

CABINET

4 FEBRUARY 2020

CAPITAL AND REVENUE BUDGETS 2020/21

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Summary

This report sets out Cabinet's proposals for the capital and revenue budgets for 2020/21. In accordance with the Constitution this is to be submitted to Full Council on 20 February 2020, the special meeting convened to set the Council Tax.

1. Budget and Policy Framework

- 1.1 According to the Council's Constitution, it is the responsibility of Cabinet, supported by the Corporate Management Team, to propose a capital and revenue budget having first consulted the overview and scrutiny committees. Full Council has the ultimate responsibility for determining the budget and setting the Council Tax.
- 1.2 In respect of the Housing Revenue Account budget proposals, Full Council is required to carry out an annual review of rents and notify tenants not less than 28 days prior to the proposed date of change.
- 1.3 The Council Strategy and Council Plan form part of the Council's Policy Framework as set out in the Constitution. The Council Plan refresh will be considered as a separate item on this agenda.

2. Background

- 2.1 The Medium Term Financial Strategy (MTFS) was considered by Cabinet on 24 September 2019 and identified a potential revenue shortfall of some £5.956million in 2020/21 rising to £17.327million by 2023/24. In September 2019 the Chancellor delivered a one year Spending Round, setting departmental spending plans for the 2020/21 financial year. This settlement would represent the biggest real terms increase in annual spending power for local government in a decade, incorporating both increased grant allocations and flexibility to generate additional income through local taxation. On 19 November 2019 Cabinet considered the Draft Capital and Revenue Budget 2020/21, which incorporated the outcome of the Spending Round. Following the Spending Round, the government published the Technical Consultation on the Local Government Finance Settlement for 2020/21, providing further details on the proposals and how the national funding would be allocated.

2.2 In accordance with the Council’s constitution, overview and scrutiny committees were invited to comment on the draft budget proposals, represented by the directorate budget requirements within the appendices and a high level narrative explaining the action being considered by the Administration to close the ‘gap’. These comments have been included at Appendix 1, which will follow as an addendum report.

3. Revenue Funding

3.1 Core Spending Power

3.1.1 The local government settlement is underpinned by the Core Spending Power calculation. This calculation makes certain assumptions about the local tax that Medway is able to generate and then aggregates this with the core grant funding available to Medway. Medway Council’s Core Spending Power is summarised in Table 1.

3.1.2 The Core Spending Power calculation is not in itself a statement of the actual resources available to the Council. It is simply a mechanism used by Government to illustrate the potential funds available to local authorities. In practice, the budget will be based upon the Council’s own estimate of local tax yields.

Table 1: Medway Council’s Core Spending Power

	2019/20 £m	2020/21 £m
Adjusted Revenue Support Grant	6.053	6.151
Business Rates Baseline Funding Level	47.441	48.214
Settlement Funding Assessment	53.494	54.365
Council Tax excluding Parishes	119.651	126.080
Section 31 Compensation for Under-Indexing	1.546	1.932
Improved Better Care Fund	6.095	7.093
New Homes Bonus	1.978	1.221
Winter Pressures Grant	0.998	0.000
Social Care Support Grant 2	1.705	0.000
Social Care Grant	0.000	5.492
Core Spending Power	185.466	196.183

3.2 The Provisional Settlement

3.2.1 The Secretary of State announced the provisional financial settlement via a written statement on 20 December 2019. The content of the provisional settlement was largely known in advance because it is based on the Technical Consultation paper that was published in October 2019, following the Chancellor’s one year spending round in September. There were no material changes from the proposals outlined in the Technical Consultation.

3.3 Council Tax

3.3.1 In accordance with the Council delegation, on 14 January 2020 the Chief Finance Officer, in consultation with the Leader, agreed the Council Tax base for 2020/21 at

86,796.90 band D equivalents. This represents an increase of 673.52 band D equivalents against the tax base reflected in the Draft Budget assumptions.

3.3.2 In the provisional settlement, the Secretary of State confirmed that the referendum limit returns to its historic level of 2%, however the Adult Social Care precept has been extended for a further year, allowing upper tier authorities to increase the Council Tax by a further 2% above the referendum limit. The proposed 2020/21 budget is based upon the Council raising Council Tax by 3.994%.

3.3.3 This report considers the budget requirement for Medway Council only. There are a number of other factors that will influence the final Council Tax requirement to be approved by Full Council on 20 February 2020. Whilst the final rate will be dependent on the level of spending, it will also be affected by:

- The Council Tax base of 86,796.90 agreed on 14 January;
- The parish precepts;
- The Policy and Crime Commissioners precept; at the time of writing this is not yet known but will be agreed at the meeting scheduled for 6 February 2020;
- The Kent Fire and Rescue Service (KFRS) precept, which will be agreed at its budget meeting on 14 February 2020 where a 1.97% increase will be considered. This, if agreed, would produce a KFRS Band D rate of £79.29.

3.3.4 Since the Draft Budget projections were prepared, the Council Tax base has grown and the proposed budget now reflects an additional £991,000 of income forecast for 2020/21.

3.4 Retained Business Rates

3.4.1 The widely anticipated review of the Business Rates retention scheme and plans to reset the baseline from next year have been deferred, whilst Parliament has been distracted by other more pressing issues. In the meantime the 50% Business Rate retention scheme will continue in its existing form and Medway remains a top-up authority. The proposed budget assumes we will receive a top-up grant of £4.495million in 2020/21.

3.4.2 The latest projected Business Rates base has grown, and the proposed budget now reflects an additional £636,000 of income forecast for 2020/21 compared to the Draft Budget.

3.5 Collection Fund

3.5.1 As a Billing Authority, Medway Council has a statutory obligation to maintain a separate Collection Fund. All revenues from Council Tax and Business Rates flow into the account, before being distributed between the local authority, the preceptors and the Government. In advance of each financial year the Council is required to forecast the anticipated level of Council Tax and Business Rates income that will be paid to the Collection Fund in the following financial year. Any difference between the estimate and the level of income actually received is reflected in a surplus or deficit position within the Collection Fund. Collection Fund surpluses declared by the billing authority are apportioned to the relevant precepting bodies and government in the subsequent financial year, and likewise deficits are proportionately charged to the relevant bodies in the following year.

3.5.2 As at 31 March 2018 the Collection Fund was in a surplus position for Council Tax,

of which £2.100million related to Medway; however this was more than offset by a deficit position on Business Rates, of which £3.960million related to Medway.

- 3.5.3 For the 2018/19 financial year, Medway Council was part of a 100% Business Rate pilot and part of a pooling arrangement with other councils in Kent. Through this pilot, Medway's share of Business Rates increased from the historic 49% (with 50% paid to government to and 1% being due to Kent Fire and Rescue Service) to 99%, with 1% being due to the Kent Fire and Rescue Service. Medway's estimated Business Rates income for the year was determined by the forecasts submitted to the pool by all 13 participating Kent billing authorities, increasing the risk that the actual income received would vary significantly from that forecast.
- 3.5.4 The uncertainty over the amount of actual income generated through the pilot in 2018/19 meant that when the 2019/20 budget was set, it was not clear whether the Collection Fund deficit on Business Rates would have been reduced sufficiently so that an overall surplus could be reflected in Medway's budget.
- 3.5.5 The CTR1 form, which estimates the Council Tax yield for the next year, also estimates the surplus expected by the end of the current year and this is then available to fund next year's budget. This figure is estimated at £3.249million.
- 3.5.6 Owing to an error on the NNDR1 form issued by central government, which miscalculated the brought forward balances for former 100% pilot authorities, we are currently unable to estimate the brought forward balance on Business Rates and so have included the £994,000 deficit at the end of 2018/19 in setting next year's budget.

3.6 **New Homes Bonus**

- 3.6.1 The Provisional Settlement included a new round of allocations of the New Homes Bonus for 2020/21, but confirmed that no legacy payments will be made on this figure. The 2020/21 provisional allocations have now been announced and indicate an increase of £332,000 for Medway compared to the assumption in the Draft Budget.

3.7 **Education Related Grants**

- 3.7.1 The Spending Round 2019 announced that the schools budget would rise nationally by £2.6 billion in 2020/21, £4.8 billion in 2021/22 and £7.1 billion in 2022/23, compared to 2019/20 funding levels, along with almost £1.5 billion of funding to compensate schools for the increased cost of employer pensions contributions. The proposed budget projects that Education Related Grants will remain as per the assumption in the Draft Budget, totalling £99.537million in 2020/21.
- 3.7.2 Pupil Premium Grant (PPG) is paid to schools separately as a grant to improve the attainment of pupils from deprived backgrounds, based on pupils eligible for a free school meal, 'looked after children' (LAC), and children with a parent in the armed forces. This grant is essentially passed straight to schools.
- 3.7.3 There are only two local authority maintained schools with sixth forms in Medway – one secondary and a special school – and the Sixth Form Grant is passed straight to these schools.

Table 2: Projected schools related grants for the period to 2023/24

	2020/21	2021/22	2022/23	2023/24
DSG - Retained Schools Block	0.762	0.781	0.800	0.820
DSG - Schools Block	47.789	55.415	62.736	58.089
DSG - High Needs	29.794	33.243	36.693	40.142
DSG - Early Years	17.539	17.715	17.892	18.071
Pupil Premium Grant	3.190	3.081	3.066	2.954
Sixth Form Grant	0.483	0.483	0.483	0.483
Education Services Grant	(0.020)	(0.040)	(0.040)	(0.040)
Total Grant	99.537	110.678	121.630	120.519

3.8 Social Care Related Grants

3.8.1 In addition to the 2% 'social care precept' on Council Tax, the Spending Round 2019 announced a further £1.0billion of national grant funding in recognition of demographic changes, which are leading to growing demand for adult social care and increased pressure on council budgets. The Provisional Settlement confirmed the figures reflected in the Draft Budget presented to Cabinet in November, and the proposed budget therefore assumes the Council will receive £12.584million of Adult Social Care Related Grants in 2020/21.

3.9 Public Health Grant

3.9.1 The proposed budget reflects the reduction in the Public Health grant of £16,800 compared to the Draft Budget, as indicated in the Provisional Settlement.

4. Revenue Budget Requirement 2020/21

4.1 The Council Strategy sets out the Council's key priorities, the outcomes we expect to achieve and the programmes that will deliver them. The Council Plan is the delivery plan which sets out the measures that will be used to track performance against the Council's key priorities. The annual 'refresh' of the Plan is considered elsewhere on this agenda, but the MTFs and subsequent budget have been prepared to reflect the priorities and corporate ways of working it sets out. The key priorities are:

- People – Supporting Medway's people to realise their potential;
- Place – Medway; a place to be proud of; and
- Growth – Maximising regeneration and economic growth.

Our three corporate 'ways of working' support the delivery of these priorities;

- Giving value for money;
- Finding the best digital innovation and using it to meet residents' needs; and
- Working in partnership where this benefits our residents.

4.2 In accordance with the constitutional requirements, the Draft Budget, proposed by Cabinet, was passed to overview and scrutiny committees inviting comments. At that stage the draft budget was some £4.840million in excess of the anticipated resources available, largely driven by demographic pressures manifesting within Adult Social Care and Children's Services.

- 4.3 Commencing in the Summer, during formulation of the MTFs, and continuing throughout the overview and scrutiny process, officers have worked closely with portfolio holders to identify savings, efficiencies and income generating measures to close the gap and achieve a balanced budget, without recourse to reserves and whilst attempting to minimise the impact on service delivery. These proposals and their impact in 2020/21 are discussed in more detail in the directorate level commentaries at Section 5, 6 and 7 of this report.
- 4.4 Appendix 2 summarises the proposed budget requirement against the funding assumptions, with appendices 2a-2c representing the directorate summaries and appendices 3a-3c providing more detail regarding individual savings proposals.
- 4.5 At the time of writing this report, there is still a deficit of £300,700 to resolve, however it is anticipated that this will be resolved when the Business Rate Collection Fund estimates have been finalised.

5. Children and Adults Services (including Public Health) (Appendices 2a / 3a)

- 5.1 The Draft Budget reflected significant increases in Adult Social Care expenditure based on projections of continued demographic growth, and our assumptions around provider fees increasing and driving up placement costs. During the budget development process these assumptions were challenged, and the homecare contract was successfully re-let within the existing budget envelope, enabling the increases previously incorporated to be revised downward.
- 5.2 The proposed budget reflects a significant increase in investment in Children's Social Care, made in response to the receipt of the inadequate rating from Ofsted's inspection of the Local Authority's Children's Services in 2019. In addition to the £1.6million increase in staffing budgets presented in the Draft Budget, the proposed budget includes a further £2.0million investment in staffing for the service, partially offset by the use of around £800,000 of grant funding. The Draft Budget also reflected a £2.9million increase in the cost of placements, reflecting both continued demographic growth and provider fee increases. Revised estimates of the cost of current placements mean this budget can be reduced by £500,000. In January the Cabinet made the decision to close the Old Vicarage, saving £604,000; however the proposed budget reflects the investment of £400,000 of this in a new 'edge of care' service provision that better meets the needs of local children.
- 5.3 The Council continues to experience significant pressures on its services for children with Special Educational Needs and Disabilities (SEND) and the Round 3 Revenue Budget Monitoring report (presented elsewhere on this agenda) sets out that the projected cumulative deficit on the DSG reserve will be £9.604million by the end of 2019/20. The Council has produced a revised deficit recovery plan, which has been endorsed by the government's Education and Skills Funding Agency. While delivery of this plan would make a significant impact on the deficit, officers maintain that the High Needs Block of the DSG is underfunded. In its consultation document in November 2019 the Department for Education stated that: "*The Government's intention is that DSG deficits should not be covered from general funds, but that over time they should be recovered from DSG income.*" The proposed budget therefore assumes no impact from the DSG deficit on the Council's General Fund budget.

5.4 As outlined at paragraph 3.9.1 the Public Health Grant in the proposed budget represents a small reduction compared to that assumed in the Draft Budget.

6. Regeneration, Culture and Environment (Appendices 2b / 3b)

6.1 The quarterly budget monitoring process has exposed inherent pressures around delivery of some very challenging income targets across the Directorate including those in Leisure, Parking and Bereavement Services. Despite significant activity to increase income and reduce costs, Members acknowledge that the targets in place are unachievable, therefore the proposed budget resets the base to levels considered more realistic.

6.2 The proposed budget also addresses pressures arising from demographic growth impacting on waste arisings, and from contractual uplifts across the waste and highways services.

6.3 The changes to the Corporate Management Team Structure approved by Full Council on 23 January 2020 result in the majority of the services that formed the Transformation Division moving into Business Support, accounting for the reduction in total budget compared to that shown in the Draft Budget.

7. Business Support Department (Appendices 2c / 3c)

7.1 While the Departmental budget has grown significantly compared to that shown in the Draft Budget, the increase is almost entirely attributable to the addition of the majority of the services that previously formed the Transformation Division. With the Business Change and Human Resources functions operating within the Department, it is anticipated that closer working with the other core support services including Finance and Legal Services will support the delivery of further opportunities to transform the Council's operations, beyond the activities already planned for 2020/21.

7.2 The proposed budget also reflects the continued investment in the Council's operational property portfolio, with a £250,000 increase in the annual contribution to the Building Repairs and Maintenance Fund.

8. Pay and Pensions

8.1 As per the Draft Budget, the proposed Budget assumes a pay award of 1% for all staff and an allowance of £80,000 to mitigate the impact of National Living Wage rate increases based on forecasts from the Office for Budget Responsibility. In December 2019 the government announced that the National Living Wage would increase by 6.2% in 2020, significantly more than was anticipated and as such the proposed budget includes a further £300,000 for the impact of the increases on Medway Council staff and certain other outsourced services.

8.2 A 2018 Supreme Court judgement on pensions was anticipated to increase Medway's contribution to the scheme, and the Draft Budget reflected a cost of £1.081million for this cost. Collective challenge from the Kent local authorities resulted in the actuaries reviewing their assumptions, and their latest valuation confirms that in addition to Medway clearing our backdated deficit, the existing contribution rate is sufficient to meet our liabilities for 2020/21.

9. Interest and Financing

- 9.1 The proposed 2020/21 Interest and Financing budget is sufficient to support our capital expenditure assumptions, based on the aspirations in the Capital Strategy, while ensuring the availability of sufficient cash-flow to support the day to day operations of the Council.

10. Fees and Charges

- 10.1 The budget proposals have been formulated on an assumption that fees and charges would generally increase by 2.0%, however where market conditions allow or where the Council has a statutory obligation to recover costs, greater increases have been applied. The schedule of proposed fees and charges is set out at Appendix 5 (to follow).

11. General Reserves

- 11.1 One of the key aims of the MTFS is to produce a sustainable budget without recourse to the use of reserves. Non-earmarked General Fund reserves are forecast to stand at over £10million by 31 March 2020 or almost 4.5% of the proposed non-schools budget requirement.
- 11.2 The principal risk to be covered by the contingency balance is that of an overspend and it is a testimony to both the Council's internal budgetary control systems and the robustness of the budget setting process, that over a number of successive years the Council has consistently underspent its revenue budget. Members are however asked to note the latest revenue monitoring position elsewhere on this agenda, which forecasts an overspend of around £2.571million in 2019/20. Directorate management teams continue to identify urgent action to bring expenditure back within budget.
- 11.3 The other reason for maintaining reasonable reserve balances is to protect against the risk of a catastrophic event. Nonetheless there are compensatory schemes to mitigate such events and these include the Government 'Belwin' scheme and our own insurance cover which, whilst largely of a self-insured nature, does provide for extreme claims with property excess capped at £1.25million and claims above this met by the insurers and the aggregate of liability claims in a similar vein at £2.9million. The balance on the Insurance Fund at 31 March 2019 had decreased to £4.4million, including a provision for identified liabilities of £3.2million accumulated over a number of years with the larger cases taking some time to reach settlement.

12. Capital Programme 2020/21 and beyond

- 12.1 At almost £470million, the Council's current capital programme is significant, incorporating £120million of projects to be delivered by Medway Development Company (MDC) Ltd. as well as £170million from the Housing Infrastructure Fund. The Council has borrowed £45million to acquire the head leases on the Pentagon Centre and Mountbatten House and plans additional borrowing of over £14million to build a six-storey landmark building at the Innovation Park Medway. The Education capital programme represents about £33million and with a huge programme of highways works, the continuation of the riverside developments, heritage projects and other schemes, this is the most significant and ambitious capital programme Medway Council has ever managed.

Table 3: Current Capital Programme

Funding Source	C&A	RCET	HRA	BSD	Member Priorities	Total Programme
	£m	£m	£m	£m	£m	£m
Prudential Borrowing	24.700	26.955	6.558	58.175	0.000	116.389
Borrowing in lieu of Capital Receipts	0.000	4.749	0.000	119.338	0.000	124.087
Capital Receipts	0.050	3.589	0.000	0.360	0.366	4.366
Capital Grants	3.216	205.219	0.000	0.005	0.000	208.440
RTB Receipts	0.000	0.000	2.555	0.000	0.000	2.555
S106 Contributions	5.124	1.439	0.000	0.000	0.000	6.563
Revenue / Reserves	0.019	0.001	6.557	0.862	0.000	7.439
Total	33.109	241.952	15.670	178.740	0.366	469.838

12.2 In terms of additions to the programme for next year, these will be relatively few and so have been dealt with in the narrative below, rather than in the form of complex tables. New schemes will be funded from a combination of grant, prudential borrowing and capital receipts.

12.3 **Flexible Use of Capital Receipts:** The 2015 Spending Round gave local authorities the freedom to use capital receipts from the sale of their own assets (excluding Right to Buy receipts) to help fund the revenue costs of transformation projects and release savings. In order to make use of this flexibility, a Strategy document must be approved by Full Council.

12.4 The Proposed Flexible Use of Capital Receipts Strategy for Medway Council is provided at Appendix 6 and lists the projects where the Council plans to make use of this flexibility, along with the savings and/or service transformation that are anticipated will be delivered. The availability of capital receipts is forecast in table 4.

Table 4: Projected Capital Receipts

Source of Capital Receipts	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
	£m	£m	£m	£m	£m	£m
Rochester Riverside	2.947	2.067	3.643	0.719	3.545	2.483
Medway Development Company Ltd.	2.038	0.000	2.686	2.489	7.500	0.000
Innovation Park Medway (£1m per acre)	0.000	1.795	1.740	0.000	1.157	0.950
Temple Waterfront	0.000	0.000	1.000	0.000	0.000	0.000
Other Capital Receipts	0.195	0.050	0.050	0.000	0.000	0.000
Totals	5.180	3.912	9.119	3.208	12.202	3.433
Current Commitments:						
Reimburse CAA for Rochester Riverside GPF	0.000	0.000	0.000	0.000	(6.571)	0.000
Reimburse CAA for Chatham Waterfront GPF	0.000	0.000	0.000	0.000	(2.999)	0.000
IPM receipts to fund Phase 1 and 2 Northern s	0.000	(1.795)	(1.740)	0.000	(1.157)	(0.950)
Round 2 Capital Monitoring	(3.265)	(0.912)	(0.050)	(0.050)	(0.024)	0.000
Uncommitted Capital Receipts	1.915	1.205	7.329	3.158	1.451	2.483

12.5 **Schools Capital Programme:** The Capital Strategy references the free schools that the Education and Skills Funding Agency (ESFA) are directly funding. In addition to this, the Council's own basic need programme represents around £31million, including almost £25million of borrowing for the planned SEND school on the Cornwallis site. It is now expected that this requirement will be met through the free schools programme. £3million of the £25million has already been vired to fund the 'surge classes' needed as a result of the ESFA's delay in delivering the

Rainham free school. It is also proposed to vire a further £2.5million to deliver 250 SEND places in new resource units attached to mainstream schools. The Cabinet is asked to recommend this virement to Council.

- 12.6 Whilst the Council is not expecting any further Basic Need Grant, it should continue to receive Schools Condition and Maintenance Grant funding to fund major condition works at maintained schools and this will be added to next year's programme, under the Chief Finance Officer's delegation, when we have certainty over the figure. Similarly the Devolved Formula Capital Grant will be added in due course. In his Spending Round the Chancellor also announced additional capital grant funding for SEND, of which Medway's share is £961,400.
- 12.7 **Highways and Transport Related Capital:** Local Transport Plan indicative allocations to 2020/21 were announced in November 2018 and are expected to remain at current levels. These will be added to next year's programme, under the Chief Finance Officer's delegation, when we have certainty over the figures. It is again proposed to inject a further £1.5million of capital receipts towards maintaining the highways and Cabinet is asked to recommend this addition to Council.
- 12.8 A business case and gateway 3 report for the highly anticipated LED street lighting programme, will be coming to Cabinet during the next few months and will seek approval for between £11million and £12million to fund the replacement of 23,000 lamps and around 4,000 columns. The annual energy savings are expected to at least cover the cost of borrowing.
- 12.9 **Housing and Regeneration Related Capital:** The Housing Revenue Account is healthy and a further phase of new build housing was agreed by Council in January 2020, alongside the usual programme of works to maintain the existing stock. It is also anticipated that Government funding will be made available at current levels to fund Disabled Facilities Grants.
- 12.10 The Councils' ambitious regeneration programme will continue over the medium term through delivery of the riverside developments, investment in Innovation Park Medway and self-delivery of £120million of housing development managed by the Medway Development Company (MDC) Ltd.
- 12.11 The £170million from the successful Housing Infrastructure Fund bid was added to the Council's capital programme in January 2020 and will deliver significant road and rail infrastructure on the Peninsula, as well as improved public realm.
- 12.12 Finally, on 19 November, Cabinet agreed to the submission of a business case to bid for Future High Streets funding. Our original expression of interest identified £14million of projects to regenerate Chatham as our City Centre.
- 12.13 **Investment in New Technology:** Through the budget setting process, lead Members have expressed their commitment to some additional schemes investing in technology, to continue the Council's transformation programme.
- 12.14 New machines are required in some of our car parks and Cabinet is asked to recommend that £244,000 is allocated for this, to be met from borrowing.
- 12.15 At its meeting in January, the Council agreed to borrow £380,000 for urgent refurbishment of the Gun Wharf Data Centre, however the Capital Strategy

identified total investment of circa £2million required to upgrade ICT hardware and infrastructure and so Cabinet is asked to recommend a further £1.62million to be funded from borrowing. The impact of this has been included in the proposed 2020/21 Interest and Financing budget.

- 12.16 The Capital Strategy agreed by Cabinet in September 2019 identified the need to invest in CCTV cameras and projected that a further 32 cameras would need to be replaced over the next two years at an estimated cost of £43,000. Cabinet is asked to recommend the use of £43,000 of capital receipts to fund CCTV camera replacements.
- 12.17 Table 5 summarises the proposed additions to the capital programme for the next financial year, however it should be noted that in the absence of final grant figures, these remain estimates at this stage. When confirmed these grant allocations will be added to the capital programme under the Chief Finance Officers delegation.

Table 5: Summary of Proposed Additions to the Capital Programme in 2020/21

New Capital Scheme	Source of Funding	Allocation £,000
Schools Maintenance and Condition	Maintenance Grant (estimate)	1,125.0
Devolved Schools Maintenance and Condition	Devolved Formula Capital (estimated)	250.0
SEND High Needs Places	High Needs Places Grant	961.4
Highways Maintenance	LTP Grant (estimate)	2,048.0
Highways Maintenance	LTP Incentive Grant (estimate)	427.0
Highways Maintenance	Pothole Grant (estimate)	144.0
Highways Maintenance	Capital Receipts	1,500.0
Integrated Transport	LTP Grant (estimate)	1,589.0
Car Parking Machines	Borrowing	244.0
ICT Hardware and Infrastructure	Borrowing	1,620.0
CCTV Replacements	Capital Receipts	43.0
Total		9,951.4

13. Housing Revenue Account

- 13.1 The Council is required under the Local Government and Housing Act 1989 to ensure that the Housing revenue Account (HRA) does not fall into a deficit position.
- 13.2 Business Support Overview and Scrutiny Committee on 30 January 2020 received a report that details the HRA revenue and capital budget proposals and a follow up to that report features elsewhere on this agenda.
- 13.3 The summarised Housing Revenue Account is attached at Appendix 4, with the capital investment requirements included within the current programme at Table 3.

14. Legal Considerations

- 14.1 Sections 30 to 36 of the Local Government Finance Act 1992 require that the Council sets a budget and Council Tax by 11 March each year and in doing so make a number of statutory calculations incorporated by resolution. The Localism Act 2011 has amended some of the terms and definitions to accommodate the

introduction of powers to call local referendums for excessive Council Tax increase. The Council is now required to make a calculation of the Council Tax Requirement (Section 31A), excluding Parish precepts. The Act (Section 36) further prescribes that a calculation of the basic amount of Council Tax be presented together with an analysis of the Council Tax across the area and by valuation band. These calculations are required to be presented in a prescribed format and be subject to formal resolution by the Council.

- 14.2 Section 25 of the Local Government Act 2003 requires the Council's Section 151 officer to report to the council on the robustness of the estimates made and the adequacy of the proposed financial reserves assumed in the budget calculations.
- 14.3 The Local Authorities (Standing Orders)(England) Regulations 2001 deal, amongst other things, with the process of approving the budget. Under the constitution the adoption of the budget and the setting of the Council Tax are matters reserved for the Council upon recommendation from Cabinet.
- 14.4 *Council budget:* In reaching their decisions, Members and officers must act reasonably, taking into account all relevant considerations and ignoring irrelevant ones. There is a need to ensure that when making budget decisions the result is not one which is irrational in the Wednesbury sense (i.e. one which no reasonable local authority could have made). The Council's overriding duty is to make a lawful budget and this is the touchstone against which other considerations must be tested.
- 14.5 The Council must have regard to its public sector equality duties when making decisions. This includes the requirement to undertake a Diversity Impact Assessment in relation to all significant changes to policies, procedures or practice, and to pay 'due regard' to the need to eliminate discrimination and promote equality with regards to race, disability and gender. This is further dealt with in Section 16 of this report.
- 14.6 *Legal Obligations:* Local authorities provide services pursuant to statutory duties (a mandatory requirement to provide services), and statutory powers, (where the Council has a discretion whether or not to provide services). Where the Council has a legal duty then it still has discretion in determining the manner in which those services are provided, so long as the level of quality of service provision is sufficient to fulfil the statutory duty.
- 14.7 Even where Members and officers are under pressure to make a budget reduction, they must not pre-empt proper decision-making processes by focusing solely on financial considerations. Members and officers must address the core question of individual service users' needs, rather than a lack of resources. Recent case law has held that resources may be a relevant consideration in making a decision relating to the manner of service provision, so long as the individual's assessed needs are met.
- 14.8 *Charges for services:* In considering charges for services, Members and officers should also try to achieve a fair balance between the interests of the users of council services and Council Tax payers. Where charges are being increased, Members need to bear in mind the scale and extent of the charges, and may need in some cases to have regard to the costs of service provision, associated with the power to charge.

- 14.9 *Members' responsibility to make a personal decision:* In Council, Members must make a personal decision on how to vote on the budget proposals. Members' overriding duty is to the whole community. Members have a special duty to their constituents, including those who did not vote for them. Whilst Members may be strongly influenced by the views of others, and of their party in particular, it is their responsibility alone to determine what view to take when deciding upon budget questions. He/she should not follow party loyalty and party policy to the exclusion of other considerations.
- 14.10 Members need to balance the cost to Council Tax payers of any budget reductions, against the need for the benefits of services of the particular nature, range and quality, under consideration. If having taken into account all relevant (and disregarding all irrelevant) considerations, Members are satisfied that it is financially prudent and reasonable to make any budget cuts proposed and adopt the recommendations as proposed then they may properly and reasonably decide to do so.
- 14.11 *Capping:* The Localism Act 2011 has superseded the previous capping legislation and dictates that should a council propose an increase in Council Tax which would be deemed to be excessive in accordance with principles and levels designated by the minister, then a local referendum on the proposal would be required. This would necessitate the drafting of an alternative proposal that would meet ministerial requirements to be put to the electorate alongside the 'excessive' proposition. Since this proposed budget is below the 'excessive' threshold this does not apply.
- 14.12 *Housing Revenue Account:* Under Section 76 of the Local Government and Housing Act 1989, the council is required, in advance of the financial year, to formulate proposals which satisfy the requirement that, on certain stated assumptions, the Housing Revenue Account for that year does not show a debit balance. The council is obliged to implement those proposals and from time to time to determine whether the proposals satisfy the 'break even' requirement. If not, then the council shall make such provisions as are reasonable practicable towards securing that the proposals as revised, shall satisfy the requirement.
- 14.13 Under Section 24 of the Housing Act 1985, the council can make such reasonable charges as it determines for the tenancy or occupation of its houses. The council is obliged, from time to time, to review rents charged and make such changes, as circumstances may require. In exercising this function (determining and fixing rent), the council should have regard to the rents charged in the private sector.
- 14.14 A decision to increase rent constitutes a variation of the terms of a tenancy. Under Section 103 of the Housing Act 1985, in respect of secure tenancies, a notice of variation (specifying the variation and date on which it takes effect) must be served on each tenant. For non-secure tenancies (excluding introductory tenancies), a notice must be served that complies with Section 25 of the Housing Act 1985.
- 14.15 The Housing Act 1985 defines the legal requirements for informing tenants of rent increases. In practice this requires the issue of written notification to each tenant a minimum of four weeks in advance of the date that the increase becomes operative. For 2019/20 the latest date for posting the notices (first class) is 28 February 2019.

15. Risk Management

15.1 As in previous years there remain risks inherent in the assumptions that underpin the budget build:

Risk	Description	Action to avoid or mitigate risk	Risk rating
Demographic Growth	Further demographic pressures may surface across our social care services above those assumed in building the budget.	Close monitoring of demand for service to identify pressures early, robust budget monitoring.	CII
Special Educational Needs and Disabilities	Further increases in the number of children requiring support, and in the complexity of needs may surface above those assumed in building the budget.	Close monitoring of demand for service to identify pressures early, robust budget monitoring.	CII
Pentagon Centre income	The budget assumes the Pentagon Centre will deliver rental income of £2.65m per annum. Volatility in the retail market may result in rent reductions, closures and void periods, reducing this income.	Close working with the management agents for the Centre, robust forecasting and budget monitoring arrangements.	CII
Delivery of Business Change targets	The budget is predicated on the successful delivery of a number of business change projects to achieve savings; these could be significantly impacted upon by events, not least the need to consult with stakeholders.	Early co-ordination between Business Change and services delivering changes, robust project management, regular reporting to Transformation Board.	DII
Capital receipts	The budget assumes a significant proportion of the Capital Programme is funded from capital receipts; if the Council does not achieve the required receipts, some elements of the programme may either need to be curtailed or refinanced.	Close monitoring of the programmes anticipated to deliver capital receipts, and careful management of the delivery of those schemes funded from receipts.	DII

16. Diversity Impact Assessment

16.1 In setting its budget, the Council is exercising a public function and must therefore comply with the duties in section 149 Equality Act 2010 to have 'due regard' to the matters set out that section. Accordingly due regard to the need to eliminate

discrimination, advance equality, and foster good relations between those with a protected characteristic (pregnancy and maternity, age discrimination, disability, gender reassignment, marriage and civil partnerships, race, religion or belief, sex and sexual orientation) and those who do not share it must form an integral part of the decision making process in relation to the budget. In practice the Council must show it has thoroughly considered any impact its decisions could have on groups with 'protected characteristics' before any decision is arrived at. Complying with this duty does not prevent the council from making difficult decisions about reorganisations, redundancies and service reductions nor does it stop decisions being made which may affect one group more than another. What must be demonstrated is that where there is potential for disproportionate impact this is transparent and any appropriate mitigating actions have been considered before final decisions are made.

- 16.2 In accordance with statutory requirements, work is currently ongoing by services to ensure that robust diversity impact assessments have been completed for the budget proposals in advance of Full Council's decision on the 20 February. To manage the potential cumulative effect of proposals, this will include an overarching assessment taking a strategic view of the aggregate impact of reductions in funding, in recognition that some individual proposals on their own may not be significant but may need to be considered against changes in provision by other Council services.
- 16.3 It should be noted however that although equality impact assessments help to anticipate the likely effects of proposals on different communities and groups, in reality the full impact will only be known once the proposal is introduced. To mitigate any unintentional and unidentified impact, monitoring will be undertaken and will be reported quarterly.

17. Financial and Constitutional Implications

- 17.1 The financial implications are contained in the body of the report and in the attached appendices.
- 17.2 The council's constitution contains the budget and policy framework rules. The relevant extracts from the constitution are reproduced as follows:
- The budget and policy framework rules contained in the constitution specify that the Cabinet should produce the draft revenue and capital budget. This initial budget which does not have to give full detail, nor be a finalised set of proposals, should be submitted to the overview and scrutiny committees to consider the initial budget and if appropriate offer alternative proposals. Any such proposals will be referred back to the Cabinet for consideration.
 - Under the constitution the Cabinet has complete discretion to either accept or reject the proposals emanating from the overview and scrutiny committees. Ultimately it is the Cabinet's responsibility to present a budget to the Council, with a special Council meeting arranged for this purpose on 20 February 2020. The adoption of the budget and the setting of Council Tax are matters reserved for the Council.

18. Conclusion

- 18.1 The budget has been formulated to accord with the principles set out in the MTFS and Capital Strategy. In addition, budgets have been proposed to deliver the

aspirations of the Council Plan and preserve those services that are important to residents.

- 18.2 The proposed revenue budget requirement of £322.957million (Appendix 2) exceeds the estimated available resources by £300,700, however it is anticipated that when the revised NNDR1, referred to in paragraph 3.5.6, has been completed, it will present a favourable movement on the Business Rates side of the Collection Fund, sufficient to balance the Council's revenue budget for 2020/21.
- 18.3 Section 25 Statement: On that basis, as the Section 151 Officer, I feel confident in confirming the robustness of the assumptions underpinning this proposed budget and the adequacy of general reserves available to the Council.

19. Recommendations

- 19.1 Cabinet considers the recommendations from overview and scrutiny committees as summarised in Appendix 1 of this report;
- 19.2 Cabinet recommends to Council that the net revenue budget summarised at Appendix 2, should be set at £322.957million, and that this should be funded by a 3.994% increase in Council Tax for 2020/21 with the equivalent Band D figure at £1,471.96. It is anticipated that the £300,700 deficit will be met from an improved position on the Collection Fund;
- 19.3 Cabinet recommends to Council the capital budget proposals, as set out in Table 5 and the £2.5 million virement at paragraph 12.5;
- 19.4 Cabinet recommends to Council the fees and charges set out at Appendix 5 to this report;
- 19.5 Cabinet recommends to Council the Flexible Use of Capital Receipts Strategy set out at Appendix 6 to this report;
- 19.6 The Chief Finance Officer be requested to calculate the formal requirements under Sections 30 to 36 of the Local Government Finance Act 1992 for resolution by Special Council on 20 February 2020.

20. Suggested Reasons for Decision

- 20.1 The constitution requires that Cabinet's budget proposals must be referred to Council for consideration and approval.
- 20.2 The Council is required by statute to set a budget and Council Tax levels by 11 March each year.

Appendices:

- | | |
|------------------|---|
| 1 | Record of individual overview and scrutiny committee meetings
(<i>to follow</i>) |
| 2 and (a) to (c) | Summary of Revenue Budget Requirement by Directorate |
| 3 (a) to (c) | Directorate Revenue Savings Proposals |
| 4 | Housing Revenue Account Budget |
| 5 | Schedule of Proposed Fees and Charges (<i>to follow</i>) |
| 6 | Flexible Use of Capital Receipts Strategy |

Background papers:

Medium Term Financial Strategy 2019-2024 report to Cabinet 24 September 2019
<https://democracy.medway.gov.uk/ieIssueDetails.aspx?IId=25865&Opt=3>

Draft Capital and Revenue Budget 2020/21 report to Cabinet on 19 November 2019
<https://democracy.medway.gov.uk/ieIssueDetails.aspx?IId=26264&Opt=3>

Provisional Local Government Settlement 2020/21 – Cabinet 14 January 2020
<https://democracy.medway.gov.uk/ieIssueDetails.aspx?IId=26756&Opt=3>