

<b>Report of:</b>	Director of Finance (s151 Officer)
<b>Relevant Executive Member:</b>	The Mayor and Executive Member for Adult Social Care and Public Health
<b>Submitted to:</b>	Council
<b>Date:</b>	8 March 2024
<b>Title:</b>	2024/25 Revenue Budget, Medium Term Financial Plan, Council Tax setting, and Treasury Management Strategy 2024/25
<b>Report for:</b>	Decision
<b>Status:</b>	Public
<b>Strategic priority:</b>	All
<b>Key decision:</b>	Yes
<b>Why:</b>	Decision(s) will incur expenditure or savings above £250,000 and have a significant impact in two or more wards
<b>Subject to call in?:</b>	No
<b>Why:</b>	

#### Proposed decision(s)

Council is recommended to accept the 'in-principle' offer of up to £13.4m of Exceptional Financial Support (EFS) issued by the Department for Levelling Up Homes & Communities (DLUHC) and the associated terms and conditions (letter from DLUHC attached at **Appendix A**). The ability of the Council to meet its statutory responsibility to set a balanced and robust budget for 2024/25 by 11 March 2024 is wholly dependent upon acceptance of the EFS.

If the Council does not accept the 'in-principle' EFS offer from DLUHC, it will not be able to set a robust and balanced budget nor set the Council Tax for 2024/25 at this budget meeting dated 8 March 2024. As a result, the Council would fail to meet its statutory responsibility to set the budget and council tax by 11 March 2024. This would result in

the s151 Officer being required to issue a s114 Notice, the adverse implications of which are set out in paragraph 5.3 of this report.

Subject to acceptance of the DLUHC 'in-principle' offer of EFS of up to £13.4m and its associated terms and conditions, the Council will then be able to take decisions in relation to the 2024/25 revenue budget, MTFP and council tax setting, and the Treasury Management Strategy.

It is recommended that Council approve the revenue budget for 2024/25, Medium Term Financial Plan 2024/25 to 2026/27, Capital Programme 2024/25 to 2026/27, and Council Tax levels for 2024/25, as set out in the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024. Details are set out in Section 2 of this report and cross referenced to **Appendix B**.

It is recommended that Council approve the Prudential Indicators for 2024/25 to 2026/27, Treasury Management Strategy for 2024/25, Minimum Revenue Policy (MRP) for 2024/25 and the Approved Authorised Limit for External Debt for 2024/25, as set out in the Prudential Indicators and Treasury Management Strategy 2024/25 report to Executive on 28 February 2024. Details are set out in Section 2 of this report and cross referenced to **Appendix C**.

## Executive summary

The Minister for Local Government wrote to the Elected Mayor on 27 February 2024 to inform him that DLUHC approves 'in-principle', the Council's application of up to £13.4m of EFS subject to standard terms and conditions. Details of the decision were made public by DLUHC on 29 February 2024. Acceptance of this offer by the Council is essential to enable the Council to approve a lawful balanced and robust budget and for the Council Tax level to be set by the statutory deadline of 11 March 2024.

The details of the DLUHC decision and associated conditions are set out in a letter from Minister Simon Hoare MP to the Elected Mayor on 27 February 2024 which is attached at **Appendix A** and set out in paragraph 4.13 below. The terms are standard, with no bespoke requirements upon the Council and are not negotiable.

It is recommended that the Council accepts the DLUHC offer of EFS support and its associated terms and conditions in order that the Council can then debate and vote on the 2024/25 Revenue Budget, MTFP and set the Council Tax for 2024/25 and the Performance Indicators and Treasury Management Strategy as detailed in this report.

If Council either:

- does not approve the recommendation to accept the EFS offered by DLUHC along with its terms and conditions, it will be unable to vote on the Mayor's budget as presented to this meeting

or

- does accept EFS but then fails to agree a robust and balanced budget at this meeting and therefore by the statutory deadline of 11 March 2024 in respect of 2024/25 financial year

the implications would be as follows:

The Council:

- Would be unable to set the level of Council Tax for 2024/25.
- Would be unable to bill for Council Tax in respect of the Middlesbrough Council Tax requirement of £71.438m before April 2024.
- Would be unable to bill for Council Tax in respect of other precepting authorities, i.e. Cleveland Police and Crime Commissioner of £10.976m and Cleveland Fire Authority of £3.233m.
- In these circumstances, Middlesbrough Council would need to pay over precepts due to these precepting authorities and bear the financial costs of this action. This would also have severe cashflow implications for the Council, putting its ability to deliver all services to the community and pay suppliers and its staff in jeopardy.

The s151 Officer will have no option but to issue a s114 Notice under s114(3) of the Local Government Finance Act 1988. The key issues to consider are summarised below and set out in detail in the 2024/25 Budget and MTFP – Application for EFS report to Executive on 17 January 2024 (**Appendix E**) :

- The Council would be required to meet within 21 days to consider the s114 Notice and to agree a plan to set a balanced budget that will deliver at least the value of savings set out in this report, i.e. £13.910m in 2024/25.
- From the date of the s114 notice to the day following the Council meeting, there would be a prohibition period during which time the s151 Officer would require no new expenditure to be incurred on non-statutory and non-essential services. All statutory services would need to be delivered at the minimum level to meet statutory obligations. Therefore, there will be an adverse impact upon the ability to deliver services to the public.
- The budget development work undertaken to date has confirmed that without service transformation, further savings above those set out in this report will not be possible to be achieved without also putting at risk the Council's ability to safely meet its statutory responsibilities and/ or preserve existing service standards for non-statutory services. Developing further robust savings of substantial values will take several months and the Council cannot delay setting a balanced budget and its council tax.
- Consequently, this means that the Council is unable to recover its financial position without central Government support via EFS. It is required in order to close the 2024/25 budget gap after all proposed savings. Further, the Council has insufficient reserves to cover the financial risks that it faces in its operating environment and the s151 Officer could not recommend that the budget is robust. Therefore, EFS would be required to support any alternative plan to balance the budget in a s114 scenario.
- The longer-term implications of not setting a balanced budget by 11 March upon the delivery of Council services to the public and in relation to its financial viability, cannot be fully assessed at this time, but there would almost certainly be extreme and wide-ranging adverse consequences.
- Failure to set a balanced budget will also increase the likelihood of an escalation of government intervention in the Council's decision-making processes and likely to result in increased expenditure pressures for the Council in relation to that intervention.

### **S151 Officer's advice**

It is the professional opinion of the s151 Officer, that in order to set a legally balanced and robust budget whilst maintaining adequate revenue reserves for 2024/25, the Council must:

- accept £13.4m Exceptional Financial Support from Central Government comprising the following elements:
  - meet the budget gap of £4.7m for 2024/25 after all proposed savings
  - Contingency sums to cover the following risks that will only be used if necessary:
    - manage the financial implications of savings programme delivery risk (£3.5m)
    - temporarily support the funding of investment in transformation and redundancies pending the realisation of capital receipts from the asset disposal programme (£4.6m)
    - contingency of £0.6m

- not attempt to utilise EFS to replace robust and deliverable savings based upon political priorities as this will not be permitted by DLUHC and will reduce the amount of EFS available.
- approve and deliver robust budget proposals to the values set out in this report.
- increase Council Tax by the levels set out in this report.

It is recommended that Council approve the revenue budget for 2024/25, Medium Term Financial Plan 2024/25 to 2026/27, Capital Programme 2024/25 to 2026/27, and Council Tax levels for 2024/25, as set out in the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024. Details are set out in Section 2 of this report and cross referenced to **Appendix B**.

It is recommended that Council approve the Prudential Indicators for 2024/25 to 2026/27, Treasury Management Strategy for 2024/25, Minimum Revenue Policy (MRP) for 2024/25 and the Approved Authorised Limit for External Debt for 2024/25, as set out in the Prudential Indicators and Treasury Management Strategy 2024/25 report to Executive on 28 February 2024. Details are set out in Section 2 of this report and cross referenced to **Appendix C**.

## 1. Purpose

- 1.1 The report seeks approval of the Mayor's proposed budget and to enable the Council to set the Council Tax in accordance with the requirements of the Local Government Finance Act 1992, as amended by the Localism Act 2011, on or before 11 March 2024. Prior to setting the Council Tax, Members are required to consider and agree the following:
- 1.2 Agree to accept EFS of up to £13.4m offered 'in-principle' by DLUHC to enable the consideration and approval of the Mayor's proposed budget.
- 1.3 Provided Council accept the EFS offered by DLUHC then this report seeks approval of:

### **Appendix B**

- A 2024/25 net revenue budget of £143.190m, and Medium Term Financial Plan (MTFP) for the period 2024/25 to 2026/27 following the confirmation of the Local Government Finance Settlement.
- The proposed Council Tax increase for 2024/25 of 4.99%, comprising 2% Adult Social Care Precept and 2.99% Core Council tax which is within the referendum limits set by Government.
- A Capital Programme of £88.549m for 2024/25 and totalling £174.980m over the period from 2024/25 to 2026/27 together with a financing statement comprising a combination of external funding and council resources.

### **Appendix C**

- Approval of the Prudential Indicators and Treasury Management Strategy (TM) for 2024/25.
  - Approval of the Minimum Revenue Provision Policy.
  - Approval of the Authorised Limit for External Debt of £372m for the 2024/25 financial year.
- 1.4 Finally, approval of the Council Tax for the year 2024/25 in accordance with s30 to 38 of the Local Government Finance Act 1992 as amended.

## 2 Recommendations

That Council makes the following decisions:

- 2.1 That the Council accepts the DLUHC 'in-principle' offer of Exceptional Financial Support of up to £13.4m and associated terms and conditions as set out in **Appendix A**.
- 2.2 That if the Council accepts the DLUHC 'in-principle' offer of Exceptional Financial Support the recommendations as submitted in the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024 as set out in **Appendix B paragraphs 2.1 to 2.7** be approved:
- 2.3 That Council approves the Prudential Indicators and limits for 2024/25 to 2026/27, Treasury Management Strategy for 2024/25, and the Minimum Revenue Provision

(MRP) Policy for 2024/25, and the Approved Authorised Limit for External Debt of £372m for the 2024/25 financial year as shown in the separate Prudential Indicators and Treasury Management Strategy 2024/25 report to Executive on 28 February 2024 as set out at **Appendix C paragraph 2**.

- 2.4 That Council approve the Council Tax for the year 2024/25 in accordance with s30 to 38 of the Local Government Finance Act 1992 as amended as set out in paragraphs 4.17 to 4.24 of this report.
- 2.5 The Council delegate authority to the Director of Finance (s151 Officer) to adjust the Corporate Contingency Budget to account for any further variations that may arise in finalising technical calculations.

### **3 Rationale for the recommended decision(s)**

#### **Exceptional Financial Support (EFS)**

- 3.1 The Council is dependent upon receipts of EFS totalling up to £13.4m in order to set a lawful balanced and robust budget for 2024/25 in order to:
  - Provide time to develop and implement transformation plans to achieve financial recovery and sustainability within the period of the MTFP.
  - Avoid the need for the s151 Officer to issue a s114 Notice under s114(3) of the Local Government Finance Act 1988.

#### **Medium Term Financial Plan**

- 3.2 All Council members have a legal obligation to agree a balanced robust budget and set the Council Tax by 11 March 2024. In addition, the Council has a Best Value duty to demonstrate financial sustainability through the delivery of a balanced Medium Term Financial Plan (MTFP) over a period of at least 3 years. The setting of the budget is part of the budget and policy framework and therefore requires Full Council approval.
- 3.3 The Council is required to take a systematic, coherent, and controlled approach to addressing its ongoing financial challenges over the medium-term, while enabling the delivery of the Mayor's vision and priorities for Middlesbrough through delivery of the wider Council Plan.

#### **Council Tax**

- 3.4 The Council is required by Section 30 to 38 of the Local Government Finance Act 1992 to set its council tax for each year on or before 11 March in the preceding financial year. In order to do so, it must calculate its council tax requirement in accordance with the Act as detailed below including taking into account its estimated forthcoming spending requirements and ensuring that there are adequate reserves to draw on in the event that these estimates turn out to be insufficient.
- 3.5 The Council must also take into account the report of its Section 151 Officer (set out at Appendix 1 to the 2024/25 Revenue Budget, Medium Term Financial Plan, and

Council Tax setting report to Executive on 28 February 2024 – **Appendix B**) on the robustness of these estimates and the adequacy of the proposed reserves.

- 3.6 The total council tax being set also includes the precepted requirements of the Cleveland Police and Crime Commissioner and the Cleveland Fire Authority.
- 3.7 Under Section 52 of the Local Government Finance Act 1992 each authority must determine whether its council tax for a financial year is excessive, as defined by a set of principles determined by the Secretary of State, and whether a referendum must be held.
- 3.8 The council tax increases proposed in this report will not require a referendum as they do not exceed the qualifying criteria as set out in The Referendums Relating to Council Tax Increases (Principles) (England) Report 2024/25.

### **Prudential Indicators and Treasury Management Strategy 2024/25, MRP Policy (Appendix C)**

- 3.9 The recommendations will fulfil the following for the local authority:
  - a) To comply with the Prudential Code for Capital Finance in Local Authorities and the Department for Levelling Up, Housing & Communities (DLUHC) guidance on investments.
  - b) To comply with the Treasury Management Code of Practice for Local Authorities.
  - c) To comply with the requirements of the Local Government Act 2003 Part 1.
  - d) To approve a financial governance framework within which officers will operate when making both borrowing and investment decisions and entering financial transactions.

## **4 Background and relevant information**

### **Exceptional Financial Support (EFS)**

- 4.1 On 17 January 2024, the Executive approved that an application for Exceptional Financial Support (EFS) be made to the Department for Levelling Up Homes and Communities (DLUHC) for the sum of £15m in order to enable a balanced and robust budget to be recommended to Council for approval at its 2024/25 budget setting meeting.
- 4.2 Following the allocation of an additional £1.6m of Social Care Grant in the Final Local Government Finance Settlement on 5 February 2024, the budget gap has reduced by this sum from £6.3m to £4.7m. Consequently, the EFS application was adjusted from £15m to £13.4m.
- 4.3 The Minister for Local Government wrote to the Elected Mayor on 27 February 2024 to inform him that DLUHC approves 'in-principle' the Council's application of up to



£13.4m of EFS application subject to standard terms and conditions. Acceptance of this offer by the Council is essential to enable the Council to approve a lawful balanced and robust budget and for the Council Tax level to be set by the statutory deadline of 11 March 2024.

- 4.4 The details of the DLUHC decision and associated conditions are set out in a letter from Minister Simon Hoare MP to the Elected Mayor on 27 February 2024 which is attached at **Appendix A** and set out in paragraph 4.13 below. The terms are standard, with no bespoke requirements upon the Council and are not negotiable. The decision was made public by DLUHC on 29 February 2024.
- 4.5 It is recommended that the Council accepts the DLUHC offer of EFS support and its associated terms and conditions in order that the Council can then vote on the 2024/25 Revenue Budget, MTFP and set the Council Tax for 2024/25 and the Performance Indicators and Treasury Management Strategy as detailed in this report.
- 4.6 EFS is a one-off solution in order to finance the capitalisation of revenue expenditure in a particular year to provide breathing space for the Council to implement plans to recover its financial position. It is not a grant and is not free money.
- 4.7 EFS will take the form of a capitalisation direction that enables the Council to treat revenue expenditure as capital and fund it through borrowing or capital receipts. Given that the Council will have no or limited capital receipts available at 1 April 2024, and is dependent upon capital receipts to fund its Transformation Programme, the Council will fund the expenditure through borrowing.
- 4.8 The elements of the £13.4m EFS award are summarised as follows:
- Budget Gap - £4.7m (required to balance the budget)
  - Contingency on Budget Gap - £0.6m (will only be used if necessary)
  - Savings Delivery Risk - £3.5m (will only be used if necessary)
  - Capital Receipts Delivery Risk - £4.6m (will only be used if necessary)
- 4.9 The amount of borrowing will be determined based upon the Council's financial performance during the 2024/25 financial year. It will be necessary to borrow £4.7m unless the Council underspends its 2024/25 budget.
- 4.10 Provided that all planned savings are delivered and capital receipts are realised to plan by 31 March 2025, it will not be necessary to call upon the further sum of £8.7m.
- 4.11 DLUHC conditions specify that EFS borrowing will be at a premium rate over Public Works Loans Board (PWLB) borrowing over a period of up to 20 years This would be at a 1% premium above normal PWLB borrowing rates for the capital programme. The amount, period and rate of borrowing will be determined at an appropriate point during 2024/25, taking account the Council's financial performance, prevailing interest rates and the impact and affordability of revenue repayments over the period. This will be a professional judgement of the s151 Officer, based upon the expert

advice of the Head of Finance and Investments and the Council's external Treasury Management advisers. This sum will need to be agreed with DLUHC providing final approval of the EFS award.

4.12 The approval of the application by DLUHC and the acceptance by the Council of the amount awarded is essential to enable the Council to approve a lawful balanced and robust budget and for the Council Tax level to be set by the statutory deadline of 11 March 2024.

4.13 The details of the DLUHC decision and associated conditions are set out in a letter from Minister Simon Hoare MP to the Elected Mayor on 27 February 2024 which is attached at **Appendix A**. The terms are standard, with no bespoke requirements upon the Council and are not negotiable, and are summarised below:

- to undergo an external assurance review which will include, but will not be limited to, an assessment of the Council's financial position and financial management practices and the Council's work to improve its productivity and efficiency, linked to the broader work expected by the Department to produce productivity plans to improve service performance and reduce wasteful expenditure;
- to engage with the Department to provide assurance of improvement as set out in its January 2024 Best Value Notice extension;
- the Authority may only capitalise expenditure when it is incurred;
- where expenditure is capitalised, that the Authority shall charge Minimum Revenue Provision using the asset life method with a proxy 'asset life' of no more than 20 years, in accordance with relevant guidance;
- where the Authority's capital financing requirement is increased as a result of the capitalisation of expenditure under this direction, any further borrowing from the date of the capitalisation letter up to and including, but not exceeding, the increase in the financing requirement must be obtained from the Public Works Loan Board and must be subject to an additional 1 percentage point premium on the interest rate above the rate the loan would otherwise be subject to. This requirement does not apply to borrowing in relation to your Housing Revenue Account. Where any borrowing to which these conditions initially apply is refinanced, the conditions must continue to apply to the resulting borrowing;
- any capitalisation direction issued would be contingent on the Council reporting to the Department the final amount identified for which it requires capitalisation for this year, with the agreement of the Council's external auditors.

#### **2024/25 Budget, MTFP, Capital Programme, & Treasury Management**

4.14 The Council is required to formally approve the revenue budget for 2024/25, Medium Term Financial Plan 2024/25 to 2026/27, Capital Programme 2024/25 to 2026/27, and Council Tax levels for 2024/25. It is also required to formally approve the management of the Council's treasury management functions, including the Treasury Management Strategy, Prudential Indicators, and Minimum Revenue Provision Policy.

4.15 Members are asked to refer to the reports considered by Executive on 28 February 2024 including the appendices and any supplementary papers, as the recommendations before Council make specific reference to these reports.

4.16 Attached to this report are:

- **Appendix D** which are the draft minutes of the Executive meeting on 28 February 2024.

### Council Tax

4.17 The legislation governing the setting of council tax is contained in Sections 30 to 38 of the Local Government Finance Act 1992. Section 31B(1) requires a billing authority to calculate the basic amount of its council tax, which in Middlesbrough Council's case is that applicable to Band D dwellings in its area.

4.18 The calculation is made in accordance with a formula  $R/T$  where

**R** is the amount calculated by the Middlesbrough Council as its council tax requirement for 2024/25, calculated in accordance with section 31A(4) of the Act. This has been calculated as **£71,438,123**.

**T** is the amount calculated by Middlesbrough Council as its council tax base for 2024/25. On 20 December 2023 the Executive calculated the amount of **36,137.9** as its council tax base for the year 2024/25 in accordance with Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012.

4.19 Application of the formula  $R/T$  thus gives a basic amount of council tax of **£1,976.82** for a Band D property in accordance with Section 31B(1) of the Act as shown in **Table 1** below:

**Table 1 – Calculation of Basic Council Tax 2024/25**

	£	£
<b>Net Budget Requirement</b>		<b>143,190,245</b>
Less:		
Revenue Support Grant	15,121,685	
Top up Payment	30,485,592	
Top up Payment 23/24 reconciliation	(24,629)	
Local Share of NNDR	17,844,227	
		63,426,875
		79,763,370
Estimated Collection Fund Surplus 2023/24		(8,325,247)
<b>Council Tax Requirement</b>	<b>R</b>	<b>71,438,123</b>
Taxbase	<b>T</b>	36,137.9
<b>Basic Council Tax</b>	<b>(R) / (T)</b>	<b>1,976.82</b>

The basic amount is now relevant only for statistical purposes, but must still be calculated by law. It represents the average tax paid across the Council area, including parish precepts.

4.20 The calculation of the actual Council Tax (Band D) for parish and non-parish areas (Middlesbrough Council only element excluding Cleveland Police and Crime Commissioner and Cleveland Fire Authority precepts) is as follows:

**a. Table 2 – Actual Council Tax (Band D) - Areas other than Nunthorpe and Stainton & Thornton Parishes – 4.99% increase:-**

	£	£
Basic Amount as above:		1,976.82
Less : Parish Precepts	38,153	
Divided by Tax Base	36,137.9	
Equals		1.06
<b>Band D Tax</b>		<b>1,975.76</b>

**b. Table 3 – Actual Council Tax (Band D) – Nunthorpe Parish:-**

	£	£
Add: Parish Precept	25,000	
Divided by Tax Base	2,386.6	
Equals		10.48
<b>Band D Tax</b>		<b>1,986.24</b>

**c. Table 4 - Actual Council Tax (Band D) Stainton & Thornton Parish:-**

	£	£
Add: Parish Precept	13,153	
Divided by Tax Base	1,412.8	
Equals		9.31
<b>Band D Tax</b>		<b>1,985.07</b>

4.21 The calculation of the actual Council Tax for each valuation band for the Middlesbrough Council only element (excluding Cleveland Police and Crime Commissioner and Cleveland Fire Authority precepts) is shown in **Table 5** below:

**Table 5 - Middlesbrough Council Tax bands 2024/25 (excluding Police & Fire Precepts)**

Middlesbrough Council Tax bands excluding Police & Fire Precepts				
Band	Proportion	Areas without Parishes £	Nunthorpe £	Stainton & Thornton £
A	6/9	1,317.17	1,324.16	1,323.38
B	7/9	1,536.70	1,544.85	1,543.94
C	8/9	1,756.23	1,765.55	1,764.51
D	1	1,975.76	1,986.24	1,985.07
E	11/9	2,414.82	2,427.63	2,426.20
F	13/9	2,853.88	2,869.01	2,867.32
G	15/9	3,292.93	3,310.40	3,308.45
H	18/9	3,951.52	3,972.48	3,970.14

- 4.22 Cleveland Fire Authority has set a precept for Middlesbrough of **£3,232,896** and a 2.99% increase in Band D Council Tax. Council Tax levels for 2024/25 are set out in **Table 6** below.

**Table 6 – Cleveland Fire Authority Council Tax 2024/25**

<b>Cleveland Fire Authority</b>	
<b>Band</b>	<b>Tax £</b>
A	59.64
B	69.58
C	79.52
D	89.46
E	109.34
F	129.22
G	149.10
H	178.92

- 4.23 Cleveland Police and Crime Commissioner has set a precept of **£10,976,164** and a 4.47% increase in Band D Council Tax. Council Tax levels for 2024/25 are set out in **Table 7** below.

**Table 7 – Cleveland Police & Crime Commissioner Council Tax 2024/25**

<b>Cleveland Police &amp; Crime Commissioner</b>	
<b>Band</b>	<b>Tax £</b>
A	202.49
B	236.23
C	269.98
D	303.73
E	371.23
F	438.72
G	506.22
H	607.46

- 4.24 The total tax to be levied for each band (including Middlesbrough Council, Cleveland Fire Authority, Cleveland Police and Crime Commissioner, and Parishes) is set out in **Table 8**.

**Table 8 - Middlesbrough Council Tax bands 2024/25 including Police & Fire Precepts**

<b>Middlesbrough Council Tax bands including Police &amp; Fire Precepts</b>			
<b>Band</b>	<b>Areas without Parishes £</b>	<b>Nunthorpe £</b>	<b>Stainton &amp; Thornton £</b>
A	1,579.30	1,586.29	1,585.51
B	1,842.51	1,850.66	1,849.75
C	2,105.73	2,115.05	2,114.01
D	2,368.95	2,379.43	2,378.26
E	2,895.39	2,908.20	2,906.77
F	3,421.82	3,436.95	3,435.26
G	3,948.25	3,965.72	3,963.77
H	4,737.90	4,758.86	4,756.52

## 5. Other potential alternative(s) and why these have not been recommended

### 5.1 If Council either:

- does not approve the recommendation to accept the EFS offered by DLUHC along with its terms and conditions, it will be unable to vote on the Mayor's budget as presented to this meeting

or

- Does accept EFS but then fails to agree a robust and balanced budget at this meeting and therefore by the statutory deadline of 11 March 2024 in respect of 2024/25 financial year

the implications will be as follows:

### 5.2 The Council:

- Would be unable to set the level of Council tax for 2024/25.
- Would be unable to bill for Council Tax in respect of the Middlesbrough Council Tax requirement of £71.438m before April 2024.
- Would be unable to bill for Council Tax in respect of other precepting authorities, i.e. Cleveland Police and Crime Commissioner of £10.976m and Cleveland Fire Authority of £3.233m.
- In these circumstances, Middlesbrough Council would need to pay over precepts due to these precepting authorities and bear the financial costs of this action. This would also have severe cashflow implications for the Council, putting its ability to deliver all services to the community and pay suppliers and its staff in jeopardy.

### 5.3 The s151 Officer will have no option but to issue a s114 Notice under s114(3) of the Local Government Finance Act 1988. The key issues to consider are summarised below and set out in detail in the 2024/25 Budget and MTFP – Application for EFS report to Executive on 17 January 2024 (**Appendix E**) :

- The Council would be required to meet within 21 days to consider the s114 Notice and to agree a plan to set a balanced budget that will deliver at least the value of savings set out in this report, i.e. £13.910m in 2024/25.
- From the date of the s114 notice to the day following the Council meeting, there would be a prohibition period during which time the s151 Officer would require no new expenditure to be incurred on non-statutory and non-essential services. All statutory services would need to be delivered at the minimum level to meet statutory obligations. Therefore, there will be an adverse impact upon the ability to deliver services to the public.
- The budget development work undertaken to date has confirmed that without service transformation, further savings above those set out in this report will not be possible to be achieved without also putting at risk the Council's ability to safely meet its statutory responsibilities and/ or preserve existing service standards for non-statutory services. Developing further robust savings of substantial values will take several months and the Council cannot delay setting a balanced budget and its council tax.
- Consequently, this means that the Council is unable to recovery its financial position without central Government support via EFS. It is required in order to close the 2024/25 budget gap after all proposed savings. Further, the Council

has insufficient reserves to cover the financial risks that it faces in its operating environment and the s151 Officer could not recommend that the budget is robust. Therefore, EFS would be required to support any alternative plan to balance the budget in a s114 scenario.

- The longer-term implications of not setting a balanced budget by 11 March upon the delivery of Council services to the public and in relation to its financial viability, cannot be fully assessed at this time, but there would almost certainly be extreme and wide-ranging adverse consequences.
- Failure to set a balanced budget will also increase the likelihood of an escalation of government intervention in the Council's decision-making processes and likely to result in increased expenditure pressures for the Council in relation to that intervention.

## **6. Impact(s) of the recommended decision(s)**

### **6.1 *Financial (including procurement and Social Value)***

6.1.1 Financial implications are detailed in this report and further detailed financial implications were considered in the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024 (appended to this report at **Appendix B**), and in the Prudential Indicators and Treasury Management Strategy 2024/25 report to Executive on 28 February 2024 (appended to this report at **Appendix C**).

6.1.2 The Council is required by law to set a legally balanced budget by 11 March 2024. Failure to do so will result in the statutory requirement for the s151 Officer to issue a s114 Notice under s114(3) of the Local Government Finance Act 1988.

### **6.2 *Legal***

6.2.1 Since 2020, the government has agreed to provide a small number of local authorities with support via the Exceptional Financial Support framework. The support is provided on an exceptional basis and as a last resort. In this local authority's case it can be seen as a means of avoiding further statutory measures such as the issuing of a section 114 notice pursuant to s114(3) of the Local Government Finance Act 1988. Requests for support will be considered against the principles of the EFS framework to ensure consistency of approach, Value for Money and the minimising of moral hazard. At present the provision of EFS is not enshrined in statute, though it is a feature of the draft Best Value Standards and Intervention Statutory Guidance which was published by DLUHC in July 2023.

6.2.2 The Council is required under legislation to set a balanced budget for each year. The Medium Term Financial Plan and revenue and capital budgets form part of the Council's policy framework, as set out in its constitution. The approach outlined within the document will enable the Council to operate within the resources available and continue to meet its many statutory duties.

6.2.3 Elected members (individually and collectively) have a fiduciary duty to local taxpayers and so duty to facilitate, rather than frustrate, the setting of a lawful budget, and not to do so would bring damaging legal, financial, operational, and reputational consequences for the Council, and precepting authorities such as the police, fire service and local parish councils. It may also give rise to personal liability

for individual members for misfeasance in public office, negligence, or breach of statutory duty, should they be found to be purposely failing to set a lawful budget.

### **6.3 Risk**

- 6.3.1 The revision of the Council's Medium Term Financial Plan for 2024/25 to 2026/27 plays a fundamental role in ensuring that the Strategic Plan is delivered effectively.
- 6.3.2 The proposed approach will ensure a positive impact on the strategic risk that the Council fails to achieve a balanced budget. The proposed approach also aligns with legal requirements around consultation and assessing the impact of proposals. It therefore impacts positively on the risks that the Council could fail to achieve good governance or comply with the law.
- 6.3.3 There is a risk that the financial position of the Council will be adversely affected by any non-achievement of the proposed budget savings, delivery of capital receipts, delivery of transformational plans that are required to redesign services from a lower cost base and other proposals for 2024/25 outlined in the report.

### **6.4 Human Rights, Public Sector Equality Duty and Community Cohesion**

- 6.4.1 An Equality Impact Assessment (EIA) has been carried out and was detailed in Appendix 3 of the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024 – **Appendix B**. Due regard has been given to the equality implications identified in the EIA.
- 6.4.2 The complete overall impact assessment included in Appendix 3 of that report, along with all the individual impact assessments found that there was a justified adverse impact from these proposals in order to ensure the Council is able to maintain a balanced budget and continue to meet its statutory obligations.

### **6.5 Climate Change / Environmental**

- 6.5.1 A number of the proposals within the proposed budget are relevant to this theme. The proposals to make changes to waste and recycling services and cessation of financial support for Environment City in particular. The impact of this has been assessed with the results and the supporting Impact Assessment included in Appendix 3 of the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024 – **Appendix B**.

### **6.6 Children and Young People Cared for by the Authority and Care Leavers**

- 6.6.1 A number of the proposals within the 2024/25 proposed budget are relevant to these groups. The proposals will ensure that service provision is reviewed to ensure it is fit for purpose. The proposal in relation to the Special Guardianship Order Payment review will be particularly relevant, the proposal is to review policy and practice to bring it into line with regulations, the impact of this has been assessed during the consultation period and this is set out in Appendix 3 of the 2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024 – **Appendix B**.



## 6.7 Data Protection / GDPR

6.7.1 There are no concerns that the proposals within the report will impact negatively on data protection or GDPR.

### Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
If approved by Council on 8 March 2024, the proposals set out in this report will form the basis of the 2024/25 revenue budget of the Council	Head of Financial Planning & Support	8/3/24

## Appendices

<b>A</b>	Letter from DLUHC regarding decision for Exceptional Financial Support and associated conditions
<b>B</b>	2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting report to Executive on 28 February 2024
<b>C</b>	Prudential Indicators and Treasury Management Strategy 2024/25 report to Executive on 28 February 2024
<b>D</b>	Draft minutes of Executive meeting of 28 February 2024
<b>E</b>	2024/25 Budget and MTFP – Application for Exceptional Financial Support report to Executive 17 January 2024

## Background papers

Body	Report title	Date
Executive	Children's Service Financial Improvement Plan	14/2/23
Council	Budget 2023/24 -S25 Report of the Chief Finance Officer	27/2/23
Council	Revenue Budget, Council Tax, Medium Term Financial Plan and Capital Strategy 2023/24	27/2/23
Executive	Revenue and Capital Budget – Forecast Outturn position at Quarter One 2023/24	23/8/23
Executive	MTFP Update	23/8/23
Executive	Revenue and Capital Budget – Forecast Outturn position at Quarter Two 2023/24	21/11/23
Executive	Asset Review	21/11/23
Executive	Fees and Charges Review 2023/24	21/11/23
Government (Chancellor)	Autumn Spending Review 2023	22/11/23
Department for Levelling Up, Housing & Communities (DLUHC)	Local Government Finance Policy Statement 2024/25	5/12/23
Department for Levelling Up, Housing & Communities (DLUHC)	Provisional Local Government Finance Settlement	18/12/23

Executive	The Council Plan, 2024-27	20/12/23
Executive	Draft 2024/25 Budget and MTFP Refresh	20/12/23
Executive	2024/25 Budget and MTFP – Application for Exceptional Financial Support	17/1/24
Department for Levelling Up, Housing & Communities (DLUHC)	Final Local Government Finance Settlement	5/2/24
Executive	Revenue and Capital Budget – Forecast Outturn position at Quarter Three 2023/24	14/2/24
Executive	2024/25 Revenue Budget, Medium Term Financial Plan, and Council Tax setting	28/2/24
Executive	Prudential Indicators and Treasury Management Strategy Report – 2024/25	28/2/24