

Report of the Chief Finance Officer

**Recommendations of Executive on the Council's Financial Strategy 2022/23 to 2026/27, Capital Budget 2022/23 to 2026/27, Capital Financing and Investment Strategy and the Treasury Management Strategy Statement and Prudential Indicators for 2022/23 to 2026/27**

**Summary and Background**

1. This report presents to Council the recommendations of Executive for approval in respect of the revenue budget proposals for 2022/23, the Capital Budget for the period 2022/23 to 2026/27, the Capital Financing and Investment Strategy and the Treasury Management Strategy for the period 2022/23 to 2026/27. This report should be read in conjunction with the reports presented to Executive on 7 February.
2. On 7 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 2022/23 to 2026/27
  - ii) Capital Budget 2022/23 to 2026/27
  - iii) Capital Financing and Investment Strategy
  - iv) Treasury Management Strategy Statement and Prudential Indicators 2022/23 to 2026/27.

**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.

4. As noted in the Financial Strategy report, the consultation was promoted within the business community via existing business network links and distribution groups including York Business Week, Make It York, The Business Improvement District, York Chamber of Commerce and the York Federation of Small Businesses. Promotion was through social media, website channels and email. These key stakeholders were asked to pass on details of the consultation to their members.
5. The results will be published alongside all consultation response on York's open data platform. [www.yorkopendata.org](http://www.yorkopendata.org)

## **Options**

6. 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**

7. 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**

8. The council is required to set a council tax for 2022/23 before 11 March 2022. 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 2022, 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.
9. 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.

10. 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.
11. 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.
12. 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.
13. 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.

14. 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.
15. 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 Chief Finance Officer in order to balance the budget, they must find equivalent savings elsewhere.
16. The Chief Finance Officer 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.
17. 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.
18. 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.

19. 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

20. 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

21. 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 December
22. 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.
23. 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 2021/22 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
24. 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.
25. 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

26. The report outlines the key risks to the 2022/23 budget and these are considered further in the following paragraphs.

27. The Covid-19 pandemic has been the cause of unprecedented challenges and financial uncertainty which has had a significant impact on the Council's financial position. This is likely to continue to be an ongoing area of risk as the longer term impact both on businesses and on residents is still unknown and therefore I again consider the inclusion of a Covid contingency an essential aspect of the budget proposals.
28. Rising inflation, in particular in relation to energy costs, is an area of concern with CPI expected to reach almost 7% by April 2022. This will impact on all our residents. In addition, given the Council's significant capital programme, rising costs are to be expected and may result in some schemes being delayed or costing more than estimated. The Council is also experiencing difficulties in recruiting to some front line services given the high number of vacancies across the economy. This may again result in difficulties in achieving some Council Plan priorities.
29. 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.
30. 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.
31. The current pressures being experienced within both adults and children's services are of concern and the ongoing action being taken 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.

32. 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 the budget.
33. 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.
34. The Government announced in “Building Back Better” that it would be introducing new social care reforms funded by a Health and Social Care Levy. There remain many questions about the funding for social care reform, and how this fits in with the amounts that have been distributed through the settlement. It is fair to say that there is still much to be worked out by DHSC, not least how much the reforms will cost local authorities. So there is going to be continued uncertainty around both the cost of these reforms and how the funding will be determined and distributed. As a result, there is a very significant financial risk to local authorities with social care responsibilities.
35. Finally, there remains again the potential for significant changes to the system of local government finance in coming years. The Government published the provisional settlement on 16 December 2021. It is a one year settlement only and there are no projected or indicative figures for the remainder of the spending review period (2023/24 and 2024/25). More fundamental changes in local government have been clearly signalled for 2023/24.
36. These changes in funding could be significant, and will make forecasting for 2023/24 and beyond very difficult. Some or all of the fair funding review could be resurrected, and a business rates baseline reset seems likely. The government originally launched the Fair Funding Review in 2016 and the review has been postponed numerous times. As yet, there are not details as to when the review may be revisited. This policy is likely to change the needs assessments of local authorities and therefore the distribution of funding between different councils, adding to the uncertainty in the years ahead.

## Reserves

37. 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.
38. 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. Based on the range of factors and risks outlined in this report it is my view that the general reserve should be a figure of £6.8m.
39. 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.
40. The outturn report for 2020/21 required the use of general reserves to balance. As part of the 2022/23 budget provision has been made to increase reserves back to their previous level by the inclusion of one off growth of £500k. This ensures reserves are maintained at an appropriate level given the risks outlined above.
41. The proposed 2022/23 budget does not use the general reserve to balance however, given the financial pressures currently being experienced within social care, it is expected that the general reserve will again need to be called on in 2021/22. As the budget proposals include a £1m Covid Recovery Fund to deal with the ongoing impact of the pandemic, and one off growth of £500k to return the general reserve to its previous level, it is my view that the level of reserves still remain sufficient to deal with any further risks.

## Summary

42. The ongoing uncertainty created by Covid-19 means it continues to be incredibly difficult to forecast with any real certainty. Rising inflation, potential changes to local government finance signalled in the provisional settlement and the likely financial challenges of adult social care reform all have the opportunity to have a significant financial impact on the council.
43. For future budget planning, further action will be needed to continue 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 to support and accelerate recovery from the pandemic. Therefore, the major financial challenge facing the council in coming years remains the need to secure further savings and for cost pressures, particularly those resulting from the pandemic, 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. Whilst the council currently has strong financial health in terms of its overall level of unallocated reserves, a period of uncertainty is to be expected and for future budgets consideration will need to be given to increasing reserves should they be used in the short term.
44. 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**

45. 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 £135.384m
  - b. A council tax requirement of £102.043m
  - c. The revenue growth proposals as outlined in the body of the report
  - d. The 2022/23 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) savings proposals set out in annex 6 and the HRA 2022/23 budget set out in annex 7
  - h. The dedicated schools grant proposals outlined from paragraph 194
  - i. The use of £650k New Homes Bonus to fund one off investment, as outlined in paragraph 118
- ii. That Council note that the effect of approving the income and expenditure proposals included in the recommendations would result in a 2.99% increase in the City of York Council element of the council tax, 1% of which would relate to the social care precept.

Reason: To ensure a legally balanced budget is set

## **Capital Budget 2022/23 to 2026/27**

46. Executive recommends that Council:

- i. Agree to the revised capital programme of **£459.625m** that reflects a net overall increase of **£70.176m** (as set out in table 2 and in Annex A). Key elements of this include:
  - (a) New schemes funded by prudential borrowing totalling £1.9m as set out in tables 3;
  - (b) New schemes funded by a combination of both prudential borrowing and external funds of £16.300m as set out in table 4

- (c) Extension of prudential borrowing funded Rolling Programme schemes totalling £31.411m as set out in table 5 and summarised in table 5;
  - (d) Extension of externally funded Rolling Programme schemes totalling £10.475m as set out in table 8;
  - (e) An increase in HRA funded schemes totalling £10.090m funded from a combination HRA balances/Right to Buy receipts as set out in table 9;
- ii. Note the total increase in Council borrowing as a result of new schemes being recommended for approval is £37.611m 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 **£459.625m** covering financial years 2022/23 to 2026/27 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**

47. 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**

48. Executive recommends that Council approve:

- i. The proposed treasury management strategy for 2022/23 including the annual investment strategy and the minimum revenue provision policy statement;
- ii. The prudential indicators for 2022/23 to 2026/27 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** 9/2/22

**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 7 February 2022

- Financial Strategy 2022/23 to 2026/27
- Capital and Investment Strategy
- Capital Budget 2022/23 to 2026/27
- Treasury Management Strategy Statement and Prudential Indicators for 2022/23 to 2026/27

Annexes: None