

28th February 2024		ITEM: 12
Council		
Section 25 Report		
Wards and communities affected: All	Key Decision: Key	
Report of: Cllr G Snell – Finance, Human Resources and Payroll		
Accountable Assistant Director: Michael Jones, Interim Assistant Director for Strategic & Corporate Finance		
Accountable Director: Steve Mair, Chief Financial Officer, and S151 Officer		
This report is public		
Version: Council		

Executive Summary

Under Section 25 of the Local Government Act 2003 there is a requirement for the Council's Chief Finance Officer to report to Council on:

- The robustness of the estimates made for the purposes of the calculations of the budget; and
- The adequacy of the proposed level of financial reserves

The Council in considering the budget should have regard to this advice.

Commissioner Comment:

Commissioners support the s25 statement and recommendation as outlined by the s151 officer. There are particular risks that we draw attention to:

- (i) There is not as yet a path to full financial sustainability by 2028/29; through existing savings plan, asset sales, fees and funding decisions the budget and MTFS lay out a considerable reduction of debt with an associated reduction in servicing costs; however there remains a material debt 2028/29 of an estimated £314m (or 24.8% of revenue). As a means to secure financial sustainability it will be necessary to make further difficult decisions beyond those outlined in the MTFS across taxation, fees, charges & savings.
- (ii) There have been recent and very significant movements in MRP calculations as a result of new legal advice on interpretation of MRP guidance; the MRP calculations are subject to audit.

- (iii) The delivery of the 2024/25 budget is subject to divestments of £96m of investment portfolio assets and £36m of property assets in 2024/25. This is in addition to the £10.480m capital receipts identified in the capital programme (£2.960m in 2024/25). Progress against all asset divestments will continue to be monitored at the Finance Recovery Board & through to Quarterly Cabinet; this is inherently difficult to predict precise timings and value; any material changes to that profile will have an impact on the scale of the deficit and the capitalisation request of £68.6m.
- (iv) And finally to achieve a balanced budget further savings of £831k (4% of total savings target in 2024/25) are yet to be identified but are due to be by 22nd March; any attrition of 2024/25 savings will need to be met with equivalent ongoing saving choices and reported to the following Finance Recovery Board and subsequent Cabinet.

1. Recommendation(s)

- 1.1 **That Council has regard to this report when making decisions about the calculation of council tax requirement.**

2. Introduction and Background

- 2.1 This report advises the Council of the Interim Director of Finance (s.151) report on the robustness of the estimates made for the purposes of the budget calculations and the adequacy of the proposed financial reserves.
- 2.2 This report is made under Section 25 of the Local Government Act 2003, which the Council is required to have regard to when making decisions in accordance with s.31A of the Local Government Finance Act 1992 on agreeing the budget for the financial year 2023/24.

3. Information

Thurrock Council Financial Context

- 3.1 In December 2022 the Council requested Exceptional Financial Support from DLUHC in respect of the financial year 2022/23 to help it balance its budget.
- 3.2 The then Acting Director of Finance and s151 Officer issued a report under s114 of the Local Government Finance Act 1988 in December 2022, outlining a projected funding gap of £452m in 2022/23 and a further £184m in 2023/24. It also stated that the Council would require exceptional financial support to balance the funding gaps identified now and, in the future,
- 3.3 On 2 September 2022, the Secretary of State for Levelling Up, Housing and Communities announced directions to implement an intervention package at the Council. The Secretary of State is exercising his powers under Section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at Section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that have been made by third parties about the processes that have been applied to the operation of the Authority's commercial strategy, and
- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they are taking to address the issues, taking account of the scale and pace of the response required.

3.4 Since then, the Council has begun to address its financial issues through the financial strategy set out at section 3.10

3.5 In the medium to longer-term the Council cannot become a financially self-sustaining council without considerable Government support. The availability of significant future support is a key assumption underpinning the 2024/25 budget and will continue to be required into future years until further mitigation can be identified.

3.6 The Council's very serious financial challenges have arisen over a period of several years and represent the combined impact of a wide range of issues. Examples to note are as follows:

- over-reliance on investments to support revenue - proportion risk;
- over investment in one solar/windfarm basket - investment concentration risk;
- long-term investments funded by borrowing on temporary markets from other local authorities - interest risk;
- very significantly inadequate budgeting for MRP - legality risk;
- inadequate levels of previous revenue savings – unsustainability risk;
- an excessive capital programme – affordability risk.

3.7 The Council had for several years suffered greatly from a lack of:

- understanding of and transparency about its true financial position;
- corporate (at all levels) and financial ownership, drive and leadership of the problem as it understood it;
- tight financial management by budget holders;
- skilled project management;
- development and leadership of the Council's finances and finance team;
- financial drive, control, positive attitude, ownership at all levels and roles;
- evidenced based decisions set within a context of value for money;

- 3.8 These problems are now being addressed via the design and approval of a new finance service structure to enable robust financial challenge. But designing, implementing and embedding new processes across the Council, together with the required changes to organisational financial management culture and process will take an estimated 5 years to achieve. More detailed assessments of the improvement timeframe will only become possible as the situation in Thurrock develops locally and will inevitably vary. Realistically the financial strategy will need to outline the actions required over the next decade in order to set the Council on a firmer and more sustainable financial footing.

Specific Conditions and Risks

- 3.9 Particular attention is drawn to the following specific conditions and risks:

- the level of General Reserve Balances for 2024/25 is £11m, although this is the bare minimum as a percentage of Net Revenue Expenditure;
- the budget which has levels of contingency built in to reflect the risks the Council is facing and is predicated on continuing support from DLUHC;
- agreement of the Capitalisation Direction for 2024/25 and future years as proposed to DLUHC at estimated figures of £68.6m in 2024/25;
- agreement by DLUHC that they will agree to issue Capitalisation Directions or provide other support to equal the actual figures for the previous, current and future years as the accounts for the financial years are closed;
- the level of Council General Reserves are increased in future years, once a more stable finance base has been created;
- as at the 1 April 2024, the estimated total reserves held by the Council will be £58.8m;
- as the Council has no audited accounts since 2019/20 the financial position is subject to considerable potential change which may impact on the robustness of the budget;
- the Council embeds the good practice being designed, but notes that this will take up to 5 years to do so and thus as with the accounts the various estimates will be subject to change;
- the Council has a major dependency on asset and divestment sales, a reduced capital programme and revenue budget savings, which will significantly impact on the budget for 2024/25 and the future years, which will again affect the level of robustness of the budget;
- the Council continues to operate the Expenditure Control Process throughout 2024/25;
- the Council continues to develop its budget monitoring processes and ensures that the delivery of the planned budget savings are achieved;
- the Council continues to develop longer term financial planning;
- the Council continues to drive the financial strategy forward, or revise it as required;
- the overarching financial risk facing Thurrock is the magnitude of the financial challenge that it faces and the complexity and variability of some of the solutions. In particular the MRP calculations as a result of new legal advice, which has had a material impact on the timing of the impact and clearly the disposal of investments and capital assets. It should be noted that

the figures assumed for the latter will be subject to change as the work progresses, the market conditions etc

Other Risks Impacting Thurrock

3.10 In addition to the above specific risks and conditions there are a number of other risks:

- Finance Service - the current finance team is heavily dependent on interim support, particularly at the senior level, which is unsustainable in the medium-term. Whilst a re-structure of the department and a major recruitment exercise has been undertaken this will not begin to have a sustained impact until well into 2024/25.
- Demand Led Budgets - Adults and Children's Social Care budgets are particularly demand led. The impact of high-profile national cases can lead to a significant increase in safeguarding concerns and the subsequent referrals and demand for placements within Children's Services. Demand for Adult Social Care is increasing with an ageing population living longer and with more complex needs. Whilst future years' estimates have been made based on cost and volume assessments there is a risk that these assessments may be exceeded. There is also the risk of provider failure as prevailing market conditions may deteriorate.
- Council Tax Collection - There is a risk that future local economic conditions will deteriorate and that the current projected levels of council tax collection will fall leading to a deficit on the Collection Fund. The performance against the assumed collection rates will be monitored on a monthly basis and the Council has a good track record of managing this risk
- Inflation – inflation % have been applied to various budgets, specifically to pay, energy and contract budgets. Some inflation assumptions are necessarily based on estimates at a point in time. Markets continue to be volatile and driven in some cases by international factors that are difficult to predict with any certainty.
- Borrowing – the Council is solely dependent on PWLB for borrowing and continues to face greatly increased interest costs.
- LA Finance Settlement - the forthcoming year, 2024/25, will be the fifth year where local authorities will only receive a single-year finance settlement.
- Government Grants - risk of grant clawback including Government funding and housing benefit subsidy.
- Council's risk as an employer which has and will require the Council to budget for the cost of severance packages incurred in the delivery of the required budget savings, service transformation and restructuring.
- Demand and economics - full effects of any economic measures with the potential for higher demands on services e.g. social care for both Children's Services and Adults Services and falling income levels.
- Legal action - risk of litigation, both currently and in the future
- Reserves and contingencies – the Council needs to retain a general contingency to provide for any unforeseen circumstances, which may arise

- Savings Budgets - magnitude of the savings that the Council has to deliver in future years, all of which must be delivered in full or alternatives found within the services. This is of a scale the Council has not delivered previously and will require a very significant focus throughout the year on delivery plans, budget monitoring and expenditure and income control that goes beyond what the Council has previously achieved

4. Financial Strategy

4.10 In order to address the above situation and risks the Council has developed a financial strategy designed to deal with the Secretary of State Directions and the Council's underlying financial challenges. The fundamentals of this strategy are twofold:

Debt Reduction and Achieving a Balanced Budget

4.11 There are four strands driving this key element of the strategy:

- selling £1.035bn of investments to the fullest extent possible and in doing so ensure the governance, project management, budgetary control etc of this programme of work is properly undertaken
- generating over £100m of capital receipts
- reducing reliance on borrowing to fund GF capital programme
- saving £18.2m from the revenue budget for next 2 years and a further £13.65m 7.5% for the following 3 years. This may change over time

The first two are being used to pay down debt

The third is to avoid debt increasing and reduce financing costs

The fourth to balance the revenue budget

Financial Management

4.12 There are other strands of work designed to prevent this happening again:

- Reviewing and improving the Treasury Management Strategy and MRP policy and currently assumed budget for MRP.
- Reviewing and revising the Council's finance structure, culture and improvement plans addressing capacity and skills assessment and development which will develop the service.
- Reviewing the Council's risk management processes and improve them.
- Designing and implementing a range of improvements to deal with compliance with all necessary rules, regulations, delegations, governance of the commercial portfolio and
- A number of further financial management improvements

- 4.13 Progress on the first four are shown in the other reports on this agenda. In summary the Council is planning:
- To receive £633m of receipts from investment sales/income by 31/3/24. These will be used to pay down debt
 - To receive £48m of receipts from capital asset sales by 31/3/24. These will also be used to pay down debt
 - Reduce its General Fund capital programme to £1m per annum which will reduce borrowing costs
 - Deliver over £18m of revenue savings in 2024/25, plus the £1.7m additional savings and design and deliver a further £18m in 2025/26 and further tranches of £13m per annum thereafter. These will be used to balance the revenue budget

4.14 Progress on the others are:

- The revised treasury management and MRP policy are elsewhere on this agenda
- The finance structure has been redesigned, invested in and approved – addressing capacity
- CIPFA, Penna and Essex are going to take forward working with the team to enhance capability in the new financial year
- The financial regulations have been reviewed by CIPFA, as has the HRA. The management of the capital programme has been reviewed with an action plan to improve that the principles of which will apply elsewhere also. Work is underway to improve the management of consultants and all areas within the Council's budgets
- The risk management strategy is under review

5. Reasons for Recommendation

5.1 On the basis of the risks and issues raised in this report, the Council's financial strategy and the progress being made, in my opinion as Interim Director of Finance (s.151), the budget should be submitted to Council for approval on the basis that:

- a) the proposed level of Council reserves and contingencies are adequate to support the budget for 2024/25 having regard to current financial and other risks set out in this report and assuming these risks do not increase beyond those that can be contained by the Council. It should also be noted that matters will continue to be identified and will change throughout the coming financial year and beyond;
- b) the Council has an agreed financial recovery strategy that is beginning to allow the Council to move towards longer term financial sustainability. However, this strategy will take a further five financial years to conclude in full and to embed at all levels to the standards and work required. If seen through or suitably amended this will greatly assist the Council;

c) the estimates are robust for the calculation of the budget within the confines of the risks noted throughout this report.

5.2 In coming to a view on the robustness of the estimates there are a wide range of factors to take into account, set out below.

5.3 This recommendation enables the Interim Director of Finance (s.151 officer) to meet his statutory responsibilities.

6. Consultation (including Overview and Scrutiny, if applicable)

6.1 Consultation has taken place with the Commissioners

7. Impact on corporate policies, priorities, performance and community impact

7.1. The budget gap identified in the report requires ongoing engagement with the Department for Levelling-up Housing and Communities (DLUHC) regarding exceptional financial support.

8. Implications

8.1. Financial

Implications verified by: **Steven Mair**

The financial implications are set out in the body of the report.

8.2. Legal

Implications verified by: **Jayne Middleton-Albooye**
Interim Head of Legal Services

8.2.1 Section 25 of the Local Government Act 2003 requires the chief finance officer to report on two matters as follows:

- (a) the robustness of the estimates made for the purposes of the calculations, and
- (b) the adequacy of the proposed financial reserves.

8.2.2 Full Council is obligated to have regard to this report when making decisions about the calculation of council tax as a billing authority in accordance with s.31A of the Local Government Finance Act 1992.

8.3. Diversity and Equality

Implications verified by: There are no diversity and equality implications

8.4. **Risks**

7.4.1 These are set out throughout the report and mitigated by the financial strategy

8.5. **Other Implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None

9. **Background Papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

There are various working papers retained within the finance service

Report Author:

Steven Mair

Interim Director of Finance/S151

Finance