

**EXECUTIVE**

A meeting of the Executive was held on Tuesday 20 June 2023.

**PRESENT:** Councillors C Cooke (Chair), T Furness and Z Uddin

**PRESENT BY INVITATION:** Councillors D Davison, D McCabe and M Storey

**ALSO IN ATTENDANCE:**

**OFFICERS:** M Adams, S Bonner, R Brown, G Cooper, G Field, C Heaphy, R Horniman, A Humble, D Middleton, A Perriman and E Scollay

**APOLOGIES FOR ABSENCE:** Councillors D Branson, P Storey, J Thompson and N Walker

23/1 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

23/2 **MINUTES - EXECUTIVE - 4 APRIL 2023**

The minutes of the Executive meeting held on 4 April 2023 were submitted and approved as a true record.

23/3 **MINUTES - EXECUTIVE - 18 APRIL 2023**

The minutes of the Executive meeting held on 18 April 2023 were submitted and approved as a true record.

**\*\* SUSPENSION OF COUNCIL PROCEDURE RULE NO. 5 - ORDER OF BUSINESS**

**ORDERED: that in accordance with Council Procedure Rule No. 5, the Committee agreed to vary the order of business to consider agenda item 10, Approach to Nutrient Neutrality and delivery of Middlesbrough Council Housing schemes, as the next item of business.**

23/4 **APPROACH TO NUTRIENT NEUTRALITY AND DELIVERY OF MIDDLESBROUGH COUNCIL HOUSING SCHEMES**

The Executive Member for Regeneration submitted a report for Executive's consideration.

The report set out the background to Nutrient Neutrality and the Council's approach to dealing with it and sought approval for the assessment of the Council's land holdings to be used as mitigation to achieve Nutrient Neutrality.

On 16th March 2022, Natural England published statutory advice for certain local planning authorities, including Middlesbrough Council, which set out a requirement for new developments to achieve Nutrient Neutrality. All planning authorities within the Tees River Catchment were affected by this advice, due to excess levels of nitrogen being recorded in the River Tees.

The Conservation of Habitats and Species Regulations 2017 (as amended) were the UK's transposition of European Union Directive 92/43/EEC on the 'Conservation of natural habitats and of wild fauna and flora' (the Habitats Directive). The Habitats Directive stated:

'[Whereas] an appropriate assessment must be made of any plan or programme likely to have a significant effect on the conservation objectives of a site which has been designated or is designated in future'.

The Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site (in the report referred to as the SPA) was a designated European habitat site, meaning it was offered the highest level of protection under the legislation. The Council, in its role as the 'Competent Authority', had a statutory duty to ensure that new development proposals accorded with this legislation. Therefore, the Council was prohibited from allowing development proposals to proceed if they were likely to have a significant effect on the SPA.

The statutory advice issued by Natural England meant that certain developments, which could lead to an increase in the level of nitrogen in the River Tees, could not proceed without achieving Nutrient Neutrality.

## **OPTIONS**

**If the Council wished to bring forward its own land for in-scope housing development, then it was likely that offsite mitigation would need to be secured. This could be done through Natural England's Nutrient Mitigation Scheme or any alternative third-party mitigation scheme (should they have been forthcoming).**

**It could also have been achieved through the acquisition of alternative agricultural land elsewhere in the Tees Catchment, or the development of constructed wetlands.**

**All of these were likely to be costly and/or time consuming to achieve, potentially making it more challenging to bring Council-owned land forward for development. It was not recommended that any of these options be pursued in the absence of full consideration of using the Council's own landholdings.**

## **ORDERED**

**That Executive:**

- 1. Agree to take the sites identified in Appendix 4 out of agricultural use, once all existing farm business tenancies have expired, so that they can be used as mitigation to achieve Nutrient Neutrality; and**
- 2. Delegate authority to the Director of Regeneration, in consultation with the Executive Member for Regeneration, to agree an internal credit system for the allocation of nitrogen credits to mitigate the impact of new housing development.**

## **REASONS**

**To enable the use of the Council's landholdings to support the delivery of new housing, which is either being brought forward on Council-owned land or by third parties elsewhere.**

23/5

## **CORPORATE PERFORMANCE REVIEW: YEAR END 2022/23**

The Executive Member for Finance and Governance submitted a report for Executive's consideration.

This report advised Executive of Year End corporate performance at 2022/23. It also provided the necessary information to enable Executive to discharge its performance management responsibilities, and where appropriate, sought approval of any changes (where those were within the authority of Executive).

The Council's Scheme of Delegation gave Executive collective responsibility for corporate strategic performance, together with and associated actions.

The report provided the necessary information to enable Executive to discharge its performance management responsibilities, setting out progress against Executive action, the Strategic Plan and other key associated items, together with actions to be taken to address any issues identified.

The projected 2022/23 Year End financial outturns were presented separately and were not

repeated in this report. Where performance had a significant impact on finances this is highlighted within the body of the report.

## **OPTIONS**

**No other options were presented as part of the report.**

## **ORDERED**

**That Executive:**

- 1. Approve the proposed changes to Executive actions, detailed in Appendix 1 of the report;**
- 2. Note progress of delivery of the Strategic Plan 2022-24 at Quarter Four / 2022/23 Year End, detailed in Appendix 2 of the report;**
- 3. Approve the proposed changes to the Strategic Plan workplan initiatives, detailed in Appendix 3 of the report;**
- 4. Note the Council's updated position in relation to Strategic Risk, at Year End 2022/23 at Appendix 4 of the report and;**
- 5. Note progress of the 2022/23 Directorate Priorities at Quarter Three 2022/23, detailed in Appendix 5 of the report.**

## **REASONS**

**To enable the effective management of performance and risk in line with the Council's Local Code of Corporate Governance.**

23/6

## **REVENUE AND CAPITAL BUDGET – YEAR END OUTTURN POSITION 2022/23**

The Executive Member for Finance and Governance submitted a report for Executive's consideration.

The report advised Executive of the Council's financial position at year-end 2022/23.

The Council's Scheme of Delegation gave Executive collective responsibility for corporate strategic performance and financial management / monitoring, together with associated actions. Standing Orders and Financial Procedures required Executive's approval for major virements between revenue budgets, and in-year changes to the Council's Capital Investment Strategy (Capital Programme).

The report enabled Executive to discharge its financial management responsibilities, by setting out:

- The final pre-audited revenue and capital budget outturn for the year-end 31 March 2023;
- The statement of the Council's borrowing and reserves and provisions; and
- The actions the Council had taken, and planned to take, to address the issues identified.

A revised Investment Strategy (Capital Programme) for the period 2023/24 to 2025/26 was attached at Appendix 1 considering the 2022/23 outturn for Executive's consideration and approval.

The approved 2022/23 Revenue budget for the Council was £118,328,934 as set out in the Revenue Budget, Council Tax, Medium Term Financial Plan (MTFP) and Capital Strategy 2022/23 Report approved by Council on 23 February 2022.

The Council continued to operate in a challenging financial and economic environment with inflation, as measured by CPI, at the financial year-end 2022/23 running at 10.1%. Inflation was forecast to remain high throughout 2023/24 and potentially into 2024/25. The Council's financial resilience had been depleted by the reduction in earmarked reserves in recent years, as referenced by the former interim s151 Officer, with earmarked usable reserves totalling £4.515m at 31 March 2023.

It was essential that actions were taken through the 2023/24 financial year to rebuild the Council's financial resilience over the medium term. The General Fund Reserve stood at £12.041m as planned in the MTFP. This was equivalent to 9.5% of the 2023/24 net revenue budget and should only be used in exceptional circumstances as a last resort.

Children's Social Care expenditure levels remained the biggest area of financial risk to the Council given the demand and price pressures facing the service. As previously reported to Executive, the Children's Social Care budget was increased during 2022/23 by £5.665m to a total of £45.409m. The final outturn against this budget was £54.832m an overspend of £9.423m (20.8%). The 2023/24 base budget approved by Council in February 2023 recognised the ongoing financial pressures in the service, setting a budget of £54.649m and the Service had a Finance Improvement Plan requiring the delivery of savings totalling £2.9m in 2023/24 and a further £1.8m in 2024/25. It is essential that this plan is delivered in full to avoid further weakening of the Council's financial position.

#### **OPTIONS**

**No other options were put forward as part of the report.**

#### **ORDERED**

**In respect of the General Fund Revenue Budget, Executive:**

- 1. Note the 2022/23 final pre-audited net revenue outturn of £121.084m against an approved budget of £118.329m, an overspend of £2.755m (2.3%). This is an improvement of £0.656m from the forecast outturn at Quarter Three;**
- 2. Note that within the outturn, total revenue expenditure of £0.755m in relation to transformation of Children's Services was assessed as qualifying expenditure under the Government's Flexible Use of Capital Receipts initiative and therefore supported the reduction of the overall revenue outturn overspend position. The Flexible Use of Capital Receipts Strategy was approved by Full Council on 7 September 2022;**
- 3. Note the progress against the Financial Recovery Plan 2022/23 as approved by Executive on 18 October 2022, which had succeeded in contributing to reducing the forecast overspend from £9.012m (7.6%) at Quarter One to £2.755m (2.3%) at year-end;**
- 4. Approve that the final revenue over-spend of £2.755m will be met by a contribution from the earmarked Social Care Transformation Reserve, leaving a balance of £2.354m in the Reserve. This Reserve would then be closed and its balance transferred;**
- 5. Approve, in recognition of the pressures that face the wider Council financial position, that a corporate Financial Resilience Reserve (FRR) be established as part of the closure of accounts process at the 31 March 2023. The purpose of the Reserve was to meet unforeseen financial pressures that could not ultimately be managed within directorate budgets. The Reserve would also meet exceptional one-off costs to meet the Council's improvement work to satisfy the Department for Levelling Up, Housing and Communities (DLUHC) and the External Auditor's requirements;**
- 6. Approve the balance of £2.354m on closing the Social Care Transformation Reserve shall be transferred to the Financial Resilience Reserve;**
- 7. Note that further consideration will be given to the feasibility of revising the 2023/24 Flexible Use of Capital Receipts Strategy to support further transformation across Council services during 2023/24 and in developing the 2024/25 Medium Term Financial Plan (MTFP). This would be addressed in future reports to the Executive in due course;**
- 8. Note that the initial analysis of the financial outturn has highlighted the risk of potential ongoing financial pressures arising from 2022/23 (detailed in table 14 and paragraphs 62 and 63 of the report). These would be investigated further and be subject to management action by the Leadership Management Team within 2023/24 and would inform the update and development of the Council's Medium Term Financial Plan for 2024/25 to 2026/27; and**
- 9. Note the management actions being taken to control expenditure in order to mitigate the risk of overspending in the future (detailed in paragraphs 64 to 67 of the report).**

**In respect of the Capital Programme and Treasury Management, Executive:**

1. Note the 2022/23 capital programme final pre-audit outturn of £58.962m against a revised capital budget of £61.456m, an underspend of £2.494m (4%). The outturn represented an underspend of £65.863m (53%) against the original capital budget approved by Council in February 2022;
2. Approve the revised Investment Strategy to 2025/26 at Appendix 1 of the report, including £181.194m for the financial years 2023/24 to 2025/26;
3. Note the 2023/24 allocation included £4.942m of funds that were assumed to be spent in 2022/23 as in the Quarter Three Executive report and which had slipped to 2023/24; and
4. Note the Treasury Management outturn position with respect to the Council's prudential indicators which were set out at paragraphs 91 to 99 of the report.

**In respect of the Dedicated Schools Grant (DSG), Executive:**

1. Note the in-year deficit of £2.809m for 2022/23, including £1.959m relating to the High Needs Block;
2. Note the total cumulative deficit of £6.565m at 31 March 2023, including £7.021m relating to the High Needs Block, which were set out in Table 15 and paragraphs 68 to 74 of the report; and
3. Note under existing government regulations this could not be funded from the General Fund, and the Council was required to deliver a recovery plan to the Department for Education (DfE).

**In respect of the Council's reserves and provisions, Executive:**

1. Note that the balance on the General Fund Reserve at the 31 March 2023 was £12.041m as planned in the 2023/24 MTFP;
2. Note the balance on other earmarked reserves and provisions which were set out in Table 19 (paragraphs 100 to 104) and detailed in Appendix 2 of the report; and
3. Note that usable earmarked reserves as set out in Table 19 of the report were at a critically low level. Measures would be required during 2023/24 and in developing the 2024/25 budget and MTFP to rebuild the Council's financial resilience over the medium term.

**REASONS**

To enable the effective management of finances, in line with the Council's Local Code of Corporate Governance, the Scheme of Delegation and agreed corporate financial regulations.

23/7

**PROPOSAL TO BRING SUBSTANCE MISUSE CLINICAL PRESCRIBING SERVICE IN-HOUSE**

The Mayor and Executive Member for Adult Social Care submitted a report for Executive's consideration.

The report sought approval to bring the specialist clinical/prescribing service for substance misuse into Middlesbrough Council, for delivery to commence 1 October 2023.

The current service provider ended their provision on 30 September 2023 and no other organisations submitted tender proposals following a procurement process. There was an absolute requirement to have the service in place. Therefore, there was a need for as much certainty as possible in order to mobilise a new service within such extremely challenging timescales.

It was imperative that essential elements, such as securing clinical staff, having a prescribing system and appropriate buildings to deliver the service from, were all in place. These were complex undertakings and required specialist knowledge from a broad range of individuals,

teams and organisations.

The specialist prescribing service in Middlesbrough was currently contracted with Foundations Medical Practice. Historically this service had been delivered as part of a coterminous arrangement with the former South Tees Clinical Commissioning Group (CCG), now the North East and North Cumbria Integrated Care Board (ICB), who commissioned Foundations for primary care.

The ICB provided an enhanced service payment in relation to the Foundations patient group, which augmented the general medical element of service delivery. This, along with the Public Health and various primary care contracts, had historically made the service financially viable and ensured that the healthcare needs of an underserved population group had been more effectively met.

The service had been affected by the overall budget reductions to substance misuse with significant cuts to the funding since 2013. These impositions, on both the service and wider substance misuse model, had resulted in caseload sizes becoming dangerously high, which restricted the amount of support that could be provided to individuals who were reliant on the service.

## **OPTIONS**

**Appendix 3 of the report contained a detailed options appraisal.**

**However, in summary other potential decisions were considered but were not recommended for the following reasons:**

- 1. Do nothing – not a feasible option as the outcome would have resulted in no service provision on 1/10/23;**
- 2. Direct award of a contract to a suitable provider organisation – there were several major risks associated with this option, mainly regarding to the lack of certainty in this process within the already tight timescales. Other risks included:**
  - i) There had been no market interest in the tender. Therefore, this may not have yielded a suitable provider willing to take the service on;**
  - ii) Potential that the process would have failed during negotiations, which would have left no timescales to get alternative provision in place; and**
  - iii) Highly likely to have been a more costly option in order to secure a suitable provider and expected that the preferred delivery model would have had to be compromised;**
  - iv) Would have been a limited time solution and required taking the service back to the market in the near future – likely to have to have changed the model to secure a bid;**
- 3. Direct award of a contract to a Primary Care Network or GP practice – the risks outlined in option b. above also apply here. There is even less likelihood of securing a suitable provider from this sector, most crucially due to the lack of skills and experience within local primary care.**

## **ORDERED**

**That Executive approve the specialist clinical/prescribing service for substance misuse be brought into Middlesbrough Council.**

## **REASONS**

**Detailed reasons were provided in paragraphs 19 to 34 of the report, however in summary there was no option to risk having any break in service provision.**

**This would have resulted in serious risk of overdoses and deaths and would have had extremely negative consequences for a large number of extremely vulnerable people. This decision provided appropriate timescales to enable the future service to be planned, developed and implemented safely, in conjunction with relevant partners and stakeholders.**

23/8

**FINAL REPORT OF THE CHILDREN AND YOUNG PEOPLE'S LEARNING SCRUTINY PANEL - YOUTH OFFENDING AND PARTNERSHIP WORKING WITH SCHOOLS - SERVICE RESPONSE**

The Children and Young People's Learning Scrutiny Panel had undertaken a review entitled Youth Offending and Partnership Working with Schools. A copy of the full report was attached. The Scrutiny Panel had made five recommendations upon which a response was sought from the relevant service area.

The Deputy Mayor and Executive Member for Education and Culture and Interim Director of Children's Care submitted a service response to the recommendations of the Scrutiny Panel. A copy of the action plan was attached.

The former Chair of the Children and Young People's Learning Scrutiny Panel presented the final report to Executive. The Deputy Mayor and Executive Member for Education and Culture presented the service response.

**ORDERED**

1. That the content of the Children and Young People's Learning Scrutiny Panel final report on Youth Offending and Partnership Working with Schools (Appendix 1) be noted; and
2. The action plan (Appendix 2), developed in response to the Scrutiny Panel's recommendations, be approved.

**REASON**

It was a requirement that Executive formally considered the scrutiny panel's report and confirmed the service area's response to the accompanying plan.

23/9

**FINAL REPORT OF THE CHILDREN AND YOUNG PEOPLE'S SOCIAL CARE AND SERVICES SCRUTINY PANEL: SUPPORTING YOUNG PEOPLE TO PREPARE FOR ADULTHOOD AND INDEPENDENCE - SERVICE RESPONSE**

The Children and Young People's Social Care and Services Scrutiny Panel had undertaken a review entitled Supporting Young People to Prepare for Adulthood and Independence. A copy of the full report was attached. The Scrutiny Panel had made 23 recommendations upon which a response was sought from the relevant service area.

The Executive Member for Children's Services and Interim Director of Children's Care submitted a service response to the recommendations of the Scrutiny Panel. A copy of the action plan was attached.

The former Chair of the Children and Young People's Social Care and Services Scrutiny Panel presented the final report to Executive. The Executive Member for Children's Services presented the service response.

**ORDERED**

1. That the content of the Children and Young People's Social Care and Services Scrutiny Panel final report on Supporting Young People to Prepare for Adulthood and Independence (Appendix 1) be noted; and
2. The action plan (Appendix 2), developed in response to the Scrutiny Panel's recommendations, be approved.

**REASON**

It was a requirement that Executive formally considered the scrutiny panel's report and confirmed the service area's response to the accompanying plan.

23/10

**ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None.

20 June 2023

**All decisions will come into force after five working days following the day the decision(s) was published unless the decision becomes subject to the call in procedures.**