Report of the section 151 Officer under Section 25 Local Government Act 2003

1 Section 25 of the Local Government Act 2003 requires the Council's section 151 Officer to report to Council on the following matters at the time the Council is making calculations under section 32 of the Local Government Finance Act 1992 (determination of the council tax requirement):

   a. The robustness of the estimates made for the purpose of the calculation; and

   b. The adequacy of the proposed level of reserves.

2 In coming to a conclusion about the robustness of the estimates, the Section 151 officer has to assess the risk of over or under spending the budget. Budgeting practices should ensure that sufficiently prudent provision is made for costs and income that are foreseeable and relatively certain.

Report Summary

3 The section 151officer has concluded:

   a. The estimates contained within the recommended budget to Council are robust for the purposes of the calculation of the Council Tax;

   b. The forecast reserves are adequate to meet unforeseen events or emergencies arising during 2020/21;

   c. Providing that the current savings plan incorporated in the base budget is on target to be delivered and, over the next 9 months, the Transformation Programme and further savings plan realistically meets the £3.250 million MTFP savings targets, then, in the Section 151 officer's opinion, the forecast reserves are adequate in the medium to long term; and

   d. The recommended minimum General Fund Balance is £2.219 million. The current balance is £3.854 million.

Impact of the COVID-19 Pandemic

4 The council has assumed that the current COVID-19 pandemic, with restrictions that curtail pre-pandemic norms, will continue for at least the first quarter of the 2021/22 financial year. The assumption is still relevant based on the following factors:

a. The continued progress of the national vaccination programme and scientific confirmation that current vaccines either can now, or can be easily changed to combat current known mutations of the virus means that, with scientific advice and a period of monitoring, restrictions could start to be lifted in March and, providing there are no infection spikes and no new variant of the virus that is vaccine resistant emerges, then the restrictions could by July 2021 have been reduced to the requirement for social distancing and wearing a face covering indoors and on public transport.

b. The continued caution from scientific advisors is being fully reflected in government language around the easing of restrictions with a slow and closely monitored lifting of restrictions with the clear objective of moving to avoid any return to national lockdown. This approach would make the period up to the end of June the right timescale for gradual restriction lifting with sufficient monitoring periods.

5 The extension of the Sales, Fees & Charges Grant Scheme, into the first three months of 2021-22, will operate on the same basis as the 2020/21 scheme. This means that the council will continue to absorb the first 5% of all relevant, irrecoverable income losses compared to budgets, on a pro rata basis, with the government compensating councils for 75 pence in every pound of loss thereafter.

6 When the budget was prepared the government were consulting on whether to base the 2021/22 scheme on budgets from 2020/21 or from 2021/22. The government has decided to use the 2020/21 budgeted income but there is flexibility to take into account the seasonality of income streams. This therefore gives the council the opportunity to take into account the income uplifts in the first quarter from the four public holidays between April and June. Although this will benefit council's that cover domestic tourist areas it gives East Herts the opportunity to include seasonal activity increases for things like parking

charges. The government require evidence to support any seasonal adjustment to income and Strategic Finance will work with service areas to identify all the potential income streams and produce evidence from previous year's transactions as base evidence support.

7 Should there be significant restrictions remaining or subsequently imposed beyond the first quarter then the assumption for the budget is that the government will continue to provide grant support to local government in this same way. This provides a significant mitigation against income losses arising from COVID-19 restrictions moving forward.

8 The base budget assumption foresees social distancing remaining in place for all of 2021/22 and budgets therefore reflect continued closure of the Council's buildings to the public and that the majority of staff will remain working at home for, on average, 3 days a week. Meetings will continue to require social distancing and are assumed to continue via video conferencing. Should government end the current regulations that permit council and committee meetings via video conferencing then contingency planning has been undertaken on maintaining social distancing where the attendees at meetings would exceed the maximum number that can be accommodated in the Chamber at Wallfields.

Employee Costs

9 The council, in common with most other local authorities, budgets for staff on the basis that all posts are fully funded for the year. This has the advantage of allowing posts to be advertised during the notice period of any employee and replacements to come into post quickly. It also provides flexibility should agency staff be required to temporarily fill posts. A percentage vacancy factor is used to take account of the time lag in filling vacant posts. The use of a vacancy factor carries the risk that if turnover falls there will be requirement for "vacancy freezes". This is judged to be low risk.

10 Each post in the establishment is costed at actual spine column point with relevant on-costs being added. Where a post is vacant then that post is budgeted for at the mid-point of the salary range in order to provide flexibility around starting pay or to provide budgetary provision

for temporary cover. In the opinion of the Section 151 officer, this is a robust calculation for the purposes of the estimates.

11 There is a provision for a pay increase of up to 2% built into the salary estimates. The council is part of the National Joint Committee (NJC) collective pay bargaining arrangements between local authorities and trade unions and therefore the final pay award is determined by the NJC and there is a low risk that the pay award may be for more than the provision in the budget and the council is contractually bound to pay the award. Part of the rationale for the minimum General Fund balance is to provide an amount that can be drawn upon in year to meet the additional costs.

Running Expenses

12 The Council includes provision for price increases in service budgets. This is based on known inflation such as inflation clauses in contracts with the balance of cost increases being contained through procurement savings. There is a risk that Brexit may increase costs resulting from non-tariff barriers contributing to delays and transport capacity issues which are adding to costs in imported elements of the supply chain. The Council maintains reserves and contingencies in order to mitigate the potential effect of this.

Major Contracts

13 There are agreed inflationary increases built into the major contracts and the estimates include inflation increases either on known index points or based on assumptions from the Office for Budget Responsibility. Furthermore, some contracts have cost step changes linked to new properties, e.g. refuse and recycling collections. Contracts due for renewal do present a risk that costs may increase. Reserves are held for supplier failure risks and part of the General Fund Working Balance is retained to cushion any increases. Major contracts also stipulate non-performance bonds which the council would use to provide a temporary service until a procurement exercise had taken place.

Demand led expenditure budgets

14 The key demand led expenditure budgets are for housing benefits payments and Local Council Tax Support Scheme discounts. These budgets have been set on the best information available and projections using professional judgement. The Council is reimbursed by central government for housing benefit payments. With working age claimants transitioning to Universal Credit, over the medium term only pensioners will remain on housing benefit. Local Council Tax Support Scheme awards are given as a discount in the Collection Fund and increases in claimant numbers will result in the Council Tax Base reducing and lower income from Council Tax. For 2021/22 we have forecasted a 10% increase in Local Council Tax Support Scheme awards and this reduced the growth in the tax base by 947 band D equivalent properties.

Waste and Recycling

15 The new garden waste service introduces a £49 annual charge for garden waste collection to those households that opt to have this service. The figures in the budget are based on 45% of households taking up this service. This percentage is based on initial take up of the charged for service elsewhere in Hertfordshire so there is a low to medium risk that take up could be lower.

16 In the medium term, there is a medium to high risk of substantial cost increases resulting from the Government's Waste Strategy which states:

a. A consistent set of dry recyclable materials are to be collected from all households and businesses;
b. Reduce greenhouse gas emissions from landfill by ensuring that every householder and appropriate businesses have a weekly separate food waste collection, subject to consultation;
c. Every household to receive a free garden waste service;
d. Improve working arrangements and performance between local authorities.

17 The Government has said that local authorities will be reimbursed for the additional costs. Traditionally this has been via a formula based on civil servant estimates and not actual costs. This usually results in reimbursement of around 70% of the costs. However, as councils will mostly have contracts that may not allow these changes to be

implemented without significant contract change costs and the majority of councils charging for garden waste collections, the government may provide actual cost compensation in order to drive these changes through from their proposed start date. Food waste collections and free garden waste will cost in the region of £3 million per annum for the collections, as well as the one off set up costs of new containers and investment for the contractor to purchase new vehicles, or compensate for vehicles which become surplus as a result of the national change. There is therefore a low to medium risk that the council will need to factor in further savings of £0.900 million when the changes are implemented.

Income from car parking

18 The budget for car parking has been reduced by £0.2 million to reflect the effects of the pandemic and effectively reverses the increased income budgeted for in 2020/21 from pay and display tariff changes. In terms of actual car park usage going forward, we do not have enough data at this point to know whether the mix of long term to short term parking will change and what demand levels will be like during the course of the day. As a mitigation the balance of long term to short term spaces within car parks can be changed in the Traffic Regulation Orders we expect to start consultation on in 2021/22 in preparation for the parking changes to be introduced as part of the MTFP savings plan. Combining the pay and display budget reduction in 2021/22 with changes to car parking proposed in the savings plans and the ability to change the mix between long stay and short stay there is a low risk of the budget not being achieved in 2021/22.

19 Income from season tickets sold to a small number of tenants in Charringtons House, and for season tickets to residents in 3 of our car parks where they have no available parking have been increased by 2.5% to meet the increased costs of enforcement and the budget for 2020/21 is forecast to be met so there is a low risk of this budget not being achieved in 2021/22.

20 Residents Parking Permits have been increased by 2.5%. In 2020/21, during the first national lockdown the council offered a payment

holiday. The residents parking permit income for 2020/21 is forecast to be 10% less than budget but this is attributable to the payment holiday. Therefore there is a low risk of this budget not being achieved in 2021/22.

Planning application fees

21 Planning application fee income is driven by market conditions. Current Construction Products Association forecasts for the construction industry are:

a. 2020 – 14.3% decrease in output;

b. 2021 – 14.0% increase in output; and

c. 2022 – 4.9% increase in output.

22 Fees for submitting planning applications are determined nationally by MHCLG and no changes to fees are expected in the medium term. The achievement of the budgeted income depends on activity in terms of the number and types of application. Based on the output forecasts it is reasonable to expect application numbers to reflect the last “normal” year of activity in 2019/20 and the budget for has been set on the same basis. Given the forecasts for outputs there is a low risk of this income budget not being achieved.

Property Portfolio

23 The council has a substantial property portfolio of commercial premises within the district. Currently the rental income streams are holding up but there is a risk that this situation may change once support to businesses is withdrawn by government. The budget has been reduced from the 2020/21 base budget to reflect no new acquisitions as a result of restrictions on assets primarily for yield and the effects of rent reductions already allowed at Charringtons House.

24 Over time consideration will need to be given to the balance of the council’s resources invested in property and the risks that exposes the council to as the new market conditions of the post pandemic period emerge. For example, it is highly likely that retail property holdings will begin to decline in yield and value over the medium term as the market survivors shift from the traditional High Street store model to offer an

enhanced on-line sales and delivery experience. The likely retail survivors are already announcing store closures, coinciding with the end of lease periods as well as some retailers actively seeking to sublet their current stores. New lease and lease renewal discussions are now based on substantially lower payments reflecting significant over supply of retail units.

25 Diversification out of investment property into other assets or investments funds will be considered on an on-going basis but the previous substantial yields once on offer from retail premises are in all probability on a downward curve until supply falls to the point where it reflects demand. Change of use of properties from retail to leisure or food and beverage may be required to meet new demand patterns in the future and the council will need to monitor and react to emerging trends in the market going forward.

Minimum Revenue Provision

26 The capital programme is financed largely by internal borrowing running down cash balances currently invested short term and yielding small returns that reflect the 0.01% Base Rate. Based on external borrowing at rates of around 2% this represents the best value use of the cash balances and de-risks treasury operations as there is no need to find counter parties that meet the council's creditworthiness policy. The section 151 officer has advised that the historical capital receipt set aside for the repayment of debt contained within the Capital Adjustments Account represents a statutorily mandated historical equivalent of overpayment of Minimum Revenue Provision. The council is therefore entitled, in accordance with MHCLG Minimum Revenue Provision guidance, to utilise this overpayment to offset minimum revenue provision contributions on £61.854 million of borrowing in 2020/21 and 2021/22 and also discharge all internal borrowing incurred between 2007 and 2019/20 of £35.553 million. Under the old Regulations there was a requirement for these set aside receipts to be cash backed, i.e. the council could invest the cash but it had to be available to repay debt when called for. Currently £19.9 million of cash from the retained receipts are invested in the two property funds and therefore the corresponding amount of the set aside receipts will

remain unused as there is no liquid cash resources to use until such time as the property fund units could be sold. As the returns are higher than the current borrowing rates the best value for the cash is to continue to be invested in the funds. This also upholds the prudent approach mandated by the Prudential Code. The £61.854 million available at 1 April 2020 will be used for 2020/21 and 2021/22 capital expenditure to offset the need to make MRP and the cash backing this is currently in short term investments or cash holdings and is being reduced as it is utilised for internal borrowing.

27 The section 151 officer advises that the MRP Policy is prudent, makes use of the historical overpayment from set aside capital receipts and utilises the resources that past taxpayers set aside for the purpose they were set aside for which is the repayment of borrowing. As this will be the first time in 20 years that the council will have to make a Minimum Revenue Provision Policy the section 151 officer has asked the external auditors, EY LLP, to take a view to ensure there are no issues with the policy that would affect the opinion on the statement of accounts so these can be addressed early. There is a risk that the external auditor could disagree with the policy and indicate that they would issue a qualified audit opinion on the accounts unless a different policy was followed which required MRP to be charged to the revenue account. If this risk materialises the capital programme would need to be reprioritised. Also the council would be able to make representations to MHCLG concerning the historical set aside receipts and seek a direction to enable these resources to be utilised to repay debt and offset MRP. MHCLG directions are a statutory override and are used, for example, to allow revenue costs of significant change programmes to be funded from capital resources under current flexibilities and are therefore issued on an annual basis to numerous authorities.

Treasury Investment Income Management

28 Investment income has decreased to reflect changes in yield on the core investment of £20 million in property funds that are yielding returns of 4% per quarter. There is a medium risk that returns may not materialise if there are economic events affecting property in the medium term. In the short term the funds are performing well compared to the property market in general and other property funds. Other investment balances

are being run down over the medium term to fund internal borrowing for the capital programme and also to de-risk treasury operations generally.

Section 151 officer's Conclusion on the robustness of the estimates

29 The Section 151 officer considers that the estimates contained within the recommended budget to Council are robust for the purposes of the calculation of the Council Tax.

Assessment of the adequacy of the proposed level of reserves

30 The Section 151 officer has conducted a review of the strategic, operational and financial risks facing the Council. The key risks facing the Council are detailed in the Corporate Risk Register.

31 The Section 151 officer has conducted a review of the earmarked reserves held on the balance sheet and is satisfied that they are required to fund specific expenditure in future years or are required to provide risk finance.

32 The Section 151 officer has, in the light of the risks facing the Council, calculated the minimum level of General Fund Balance that the Council should hold as £2.219 million. The rationale for this calculation is shown in the table below.

Factor for the calculation	**£000**	**Factor**	**£000**
Average Annual Gross Revenue Expenditure	41,464	5%	2,073
Average Annual Gross Capital Expenditure	24,373	3%	731
Adjustment for Council Tax as a funding source	(11,697)	5%	(585)
Minimum General Fund Balance			**2,219**

33 In calculating the minimum balance the section 151 officer has used the following factors:

a. Gross revenue expenditure, in the 2021/22 budget and allowed for 5% of that sum for: a cash flow management buffer; risks of cost increases and provision to meet 15% of costs arising from an emergency that would not be met by the Bellwin Scheme for emergencies. Although in recent years flood hit areas have received 100% of costs the base scheme terms are 85% of eligible expenditure and it is therefore prudent to rely on 85% reimbursement.

b. Average annual capital expenditure over the next 3 years and allowed 3% for cost increases. The capital programme expenditure over the next three years is £73.119 million and a contingency of £2.250 million is included in the capital programme. However, that contingency in the programme is funded by borrowing and the total revenue impact of having to call on the contingency is £0.118 million per annum. In order to provide sufficient revenue contingency to meet any cost increases by revenue funding to reduce pressure on the revenue account in the medium term the 3% provision provides a suitable alternative risk contingency. Once the 3 year delivery period is over and capital expenditure levels fall significantly this part of the minimum recommended balance will no longer apply.

c. An adjustment is made for the certainty of Council Tax as a funding source for the Council to meet its costs. Therefore the Council Tax requirement for 2021/22 is taken and the same 5% risk factor on expenditure applied to produce a downward adjustment.

34 The General Fund Balance estimate at 31 March 2021, and used for the purposes of preparing the estimates is, £3.854 million and above the recommended minimum balance.

Section 151 officer’s conclusion on the assessment of the adequacy of the proposed level of reserves

35 In the opinion of the Section 151 officer the forecast reserves are adequate to meet unforeseen events or emergencies arising during 2020/21.

36 The adequacy of reserves and balances in the medium to long term will be dependent on the financial position dictated by changes to government grants as the Fairer Funding Formula is introduced, economic conditions and operational factors such as changes to waste and recycling collections as a result of the new waste strategy.

37 Providing that the current savings plan incorporated in the base budget is on target to be delivered and, over the next 9 months, the Transformation Programme and further savings plan realistically meets the £3.250 million MTFP savings targets, then, in the Section 151 officer's opinion, the forecast reserves are adequate in the medium to long term. If the current savings plan is significantly off target and/or the future plans are unlikely to meet the £3.250 million further savings requirement in the MTFP by the end of 2026 at the latest then, in the medium to long term, the reserves are inadequate to meet unforeseen events or emergencies alongside meeting deficits as a result of measure to reduce net cost not being put in place or delivered and the section 151 officer would need to consider issuing a report under section 114 of the Local Government Finance Act 1988. The section 151 officer is confident, based on observation of the Executive and Leadership Team and the overall culture of East Herts Council, that the council will meet the current savings plan and that the Transformation Programme and further realistic savings proposals will be developed to meet the MTFP savings requirements.

Steven Linnett
Head of Strategic Finance & Property (section 151 officer)

18th February 2021