

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 151 officer 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 2023/24;
 - 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 Transforming East Herts Programme and a further savings plan realistically meets the £2.6 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 £3.0 million. The current balance is £3.854 million.

Employee Costs

- 4 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.
- 5 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.
- 6 There is a provision for a pay increase of up to 4% 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. With the cost of living crisis and the cumulative below inflation pay increases of the last decade, which makes recruitment and retention difficult, there is a medium to high 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.
- 7 The 2023/24 pay award for staff has just begun the process with the union side asking for a RPI + 2% on all spinal column points, a reduction in the working week of 2 hours and a further day's additional annual leave.

Running Expenses

- 8 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 the continued disruption to global supply chains and the war in Ukraine may push inflation higher during the course of the financial year, but indications are that inflation will start to fall over the year once the significant increases in gas and electricity prices fall out of the 12 month rolling average. The Council maintains reserves and contingencies in order to mitigate the potential effect of this.

Major Contracts

- 9 There are agreed inflationary increases built into the major contracts and the estimates include inflation increases of up to 4%. 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

- 10 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 2023/24 we have forecast an increase in Local Council Tax Support Scheme awards to reflect the balance of risks between economic growth and recession. The increase also balances out any potential optimism bias in growth estimates of new properties. Experience from the 2008 financial crash indicates that the main risk to the Tax Base will be in 2024/25 as housebuilders will have completed properties already under construction but may suspend build out of further phases until the market picks up.

Waste and Recycling

- 11 The garden waste service price was held at £49 in 2022/23 and will be held at the same price in 2023/24 for garden waste collection to those households that opt to have this service. The figures in the budget are based on 50% of households taking up this service. This percentage is based on initial take up of the charged for service in 2021/22 and there is a low to medium risk that take up could be lower.
- 12 In the medium term, there is a medium 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; and
 - c. Improve working arrangements and performance between local authorities.
- 13 The Government had originally stated that garden waste services should be provided to all households free of charge but has reversed this position and charging will be able to continue in the future. The Government has said that local authorities will be reimbursed for the additional costs of the new collection arrangements. 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 the government may provide actual cost compensation in order to drive these changes through from their proposed start date. Food waste collections will cost in the region of £1 - £2 million per annum for the collections, as well as the one off set up costs of £550k for new containers. There is therefore a low to medium risk that the council will need to factor in further savings when the changes are implemented.

Income from car parking

- 14 The tariffs for car parking have been increased by 10.1% in line with the policy agreed last year of the higher of CPI inflation or 2%. The intention

of the policy is to eliminate the current subsidy for on street car parking from the Council Taxpayer. With the changeover post-pandemic to a mixture of home and office working and reductions in commuting there is a low to medium risk of the budget not being achieved in 2023/24 and additional income generation from the car park estate is being investigated to mitigate

Planning application fees

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

- a. 2023 – 4.7% decrease in output; and
- b. 2024 – 0.4% increase in output.

16 Fees for submitting planning applications are determined nationally by DLUHC 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 major application numbers to fall but during housebuilding recession the number of householder applications has usually increased. There is no guarantee this will be the case this time after substantial applications following the COVID pandemic. Given the forecasts for outputs there is a low to medium risk of this income budget not being achieved.

Property Portfolio

- 17 The council has a property portfolio of commercial premises within the district. Currently the rental income streams are holding up but Charringtons House will be vacant from 1 April 2023 pending transfer to City Heart as part of the Old River Lane redevelopment.
- 18 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. 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.
- 19 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

- 20 The capital programme is now predominantly financed by external borrowing and from 2023/24 the council will need to make Minimum Revenue Provision (MRP) to repay the debt principal sum. The section 151 officer advises that the proposed MRP policy is prudent and the asset lives chosen are in line with guidance issued by Government.

Treasury Investment Income Management

21 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 have been run down and the council has taken short term external borrowing of £20 million to mitigate against the rises in the PWLB rates.

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

22 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

23 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.

24 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.

25 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 £3.050 million. The rationale for this calculation is shown in the table below.

Factor for the calculation	£000	Factor	£000
Average Annual Gross Revenue Expenditure	61,528	4%	2,461
Average Annual Gross Capital Expenditure	13,274	9%	1,195
Adjustment for Council Tax as a funding source	(12,113)	5%	(606)
Minimum General Fund Balance			3,050

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

- a. Gross revenue expenditure, in the 2023/24 budget and allowed for 4% 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 £39.821 million and a contingency of £1.250 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 9% 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 2023/24 is taken and a 5% risk factor applied to produce a downward adjustment.

27 The General Fund Balance estimate at 31 March 2022, 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

- 28 In the opinion of the Section 151 officer the forecast reserves are adequate to meet unforeseen events or emergencies arising during 2023/24.
- 29 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 government waste strategy.
- 30 Providing that the current savings plan incorporated in the base budget is on target to be delivered and, over the next 9 months, the Transforming East Herts Reconciling Policy, Performance and Resources exercise with the newly elected Council meets the £5 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 £5 million further savings requirement in the MTFP by the end of 2028 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 Transforming East Herts 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)

21st February 2023