

**Council**

28 February 2019

Report of the Deputy Chief Executive/ Director of Customer and Corporate Services

(Portfolio of the Leader and Deputy Leader of the Council)

**Recommendations of Executive on the Council's Capital Financing and Investment Strategy, Capital Budget 2019/20 to 2023/24, the Financial Strategy 2019/20 to 2023/24 and the Treasury Management Strategy Statement and Prudential Indicators for 2019/20 to 2023/24**

**Summary and Background**

1. This report presents to Council the recommendations of Executive for approval in respect of the Capital Strategy for the period 2019/20 to 2023/24, the revenue budget proposals for 2019/20 and the Treasury Management Strategy for the period 2019/20 to 2023/24. This report should be read in conjunction with the reports presented to Executive on 14 February.
2. On 14 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 2019/20 to 2023/24
  - ii) Capital Financing and Investment Strategy
  - iii) Capital Budget 2019/20 to 2023/24
  - iv) Treasury Management Strategy Statement and Prudential Indicators 2019/20 to 2023/24.

**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 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 2019/20 before 11 March 2019. 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 2019, 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. Members must also act prudently. Members must also bear in mind their other statutory duties to have regard to certain matters when making decisions. In particular the "equalities duty" to have 'due regard' to the need to eliminate discrimination and to promote equality when making decisions and 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.

10. 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.
11. 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.
12. 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 Deputy Chief Executive/Director of Customer and Corporate Services as Chief Financial Officer. Members are obliged under the Code of Conduct to have regard to the advice of the Chief Finance Officer and Monitoring Officer. The Council may take decisions which are at variance with his 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 Deputy Chief Executive/ Director of Customer and Corporate Services in order to balance the budget, they must find equivalent savings elsewhere.
13. The Deputy Chief Executive/Director of Customer and Corporate Services 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. He is in addition subject to the requirements set out above.

14. 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.
15. 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.
16. 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 Deputy Chief Executive/ Director of Customer and Corporate Services**

### **Introduction**

17. 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 give my views on the budget (both 2019/20 and beyond), reserves and general robustness of the process.

## **Overall Assessment**

18. The proposals in this budget give a balanced budget for 2019/20 and an overview of future years. The council has well established effective financial management, effective monitoring, and has received very favourable external audit reports in respect of its financial management. The council has managed expenditure within its overall budget in recent years, and the overall financial planning process remains sound.
19. Full scrutiny of the budget proposals for 2019/20 has taken place, in terms of their deliverability, and a proper risk assessment of a range of issues has been conducted.
20. There are significant savings contained within the budget proposals, 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.
21. 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 transformation/savings programmes to mitigate pressures. The budget proposals properly recognise these pressures, with both ongoing additional investment, ongoing contingency, and establishing a Service Risk reserve to assist in managing major cost pressures.
22. A key risk facing the Council relates to the large number of major complex capital schemes it is currently undertaking, and which are at the 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 within the capital programme, significant increased borrowing levels, which will result in increased revenue costs of debt in coming years. This is highlighted in the medium term plan figures.

23. 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 the profiling of this income may require short term borrowing prior to income being received to cover the costs. This was covered in detail in a recent report to Executive on York Central, and this budget makes further provision to transfer business rates income into the venture fund for these critical major projects. The Venture Fund will be used to support early years cash flow deficits on major strategic capital projects.
24. Another significant risk is the financial position of the Health system within York, which brings with it a number of significant challenges for adult care services in particular.
25. The risks associated with Brexit cannot be quantified with any accuracy at this stage. However, there are clearly potential implications, such as increased inflation, or difficulties securing goods. The budget proposed makes proper provision for contingencies and reserves, and additional funding from the Government of £210k over the 2 years 2019/20 to 2020/21 is anticipated specifically for Brexit, which provide some assurance that the Council is as well prepared as it can be at this stage.
26. There are also changes in New Homes Bonus Funding as described in the report, which will reduce the amount of NHB the Council receives in future years. Previous budget decisions have funded ongoing expenditure of £2.2m from New Homes Bonus, and moving forward the Council will need to plan for funding this expenditure from its council tax/retained business rates.
27. Clearly, there are risks in the achievement of some of the proposed savings and, in assessing the risk of the savings proposed; I cannot guarantee that every single proposal will be achieved. I do however consider the overall package to be prudent, and I am assured of the robustness of the projected savings, and the extent of rigour in their calculation. A risk assessment related to 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.
28. I consider that the overall estimates in the budget are sound and that the proposals to achieve a balanced budget are achievable, albeit demanding. The council has made provision for a number of corporate financial pressures. In addition provision is still included for a

contingency sum of £500k and there is specific funding for a Service Risk reserve. The Council also has strong financial health in terms of its overall level of unallocated reserves, anticipated additional one off business rates income for 2019/20, and unallocated Venture Fund provision. These sums, combined with a track record of delivery to budget, provide assurance on the robustness of the Council's overall financial position. This overall package is a realistic approach in dealing with the financial pressures facing the council next year. There is provision made for the estimated 2.0% pay award.

## **Looking Ahead**

29. Looking ahead there remains a range of very significant pressures for the future. The major challenge facing the council in coming years will be to secure further savings and for cost pressures to be managed effectively. In doing so, the council will also need to provide capacity for additional investment in unavoidable costs and priorities. There are potentially significant changes in the system of local government finance in the future, and there remains uncertainty in relation to the impact of Brexit upon local government finances in the longer term.
30. The proposals in this report set out details for 2019/20, but also highlight the issues facing the Council for future years, and the need to continue with a programme of delivering efficiencies and further organisation changes. There has been significant consideration of the medium term planning issues, and I am entirely satisfied with the extent to which the Council is aware of the challenges it faces, and the actions it will need to consider over coming years.
31. The Capital programme contains significant increases in the overall borrowing needs for the Council. Clearly this will impact on future revenue budgets in the form of increased treasury management costs. It is however also important that Members recognise the longer term financial benefits of economic development, and the need to ensure a strong economy that generates business rates, and provides jobs, and in turn deliver financial benefit to the Council.

## **Reserves**

32. In terms of reserves, the proposals seek 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.

33. I believe that the council will outturn within budget for 2018/19 and this is reflected in the budget monitoring report presented to Executive at this same Executive meeting.
34. The recommended minimum reserves for 2019/20 are £6.4m. This is considered within the report. I have identified in earlier paragraphs the risks facing the Council. I do not consider that reserves require any increase, but I would caution any reduction at this stage, as there remain risks within the Capital Programme and within Social Care in particular.
35. Whilst there is a degree of mitigation in that the Venture Fund has a significant balance (covered in the financial strategy report), and some other earmarked reserves could be permanently/temporarily used should there be any significant costs to be charged to revenue funds, it is essential the Council makes proper prudent provision for the risks it faces and has adequate provision in its stated "Unallocated" reserves.
36. The decision on the adequacy of the level of reserves is also linked to the general robustness of the budget process and the council's systems of budgetary control and risk management. These need to ensure that the Council will not be exposed to any unforeseen major financial problem requiring the use of reserves to resolve. In considering the overall budget position, I have taken assurance over the recent track record of the Council to manage expenditure within budget, and the fact that in very recent times financial pressures have been identified early in the financial year and through concerted action across the council the position has been brought in line with budget.

## **Other Issues**

37. The council tax referendum limit is 3% and local authorities with responsibilities for adult social care have been given an additional 3% flexibility on the current council tax referendum threshold to be used entirely for adult social care. York has a maximum of 1.5% remaining.
38. It is for members to determine the level of council tax increase, and to decide whether to set a council tax increase up to the 3% referendum limit or to take advantage of the government offer to set a tax at a higher level to be used for adult social care. Members naturally need to consider the implications of the different options very carefully. In particular they need to note the implications of any proposal to set a council tax above the referendum limit, which is covered within this report.



39. There is the potential for significant changes to the system of local government finance in coming years. Changes have occurred to New Homes Bonus and in the future will occur to Business Rates. The operational details of the devolution of the business rates system still need to be determined by government, and there remain a number of areas that will need to be addressed before the full implications will be known.
40. I am aware that as with all budgets there is the potential for amendments to be proposed/agreed which could change the overall package of proposals. In that respect, I would highlight that I would amend/add to my statement if a decision was proposed that lead to the council's reserves falling below the minimum level (assuming the current budget comes in line with budget). In addition, any other amendments I would consider against the scale of the overall budget and depending upon the extent of the amendment I may revise my statement.

## **Recommendations**

### **Capital Financing and Investment Strategy**

41. Executive recommends that Council:

Approve the capital and investment strategy at Annex A

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

### **Capital Budget 2019/20 to 2023/24 (formerly Capital Programme 2019/20 and 2023/24)**

42. Executive recommends that Council:

- i. Agree to the revised capital programme of **£579.762m** that reflects a net overall increase of **£185.898m** (as set out in paragraph 89 table 13 and in Annex A). Key elements of this include:
  - a) New Schemes funded by Prudential borrowing totalling £28.960m as set out in tables 3 and summarised in table 13

- b) New Schemes funded by a combination of both Prudential borrowing and external funds of £28.7m as set out in table 4 and summarised in table 13;
  - c) Extension to existing schemes of £7.372m funded by Prudential borrowing as set out in table 5 and summarised in table 13;
  - d) Extension of prudential borrowing funded Rolling Programme schemes totalling £6.903m as set out in table 5 and summarised in table 13;
  - e) Extension of externally funded Rolling Programme schemes totalling £7.941m as set out in table 6 and summarised in table 13;
  - f) An increase in HRA funded schemes totalling £106.022m funded from a combination HRA balances/Right to Buy receipts as set out in table 7 and summarised in table 13
- ii. Note the total increase in Council borrowing as a result of new schemes being recommended for approval is £46.385m the details of which are considered within this report and the financial strategy report
  - iii. Approve the full re-stated programme, as set out in table 13 and summarised in Annex B, totalling **£579.762m** and covering the financial years 2019/20 to 2023/24.

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

## 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 £123.372m
  - b. A council tax requirement of £90.066m

- c. The revenue growth proposals as outlined in the body of the report
- d. The 2019/20 revenue savings proposals as outlined in annex 2
- e. The fees and charges proposals as outlined in annex 3
- f. The Housing Revenue Account (HRA) budget set out in annex 4, the HRA savings proposals set out in annex 5 and the 30 year HRA Business Plan set out in annex 6
- g. The dedicated schools grant proposals outlined from paragraph 173
- h. The use of £100k of funds previously set aside in a Public Health Grant Reserve, to fund one off investment and £51k New Homes Bonus to fund recurring expenditure, as outlined in paragraph 83;
- i. The use of the remaining £522k New Homes Bonus funding and £300k funding from the business rates pool to create a Service Risk Reserve for future use, as outlined in paragraph 84
- j. The use of £1.5m funding from the LCR and NWY business rates pools to allocate into the venture fund, to deal with future cashflow or revenue implications regarding major planned developments including Castle Gateway, and Castle Museum, as referred to in the Capital Strategy report, and to be subject to future reports to the Executive

(ii) note that the effect of approving the income and expenditure proposals included in the recommendations would result in a 3.25% increase in the City of York Council element of the council tax, 1.5% of which would relate to the social care precept.

Reason: To ensure a legally balanced budget is set

## Treasury Management Strategy Statement and Prudential Indicators

44. Executive recommends that Council approve;

- i. The proposed treasury management strategy for 2019/20 including the annual investment strategy and the minimum revenue provision policy statement;
- ii. The prudential indicators for 2019/20 to 2023/24 in the main body of the report;
- iii. The specified and non-specified investments schedule (Annex B)
- iv. 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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#### Chief Officer Responsible for the report:

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**Report  
Approved**



**Date** 19/2/19

**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 14 February 2019

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MIId=11007>

- Financial Strategy 2019/20 to 2023/24
- Capital Financing and Investment Strategy
- Capital Budget 2019/20 to 2023/24
- Treasury Management Strategy Statement and Prudential Indicators for 2019/20 to 2023/24

Annexes: None