals set out in annex 6

- h. The dedicated schools grant proposals outlined from paragraph 154
- i. The use of £420k New Homes Bonus, £150k from the Lendal Bridge reserve and £150k Transport reserve to fund one off investment, as outlined in paragraphs 86, 87 and 92;
- ii. That Council note that the effect of approving the income and expenditure proposals included in the recommendations would result in a 3.99% increase in the City of York Council element of the council tax, 2% of which would relate to the social care precept.

Reason: To ensure a legally balanced budget is set

## **Capital Budget 2020/21 to 2024/25**

44. Executive recommends that Council:

- i. Agree to the revised capital programme of **£559.617m** that reflects a net overall increase of **£57.730m** (as set out in paragraph 89 table 12 and in Annex A). Key elements of this include:
  - a) New Schemes funded by Prudential borrowing totalling £14.645m as set out in tables 3 and summarised in table 12
  - b) New Schemes funded by a combination of both Prudential borrowing and external funds of £695k as set out in table 4 and summarised in table 12;
  - c) Extension of prudential borrowing funded Rolling Programme schemes totalling £12.485m as set out in table 5 and summarised in table 12;
  - d) Extension of externally funded Rolling Programme schemes totalling £5.300m as set out in table 6 and summarised in table 12;

- e) An increase in HRA funded schemes totalling £9.605m funded from a combination HRA balances/Right to Buy receipts as set out in table 7 and summarised in table 12
- ii. Note the total increase in Council borrowing as a result of new schemes being recommended for approval is £40.655m the details of which are considered within this report and the financial strategy report
- iii. Approve the full restated programme, as summarised in Annex B, totalling **£559.617m** and covering the financial years 2020/21 to 2024/25 as set out in table 13 and Annex B.

Reason: In accordance with the statutory requirement to set a capital budget for the forthcoming financial year.

## **Capital and Investment Strategy**

45. Executive recommends that Council:

- i. Approve the Capital and Investment Strategy at Annex A

Reason: To meet the statutory obligation to comply with the Prudential Code 2017

## **Treasury Management Strategy Statement and Prudential Indicators**

46. Executive recommends that Council approve;

- i. The proposed treasury management strategy for 2020/21 including the annual investment strategy and the minimum revenue provision policy statement;
- ii. The proposed addition of ethical, social and governance as a 4<sup>th</sup> criteria for investments after security, liquidity and yield as set out in paragraphs 78 to 82

- iii. The prudential indicators for 2020/21 to 2024/25 in the main body of the report;
- iv. The specified and non-specified investments schedule (annex B)
- v. The scheme of delegation and the role of the section 151 officer (annex D)

Reason: To enable the continued effective operation of the treasury management function and ensure that all Council borrowing is prudent, affordable and sustainable.

## Contact Details

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**Report  
Approved**



**Date** 18/2/20

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the authors of the report**

Background Papers:

Reports to Executive meeting held on 13 February 2020

- Financial Strategy 2020/21 to 2024/25
- Capital and Investment Strategy
- Capital Budget 2020/21 to 2024/25
- Treasury Management Strategy Statement and Prudential Indicators for 2020/21 to 2024/25

Annexes: None