

TONBRIDGE AND MALLING BOROUGH COUNCIL

CABINET

MINUTES

Tuesday, 14th February, 2023

Present: Cllr M D Boughton (Chairman), Cllr R P Betts, Cllr M A Coffin, Cllr D A S Davis, Cllr D Keers, Cllr P J Montague and Cllr K B Tanner

In attendance: Cllr M A J Hood was also present pursuant to Access to Information Rule No 23

Virtual: Cllrs Mrs J A Anderson, Mrs P A Bates, Mrs S Bell, S A Hudson, M R Rhodes, R V Roud and Mrs M Tatton participated via MS Teams and joined the discussion when invited to do so by the Chair in accordance with Access to Information Rule No 23.

An apology for absence was received from Councillor V M C Branson

(Note: Cllr Branson was unable to attend in person but listened to the debate via MS Teams).

PART 1 - PUBLIC

CB 23/9 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

CB 23/10 MINUTES

RESOLVED: That the Minutes of the meeting of the Cabinet held on 10 January 2023 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE COUNCIL

CB 23/11 SETTING THE BUDGET 2023-24

Further to the reports to the Overview and Scrutiny Committee earlier in the cycle, the joint report of the Chief Executive, Director of Finance and Transformation, the Leader and Cabinet Member for Finance, Innovation and Property updated the Cabinet on issues relating to the Medium Term Financial Strategy (MTFS) and gave details of the necessary procedure to be followed in order to set the budget for 2023/24.

In addition, the budget setting process for this year had to incorporate the difficult task of estimating the extent and speed of the recovery of the Council's income and expenditure impacted by the Covid-19 pandemic and the prevailing economic conditions.

Members noted that, as at the time of publishing the report the final settlement had not been confirmed, all figures contained in the report were based on the provisional local government finance settlement received in December 2022. The Director of Finance and Transformation advised that the final local government finance settlement figure was now confirmed and whilst there had been some minor changes the 'bottom line' was the same as the figures previously announced. The Settlement Funding Assessment (SFA) was for one year only and the Fair Funding Review deferred to a future date. This further prolonged the uncertainty over local government funding.

The local government finance settlement included an allocation of £0.6M for New Homes Bonus (NHB) and a funding guarantee of £1.8M. There was an overall funding increase on 2022/23 of £0.5M. Based on a Government policy statement, it was anticipated that funding for 2024/25 would follow a similar pattern. Beyond 2024/25 there was no indication of future core funding including any replacement (or not) for NHB which made financial planning difficult.

Members noted that the current global economic conditions, the deferral of reforms to the Business Rates Retention scheme, waste services contract, homelessness/temporary accommodation, climate change initiatives and the Local Plan continued to have significant financial implications for the Borough Council. Particular reference was made to the Kent Business Rates Pool which the Borough Council had re-joined. It was reported that increased business rates income was being received due to the Panettoni development on the former Aylesford Newsprint site.

With regard to the Capital Plan, it was noted that the Borough Council was currently debt free and expected to remain debt free until 2029. Two evaluated schemes had been added to List A and these were the Refurbishment of Gibson East and the Decarbonisation of the Borough Council's Estate.

The report then described the remaining procedure to be followed in setting the budget for 2023/24 and calculating the council tax. For the purposes of preparing the budget papers and updating the MTFs a council tax increase of just under 3% (or £6.73) in 2023/24 and 2024/25 had been assumed followed by the higher rate of 2% or £5 [each year thereafter.]

The Cabinet deliberated on the most appropriate guidance to offer the Council as the way forward for updating the MTFs for the next ten year

period and setting the council tax for 2023/24. Members were advised of details of special expenses for the same period.

An updated copy of the Savings and Transformation Strategy was presented, including revised outline targets and timescales for each of the themes totalling £1,700,000. The proposed number, scale and timing of requisite future savings and transformation contributions were set out in 1.10.5 of the report. Members were also reminded that the funding gap set out in the report assumed that all the recommendations, as summarised in the report, were delivered. If for whatever reason these were found not to be deliverable the funding gap and, therefore, the savings and transformation target would increase.

Finally, the Director of Finance and Transformation explained the basis on which the statement to the Robustness of the Estimates and Adequacy of the Reserves had been made, including an understanding that the required savings and transformation contributions based on latest projections of £1,700,000 plus the initiative already built into the MTFs, the scaling back of office accommodation in the sum of £200,000 are delivered in the timeframe assumed.

In closing, the Cabinet recorded its appreciation to the Director of Finance and Transformation and Officers in Financial Services for the significant contribution in preparing the budget during a challenging period.

RECOMMENDED: That

- (1) the Revenue Estimates, as presented to the Overview and Scrutiny Committee earlier in the cycle, together with the subsequent adjustments detailed at paragraph 1.4.2, be endorsed and adopted by the Council;
- (2) the Capital Plan be updated, as set out in paragraph 1.6.14, and adopted by the Council;
- (3) the Capital Strategy, as presented to the Overview and Scrutiny Committee earlier in the cycle, be endorsed and adopted by the Council;
- (4) the prudential indicators listed in paragraphs 1.7.7, including the new liability benchmark indicator, and 1.7.11 be endorsed and adopted by the Council;
- (5) subject to the comment at paragraph 1.6.8 of the report, for the financial year 2023/24 the Borough Council's annual minimum revenue provision be noted as 'nil';
- (6) the updated MTFs, set out in Annex 10a be noted and endorsed;

- (7) the updated Savings and Transformation Strategy, attached at Annex 10b, including the proposed scale and timing of each of the required savings and transformation contributions, as set out at paragraph 1.10.5, be noted and endorsed;
- (8) the special expenses calculated in accordance with the Special Expenses Scheme and set out at Annex 13b, be endorsed; and
- (9) the Statement provided by the Director of Finance and Transformation as to the Robustness of the Estimates and the Adequacy of the Reserves, as set out at Annex 16a, be noted and endorsed.

***Referred to Council**

CB 23/12 SETTING THE COUNCIL TAX 2023-24

The joint report of the Chief Executive, Director of Finance and Transformation, Leader of the Council and Cabinet Member for Finance, Innovation and Property set out the requirements under the Local Government Finance Act 1992 for a billing authority to set an amount of council tax for each category of dwelling in its area. Members were advised of the position concerning the determination of their respective precepts for 2023/24 by the major precepting authorities.

Consideration was given to a draft resolution (attached at Annex 2) identifying the process to be undertaken in arriving at the levels of council tax applicable to each part of the Borough. The resolution and further information regarding the precepts of the other authorities would be reported to the Council on 21 February 2023.

RECOMMENDED: That the resolution be noted and the Council be recommended to approve a 3% or £6.73 per annum increase in the Borough Council's element of the council tax for 2023/24, representing a notional 'average' charge at Band D of £231.23

***Referred to Council**

CB 23/13 LOCAL COUNCIL TAX REDUCTION SCHEME

Consideration was given to the Draft Local Council Tax Reduction Scheme 2023/24 (attached at Annex 1 to the report) which had been revised to bring it in line with statutory prescribed requirements, housing benefit and other national benefit rates and increases to income bands where uplifts to the Minimum Wage, a component of the income band level calculation, had been taken into account. The Scheme applied to working age households.

Members noted that for pension age households the separate Government Scheme prescribed maximum help up to 100% of council tax liability, a minimum requirement of a pension age scheme.

For information, Members were advised that in December 2022 Government announced a council support fund for 2023/24 to mitigate increases in council tax for low income households. Each household receiving local council tax reduction on 1 April 2023 would receive a further discount of £25, or less if the bill was lower after the application of council tax reduction. The discount would automatically be applied to relevant household bills. Further details of this discount would be presented to a future meeting of the Finance, Regeneration and Property Scrutiny Select Committee.

RECOMMENDED: That the draft Local Council Tax Reduction Scheme 2023/24 (attached at Annex 1) be commended to the Council for adoption.

***Referred to Council**

CB 23/14 CAPITAL PLAN REVIEW 2022-23

All budgetary matters were considered in detail in the substantive item on Setting the Budget 2023/24 (Minute Number CB 23/11). However, the recommendations from the meeting of the Overview and Scrutiny Committee of 26 January 2023 in relation to the formulation of initial draft proposals in respect of the Budget, including the Capital Plan (Minute Number OS 23/4) was given due consideration as part of the substantive discussion.

CB 23/15 REVENUE ESTIMATES 2023/24

All budgetary matters were considered in detail in the substantive item on Setting the Budget 2023/24 (Minute Number CB 23/11). However, the recommendations from the meeting of the Overview and Scrutiny Committee of 26 January 2023 in relation to the formulation of initial draft proposals in respect of the Budget, including Revenue Estimates (Minute Number OS 23/5) were given due consideration as part of the substantive discussion.

CB 23/16 AUDITOR'S ANNUAL REPORT

Consideration was given to the recommendations of the Audit Committee meeting held on 16 January 2023 (AU 23/4).

RECOMMENDED: That

- (1) the Auditor's Annual Report for 2021/22, attached at Annex 1, be approved; and

- (2) the management comments to the improvement recommendations made in paragraphs 1.2.4 to 1.2.5 be noted and endorsed.

***Referred to Council**

CB 23/17 RISK MANAGEMENT

Consideration was given to the recommendations of the Audit Committee meeting held on 16 January 2023 (AU 23/5).

RECOMMENDED: That

- (1) the Risk Management Strategy and accompanying Risk Management Guidance be commended for approval by the Council; and
- (2) the updates to the Strategic Risk Register since the last iteration with particular emphasis on those risks categorised as 'RED' be noted.

***Referred to Council**

CB 23/18 TREASURY MANAGEMENT UPDATE AND TREASURY MANAGEMENT AND ANNUAL INVESTMENT STRATEGY FOR 2023-24

Consideration was given to the recommendations of the Audit Committee meeting held on 16 January 2023 (AU 23/6).

RECOMMENDED: That

- (1) the treasury management position as at 31 December 2022 be noted; and
- (2) the Treasury Management and Annual Investment Strategy for 2023/24, as set out Annex 5 to the report, be commended to Council for adoption.

***Referred to Council**

CB 23/19 HOUSEHOLD RECYCLING AND WASTE SERVICE

Opportunities to maintain and improve service provision in relation to the Waste Services Collection Contract, which was provided in partnership with Tunbridge Wells Borough Council, were outlined. The report advised on a proposed extension to previously agreed support for a further 5 month period in relation to the recent and ongoing impacts of the HGV market conditions and support for a proposed Phase 2 of re-rounding.

It was noted that a response was awaited from the contractor regarding their financial arrangements and any potential implications for the Borough Council arising from the proposed re-rounding and service efficiencies as requested by the Communities and Environment Scrutiny Select Committee. It was also noted that any sums raised by penalty default were relatively low and had to be used in service performance and were dealt with as part of monthly variables with the contractor. The proposed spend detailed in the report was an one off cost and would not impact on the Medium Term Financial Strategy.

After careful consideration of the proposals, the recommendations of the Communities and Environment Scrutiny Select Committee, the legal, financial and value for money implications and the assessments of risk and equality impact and on the grounds of ensuring the retention of necessary staff in light of continuing difficulties in the HGV driver market and bringing about long-term cost certainty and efficiency Cabinet

RECOMMENDED: That

- (1) Council gave authority to the Director of Street Scene, Leisure and Technical Services to extend, for the period November 2022 to March 2023, the provision of limited financial assistance to Urbaser Ltd and Urbaser SA in respect of the contract originally procured and that the value of this (£77,000) be reflected in the Revised Estimates for 2022/23 and funded from the Budget Stabilisation Reserve;
- (2) Council approved a one-off contribution to Urbaser Ltd of up to £150,000 towards the costs of terminating a number of existing collection vehicle leases to facilitate the provision of a new fleet of collection vehicles in 2023/24 and that the value of this be reflected in the Estimates for 2023/24 and funded from the Budget Stabilisation Reserve;
- (3) Council gave authority to the Director of Street Scene, Leisure and Technical Services, in consultation with Director of Finance and Transformation and Director of Central Services, to complete all necessary negotiations, legal processes and legal documentation to enter into an agreement with Urbaser Ltd to allow for the transfer of the new vehicle lease(s) to the Council in conjunction with Tunbridge Wells Borough Council or to the organisation(s) contracted to provide the two councils' household waste collection service on the expiry of the current joint recycling and waste collection and street cleansing contract;
- (4) Council gave authority to the Director of Street Scene, Leisure and Technical Services, in consultation with the Director of Finance and Transformation and the Director of Central Services, to complete all necessary negotiations, legal processes and legal

documentation and enter into an agreement with Tunbridge Wells Borough Council to share the liability for the new vehicle fleet from the end of the current joint recycling and waste collection and street cleansing contract; and

- (5) Council notes that a Voluntary Ex-Ante Transparency Notice be published containing details of the proposed changes set out in recommendations 1,2 and 3 to cover the items highlighted above.

***Referred to Council**

DECISIONS TO BE TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION

EXECUTIVE NON-KEY DECISIONS

CB 23/20 RESPONSE TO DLUHC NPPF CONSULTATION

Decision Notice: D230010CAB

Consideration was given to the Borough Council's proposed response to the 'Levelling Up and Regeneration Bill; reforms to national planning policy' as set out in Annex 1. Responses to the consultation had to be submitted by 2 March 2023.

A document showing some proposed changes to the current National Planning Policy Framework (NPPF) was attached at Annex 2. The most significant proposed changes were detailed in 1.2.3 of the report.

After careful consideration of the proposed response and any legal, financial and value for money implications, Cabinet

RESOLVED: That the Borough Council's full response to the 'Levelling Up and Regeneration Bill: Reforms to National Planning Policy, as set out in Annex 1, be approved and submitted by the consultation deadline of 2 March 2023.

CB 23/21 PUBLIC SPACE PROTECTION ORDERS - CONSULTATION FEEDBACK

Decision Notice: D230011CAB

Consideration of recommendation CE 23/7 from the meeting of Communities and Environment Scrutiny Select Committee of 8 February 2023

A point of clarification was sought in respect of Tonbridge Moorings and the Chair advised that this and any other points raised at the Communities and Environment Scrutiny Select Committee would be verified as soon as possible.

RESOLVED: That the proposed Public Space Protection Order, as presented at Annex 5, be approved.

MATTERS SUBMITTED FOR INFORMATION

CB 23/22 DECISIONS TAKEN UNDER EMERGENCY OR URGENCY PROVISIONS

Details of the Decisions taken in accordance with urgency provisions were presented for information. It was noted that D230006URG in respect of the health and safety of trees and the associated budget provision had been a departure from the adopted Budget and Policy Framework and had been taken in accordance with Procedure Rule 4.

CB 23/23 DECISIONS TAKEN BY CABINET MEMBERS

Details of the Decisions taken in accordance with the rules for the making of decisions by executive members, as set out in Part 4 of the Constitution, were presented for information.

CB 23/24 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

CB 23/25 AGILE PROJECT

(Reason: LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

Members were provided with an update on the progress of the Agile project and the key issues and risks were outlined. In addition, consideration was given to additional budget provision in the 2023/24 Estimates to ensure delivery of the project.

After careful consideration of the financial, value for money and legal implications Cabinet

RECOMMENDED: That

- (1) the issues and risks set out in the report be noted by the Council;
and
- (2) the draft Estimates 2023/24 be updated to include an additional budget of £130,000 in relation to the Agile project.

***Referred to Council**

EXECUTIVE KEY DECISIONS**CB 23/26 LEASE RENEWAL AT 1-5 MARTIN SQUARE, LARKFIELD**

(Reasons: LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

Decision Notice: D230012CAB

Careful consideration was given to the proposed terms for a lease renewal outlined in the report, together with the legal, financial and value for money implications. On the grounds that the proposed rental represented a fair market rent and to ensure modern lease terms were included, it was

RESOLVED: That a new lease of 1-5 Martin Square be granted in line with the terms outlined in the report.

CB 23/27 LEASE RENEWAL AT 17 MARTIN SQUARE, LARKFIELD

(Reasons: LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

Decision Notice: D230013CAB

Careful consideration was given to the proposed terms for a lease renewal outlined in the report, together with the legal, financial and value for money implications. On the grounds that the proposed rental reflected the continuing challenging environment many businesses were operating in and to ensure modern lease terms were included, it was

RESOLVED: That a new lease of 17 Martin Square, Larkfield be granted in line with the terms outlined in the report.

The meeting ended at 8.45 pm