

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 Strategy for 2017/18 to 2021/22, the Financial Strategy 2017/18 to 2021/22 and the Treasury Management Strategy Statement and Prudential Indicators for 2017/18 to 2021/22

Summary and Background

1. This report presents to Council the recommendations of Executive for approval in respect of the Capital Strategy for the period 2017/18 to 2021/22, the revenue budget proposals for 2017/18 and the Treasury Management Strategy for the period 2017/18 to 2021/22. This report should be read in conjunction with the reports presented to Executive on 9 February.
2. On 9 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 2017/18 to 2021/22
 - ii) Capital Strategy 2017/18 to 2021/22
 - iii) Treasury Management Strategy Statement and Prudential Indicators 2017/18 to 2021/22.
3. At the time of writing this report the final government grant settlement has not yet been confirmed. At the Executive meeting on 9 February it was agreed that any changes between provisional grant settlement and final be reflected in amendments to the Contingency. Due to the final settlement

not having been published no changes are currently proposed. The final settlement is expected to be received before the Council meeting, and if required an amended set of papers will be submitted to Council.

Consultation

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

Options

5. 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

6. 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

7. The Council is required to set a council tax for 2017/18 before 11 March 2017. 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 2017, whichever is the earlier. This decision is reserved to Council and cannot be taken by Executive or delegated to officers, although Executive has to recommend a budget to the Council. These comments are intended to apply to both the Executive meeting and the subsequent Council meeting.
8. 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.

9. 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.
10. 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.
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 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.

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

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 give my views on the budget (both 2017/18 and beyond), reserves and general robustness of the process.

Overall Assessment

19. The proposals in this budget give a balanced budget for 2017/18 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.
20. Full scrutiny of the budget proposals for 2017/18 has taken place, in terms of their deliverability, and a proper risk assessment of a range of issues has been conducted.
21. 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, both in terms of next year and beyond.
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.

23. 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. This risk has increased recently, with massive financial challenges facing Clinical Commissioning Group's in particular and the position regarding the Better Care Fund both now and in the future represents a major risk.
24. There are also changes in New Homes Bonus (NHB) 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 just over £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. This will require budget growth from 17/18 for a period of around 4 years, at a level of approximately £500k each year.
25. 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. They do however represent a major challenge to deliver, one that will only be achieved through full commitment across the organisation. Very careful monitoring of the progress of the savings programme will be essential. 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.
26. 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 included for a contingency sum of £500k, and I consider this an important factor in the overall budget assessment. This overall package is a realistic approach in dealing with the financial pressures facing the council next year. In addition the major financial pressures being experienced during 2016/17 have been addressed through significant additional investment. There is provision made for the estimated 1.0% pay award.

Looking Ahead

27. Looking ahead there remains a range of very significant pressures for the future. It is almost certain that there will be further reductions in government funding, and 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.
28. The proposals in this report set out details for 2017/18, but also set out the strategic direction, and key issues facing services for the following two years. There has been significant consideration of the medium terms 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.

Reserves

29. In terms of reserves, the proposals seek to keep reserves to an amount of £496k 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.
30. I believe that the council will come in on budget for 2016/17 and this is reflected in the budget monitoring report presented to Executive at this same Executive meeting.
31. The recommended minimum reserves for 2017/18 are £6.4m. This is considered within the report. I have identified in earlier paragraphs the risks facing the Council. Consequently I strongly advise that Council begins to make provision for increasing general reserves, and does so by using any potential under-spend that occurs on the revenue account for 2016/17. Should this not lead to increases (e.g. there is no underspending) then further action will need to be considered, as I consider it a significant risk not to have reserves above £8m in the short to medium term.
32. 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. The position regarding a number of the risks e.g. major capital projects,

health sector funding, should become clearer over the next couple of years and clearly the position on reserves will be reviewed on an ongoing basis.

33. 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

34. The council tax referendum limit remains at 2% but local authorities with responsibilities for adult social care will be given an additional 3% flexibility on the current council tax referendum threshold to be used entirely for adult social care.
35. 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 2% 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.
36. I also would highlight the separate capital strategy report, and the issues that are set out within that. I would stress however that the overall balance in terms of capital investment, levels of borrowing, and revenue implications (and the impact on revenue expenditure) is something that is for Members to determine.
37. 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.

38. 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 Strategy

39. Executive recommends that Council;

- i. Agree to the revised capital programme of **£215.036m** that reflects a net overall increase of **£36.140m** (as set out in paragraph 54 table 9 and in Annex B). Key elements of this include;
 - a. Extension of prudential borrowing funded Rolling Programme schemes totalling £8.240m as set out in table 3 and summarised in table 9;
 - b. New schemes totalling £11.024m including an increase in prudential borrowing of £11.024m as set out in tables 4 & 5 and summarised in table 9;
 - c. Extension of externally funded Rolling Programme schemes totalling £6.764m as set out in table 5 and summarised in table 9;
 - d. An increase in HRA funded schemes totalling £10.112m funded from a combination HRA balances/Right to Buy receipts as set out in table 6 and summarised in table 9
- ii. Approve the full restated programme as summarised in Annex A totalling **£215.036** cover financial years 2017/18 to 2021/22 as set out in table 10 and Annex A
- iii. Approve the proposal to allow wards, if required to bring forward their share of the 2018/19 Highways Resurfacing allocation (£250k in

total per annum) to allow the potential for higher impact schemes as set out at paragraph 31.

Reason: To set a balanced capital programme as required by the Local Government Act 2003.

Revenue Budget

40. 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 £119.659m
 - b. A council tax requirement of £81.630m
 - c. The revenue growth proposals as outlined in the body of the report
 - d. The 2017/18 revenue savings proposals as outlined in annex 2
 - e. The fees and charges proposals as outlined in annex 4
 - f. The Housing Revenue Account (HRA) budget set out in annex 5 and the HRA savings proposals set out in annex 6
 - g. The dedicated schools grant proposals outlined in paragraphs 149 to 156
 - h. The use of £147k New Homes Bonus funding to fund one off investment, as outlined in paragraph 73
 - i. The use of £156k funding from the Leeds City Region Business Rates Pool to support cultural and sporting events, including cycling, as outlined in the report in paragraph 104, which will be subject to a report to the Executive during the year
 - j. The use of £750k from the Waste Reserve to fund additional one off waste disposal costs in 2017/18, prior to the planned

full operation of the Allerton Waste Recovery Park facility in February 2018, as described in paragraph 108.

- k. The use of £676k from the Lendal Bridge Reserve to fund transport improvements, including investigating options for cycling improvements and a cycle hire scheme, pothole repairs, and footway repairs, as described in paragraph 110, which will be subject to a further report to the Executive
 - l. The use of £630k from the York Financial Assistance Scheme (YFAS) Reserve to support financial inclusion and investment in mental health, which will be subject to further reports to the Executive or the Executive Member as described in paragraph 111.
- ii. Note that the effect of approving the income and expenditure proposals included in the recommendations would result in a 3.7% increase in the City of York Council element of the council tax, 3% 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

41. Executive recommends that Council approve;

- i. The proposed Treasury Management Strategy for 2017/18 including the annual investment strategy and the minimum revenue provision policy statement;
- ii. The prudential indicators for 2017/18 to 2021/22 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.

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**Report
Approved**

Date 15 February 2017

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 9 February 2017

- Financial Strategy 2017/18 to 2021/22
- Capital Strategy 2017/18 to 2021/22
- Treasury Management Strategy Statement and Prudential Indicators for 2017/18 to 2021/22

Annexes: None