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| <b>Subject:</b>          | <b>SECTION 25 REPORT</b>  |
| <b>Meeting and Date:</b> | <b>Cabinet – 3 February 2025</b><br><b>Overview and Scrutiny Committee – 17 February 2025</b><br><b>Cabinet – 3 March 2025</b><br><b>Council – 5 March 2025</b> |
| <b>Report of:</b>        | <b>Mike Davis, Section 151 Officer</b>  |
| <b>Portfolio Holder:</b> | <b>Councillor Stacey Blair, Portfolio Holder for Finance, Governance, Climate Change and Environment</b>  |
| <b>Decision Type:</b>    | <b>Key Decision</b>   |
| <b>Classification:</b>   | <b>Unrestricted</b>   |

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| <b>Purpose of the report:</b> | To advise Members of the robustness of the budget and the adequacy of reserves. |
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| <b>Recommendation:</b> | To receive the report and to take the report into consideration when approving the 2025/26 Budget and Medium Term Financial Plan (MTFP) which is elsewhere on the agenda. |
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## 1. The Purpose of a “Section 25” Report

- 1.1 The Local Government Act 2003 (Section 25) requires that the s151 Officer reports to members on the robustness of the estimates made for the purposes of the budget calculations and the precept for the Council’s council tax and the adequacy of the proposed financial reserves. Members must have regard to this report when considering the annual budget and precept.
- 1.2 There is no prescribed format for a Section 25 report, but the s151 officer should bring to Members attention any matters or factors that are material and significant in considering the budget and the Council’s financial position.

## 2. Summary

- 2.1 It is the opinion of the s151 officer that the Council’s budget (as set out elsewhere on the agenda) has been prepared on a rigorous and robust basis and the Council’s reserves are sufficient for its immediate needs – although it should be noted that we have no clarity on government’s funding of the NI increase and initial indications suggest that the increase will not be fully funded and MHCLG do not appear to have used the relevant data, despite having it at their disposal.
- 2.2 It is also the opinion of the s151 officer that there are a number of significant factors that can undermine the budget over the next year or two. They are:
  - (a) Homelessness
  - (b) The local government funding model
  - (c) Department for Environment, Food and Rural Affairs (DEFRA) and Dover Port Health Authority (DPHA)
  - (d) Major Projects
  - (e) Local Government Re-organisation

- (f) Production of the Budgets
- (g) Governance Process
- (h) Future Year Pressures

### 3. **Homelessness, Temporary Accommodation (TA) and Supported Accommodation (SA)**

3.1 Homelessness is a demand led service. There is a national shortage of housing that has accrued over many years leading to the use of TA which creates a budget pressure. The net costs to DDC of TA (after grant funding and Housing Benefit income) in 2025/26 are estimated to be £1.4m. The impact on DDC is also seen across virtually all other district councils.

3.2 The Council continues to take steps to mitigate the impact of homelessness including:

- (a) Building and procuring more housing and allocating more of the council's stock for use as TA.
- (b) Using block booking / contracts with local hotels to mitigate the costs.
- (c) Pro-actively managing and minimising the length of stay in TA.
- (d) Detailed independent benchmarking by East Kent Audit Partnership using data for all Kent districts. DDC is not an outlier.
- (e) Working with other Kent districts to learn from their initiatives.

3.3 Nonetheless, homelessness pressures are expected to continue to increase.

### 4. **The Local Government Funding Model**

4.1 The local government funding model is deeply flawed. It is complex, inexplicable and unsustainable.

4.2 Of the Councils £21.2m of General Fund revenue financing, only Council Tax of £9.3m (43.9% of total financing) is really under the Council's control.

4.3 Non-Domestic Rates (or Business Rates) of £9.2m (43.4%) is expected to be reset (this has been expected / promised for many years), but the basis of the reset has not been announced.

4.4 The rest of the financing, circa £2.7m (12.7%) is provided for a single year with no certainty. Overall, 56% of the financing is, to some degree, uncertain.

4.5 So, although the Council is obliged to produce a budget and a financial plan, it does not have clarity or control over future financing.

4.6 Other financing issues include:

#### (a) Complexity

The structure of local government and the funding model are very complex, to the point that they are beyond rational explanation to non-specialists.

This is especially true of Business Rates Retention (BRR) which involves local calculations, understanding and forecasts of several elements including:

- Business Rates income
- Revaluations
- Appeals
- Tariffs
- Top-Ups
- Safety nets
- Re-sets

- Levies
  - Multi-authority pooling arrangements.
- (b) Transparency
- The current model is opaque. MHCLG do not publish or share the details of the settlement calculation. In practice it is based on past settlements rolled forward for many years and then adjusted to enable government to declare a “minimum guaranteed increase” in core spending power.
- (c) Core Spending Power
- The calculation and announcement of the maintenance and increase in core spending power is misleading. It does not consider the income from Business Rates growth. This means that the local government settlement can be less generous than publicly stated.

## 5. DEFRA and Dover Port Health Authority (DPHA)

- 5.1 DDC is the designated Port Health Authority for the Port of Dover (POD).
- 5.2 The POD is the main entry point for food, including Products of Animal Origin (POAO) from the EU and for foods passing through the EU to the UK.
- 5.3 The current position is:
- (a) African Swine Fever is spreading across the EU and has reached Germany and France
  - (b) There is an outbreak of Foot and Mouth in Germany. The last major outbreak to reach the UK cost circa £8bn.
  - (c) DPHA has seized over 180 tonnes of insanitary, unrefrigerated personal meat imports<sup>1</sup> at the POD, but these are from occasional checks and not 24/7 monitoring.
  - (d) No checks at all currently take place in respect of personal imports via the Channel Tunnel (CT).
- 5.4 DDC has been in discussion with DEFRA for several years over the need to provide sufficient funding to DPHA. There is currently no agreement in place with DEFRA for funding of DPHA activity in 2025/26 to control illegal POAO entering the UK at the Short Straits. At the time of writing, discussions with DEFRA Ministers are ongoing.
- 5.5 The budget therefore assumes that the cost, to the Council, of this activity will be neutral on the basis that either DEFRA will continue to meet on-going costs on an ad hoc two monthly basis, or that the Council will have to cease DPHA activity and leave the GB border open to significant biosecurity risk.
- 5.6 This is a stark choice. Either we maintain border controls to protect GB biosecurity, farming and the food chain, at the Council’s own expense, which will massively deplete our reserves, and greatly increase the risk of the chief finance officer<sup>2</sup> being required to make a report pursuant to s.114 of the Local Government Finance Act 1988 in 2025/26.
- 5.7 Or we effectively, cease the already too limited controls at this border and expose GB to the significant and severe risk of African Swine Fever and Foot and Mouth disease.

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<sup>1</sup> These imports have often been in poor condition, at ambient temperature, wrapped in newspaper or unsuitable materials, with juices dripping onto ready to eat foods and sometimes blood and liquor dripping out of the vehicle posing a serious risk for UK farmers.

<sup>2</sup> Frequently referred to as the “Section 151 Officer” or s151 Officer.

## 6. **Major Projects**

- 6.1 Updates and progress on the Council's major projects are reported to Corporate Management Team (CMT) and to Cabinet and Council if the projects are expected to significantly exceed their budget or require the approval of more resources.
- 6.2 The only current major project of significant concern is the Bus Rapid Transit project, also known as Dover Fastrack. This has provided priority bus infrastructure linking the Council's premier development allocation at Whitfield with Dover town and Dover Priory railway station.
- 6.3 DDC is the accountable body, receives the grant funding and is, arguably, liable for any overspend. DDC has appointed KCC to deliver the project, and in turn KCC appointed contractors. The main contract value is circa £20m. However, a series of disagreements have arisen between KCC and the contractor, who now claims that they have incurred rechargeable costs of more than £50m.
- 6.4 The Council considers these claims to be wildly inflated and exaggerated, it appears that the contractor has submitted them purely to create a negotiating position. KCC and their consultant team have vigorously defended these claims in adjudications. To date, of £5.7m claimed through adjudication just £480k has been found in favour of the contractor.
- 6.5 The details of these claims, as well as DDC and KCC's responses, are being treated as commercially confidential and therefore have not been provided in this summary.

## 7. **Local Government Reorganisation**

- 7.1 KCC and Medway Council have submitted a joint expression of interest (EOI) for the Kent and Medway area to be reorganised with a new strategic authority and the two tiers in the KCC area being restructured, with Medway, into 3 or 4 unitary councils.
- 7.2 District councils are not formal consultees in this process, but the current timeline suggests that where an area is included in the Devolution Priority Programme (DPP), the new unitary Councils will be vested in April 2028.
- 7.3 This presents a number of financial challenges for which there are, at the moment, no answers. It is uncertain:
- (a) Whether the Kent and Medway EOI will be accepted into the DPP,
  - (b) What the cost of preparing and delivering unitarization will be and how this will be met,
  - (c) The costs of consolidation after unitarization,
  - (d) The basis of harmonisation / equalisation of Council Tax and other charges,
  - (e) The extent, if any, to which government will seek to freeze local authority reserves in advance, and
  - (f) The discipline required to maintain business as usual and operate on a "going concern" basis in the meantime.

## 8. **Production of the General Fund (GF), Housing Revenue Account (HRA) and capital budgets**

### 8.1 Key Assumptions

- 8.2 The key assumptions that underpin the budget are reviewed annually by the s151 officer and are specifically stated in the Budget and Medium Term Financial Plan (B&MTFP).

- 8.3 The B&MTFP also contains a “ready reckoner” that provides a sensitivity assessment, where possible, of the assumptions.
- 8.4 In addition, the budget and the project programmes have been drawn up based on corporate priorities and known available resources. Projects are fully funded (mainly from grants, reserves and any affordable borrowing) and affordable. No reliance is placed on capital receipts and grants that have not been confirmed and secured.
- 8.5 Risks
- 8.6 The key financial risks to which DDC is exposed are set out in the B&MTFP. The risks have been reviewed by the s151 officer alongside the Corporate Risk Register for completeness, impact and mitigation.
- 8.7 Alignment to Corporate Plan
- 8.8 The Council’s Corporate plan sets out its objectives and priorities. The Leader and Cabinet, Chief Executive, Directors and Heads of Service all provide their input and financial and budget data in accordance with the Corporate Plan for inclusion in the B&MTFP.
- 8.9 The HRA Budget
- 8.10 The HRA budget has been produced taking into account the requirement for continued investment in the HRA stock. To further strengthen the HRA budget and planning, a stock condition survey started in 2024/25 and will continue over 4 years to ensure the programme of investment remains affordable and that stock condition is maintained.
- 8.11 Scale and Servicing of Debt
- 8.12 A number of high profile s114s have been issued due to disproportionate debt levels that councils have been unable to service.
- 8.13 DDC’s long term debt commitments are:

| <b>Debt Type</b>        | <b>Value<br/>£000</b> |
|-------------------------|-----------------------|
| HRA Self Financing Debt | 62,731                |
| Other Long Term Debt    | 4,000                 |
| <b>Total</b>            | <b>66,731</b>         |

- 8.14 The bulk (94%) of DDC’s debt was incurred at the instruction of MHCLG (actually one of its many predecessor departments). In 2012 the Council was required, by legislation, to borrow circa £90m from the Public Works Loan Board (PWLB), pay this to DLUHC and service the debt from HRA rents. MHCLG assured Councils that they could raise rents by CPI+1% to service the debt. This promise was not kept. Instead, rents were then frozen by MHCLG as a cash figure for several years leaving the HRA with continuing substantial losses in rent income.
- 8.15 Nonetheless DDC is servicing the outstanding debt which is now down to £62m. However, the annual cost to DDC tenants is £2.4m and this money could otherwise be used on much needed social housing.
- 8.16 The remaining long term debt of £4m is historic and manageable. At the present time the Council does not add to its borrowing and uses its cash flow (often referred to as internal borrowing) to support capital expenditure. Any borrowing that has been

assumed or modelled in project viability assessments is “prudent” and complies with the affordability requirements of the Prudential Code.

#### 8.17 Income Streams

8.18 In addition to the (unpredictable, single year) settlement, the Council does rely on income from its major income streams. These are set out in the B&MTFP and are reviewed annually to ensure that the assumptions on future income levels are reasonable.

8.19 The Council does not rely on other income streams from exceptional, unusual, commercially risky or other high risk sources.

#### 8.20 Adequacy of Reserves

8.21 The Council’s balances and earmarked reserves are set out in full in the B&MTFP together with an explanation of the purposes for each reserve and its current and future planned use.

8.22 The Council holds a General Fund balance which must be maintained for unexpected in-year events. The Council also holds earmarked reserves for planned and committed purposes and essential / unavoidable expected expenditure such as elections, maintenance, etc.

8.23 However, total English council reserves have fallen and are expected to fall further this year because grant funding has not kept pace with high costs and rising demand. Councils cannot take short-term one-off decisions as the reserves left are to manage future risk and uncertainties, one of those being future funding.

### 9. **Governance Process**

9.1 The Council manages its budget process in a clear and effective way as follows.

- (a) July – November – initial budget projections produced and discussed with Corporate Management Team, Leader and Portfolio Holder.
- (b) October / December – refinement of the projections, inclusion of changes and strategic priorities.
- (c) Late December – single year local government settlement consultation received.
- (d) Ad hoc decisions from other government departments.
- (e) Late January - single year local government settlement response to consultation received and proposed settlement confirmed or further amended.
- (f) January / February – first budget report to Cabinet.
- (g) February – briefing to Overview and Scrutiny Committee as required.
- (h) February – Overview and Scrutiny meeting to scrutinise the budget.
- (i) February / early March – Cabinet budget meeting and recommendations to Council.
- (j) By 11<sup>th</sup> March – Council approve the budget and set the Council Tax.

9.2 The late timing of the local government settlement and failure of DEFRA to confirm funding for DPHA make achieving the committee dates particularly challenging and risk undermining the process.

### 10. **Future Year Pressures**

10.1 We have no firm data upon which to forecast financing streams for the 2026/27 budget. Based on forecasts by the Council’s two advisors, Pixel and Local Government

Futures, the reduction in financing following falls in Revenue Support Grant, New Homes Bonus and other grants, and re-set of Business Rates is estimated to be between £2m and £3m.

- 10.2 In addition, inflation at 2% would add £600k of pressures.
- 10.3 So, allowing for 3% Council Tax increase and 1% Council Tax Base growth, the overall pressures for 2026/27, before any other service pressures, are forecast to be between £2.6m to £3.6m.
- 10.4 This would require urgent and strong corrective action – but the forecast is currently made in the absence of firm data, without which Members may consider it premature to take preparatory action of this scale at this time. The situation will be kept under review and reported to Members accordingly – but the timescale for government releasing the required draft financial settlements is unknown.

#### 11. **Identification of Options**

- 11.1 The s25 report from the s151 Officer is for receiving and considering by Cabinet, Scrutiny and Council as they consider the budget. Unless Members believe they have grounds to reject the report, it is recommended that they receive it.

#### 12. **Resource Implications**

- 12.1 There are no specific resource implications from this report. The resource implications flow from the B&MTP to be considered in association with this report.

#### 13. **Corporate Implications**

- 13.1 Comment from the Director of Housing, Finance and Assets: The Director has produced this report and has no further comments to add (MD).
- 13.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 13.3 Comment from the Equalities Officer: This report advising Members of the robustness of the budget and the adequacy of reserves, does not specifically highlight any equality implications. In discharging their duties Members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149> .

#### 14. **Background Papers**

Budget and Medium-Term Financial Plan working papers.

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