Urgent Business – Cabinet 02 October 2017

Agenda Item No_____4_______

PROPOSED NORFOLK BUSINESS RATES PILOT 2018/19

Summary:	Central Government is currently looking for Local Authorities to apply to pilot 100% business rates retention in 2018/19. They are particularly keen to receive submissions from two tier areas and from rural authorities so Norfolk is well placed to submit an application but does require agreement from the County Council along with all seven districts. While the financial benefit would only be for a single year it could potentially result in around £345,000 in additional business rates income for the authority.
Options considered:	There are only 2 options for consideration which are as follows; 1. Entering into a joint application with other Norfolk Local authorities for a business rates pilot in 2018/19 2. To continue with the arrangements under the current business rates/pooling regime
Conclusions:	Central Government have confirmed that they are keen to receive pilot prospectus applications from both two-tier and rural areas which should put any joint application from Norfolk in a strong position for approval. Pilots operated during 2017/18 have seen significant financial benefits from these arrangements. Entering into a joint business rates pilot could see NNDC retain around £345,000 (based on current projections and assumptions) in extra business rates income for the 2018/19 financial year. It would also help support closer working and a more collaborative approach county wide and provide Central Government with valuable learning in respect of the potential future operation of the business rates system.
Recommendations:	That Cabinet is recommended to; 1. Note that an application will only be progressed in the event that all Norfolk districts confirm their interest in participating; 2. Note the potential unfunded risk of approximately £7.371m for Norfolk as a whole if the Government does not offer a “no detriment” protection to new pilots; 3. Note that the Norfolk Business Rates Pool will be discontinued in the event of a successful pilot application;

4. Note that in the event that a pilot application is not progressed, it is anticipated that the current Norfolk Business Rates Pool membership will be extended to include Great Yarmouth Borough Council (subject to agreement by the other members of the Pool);
5. Confirm in principle support for the Council to explore submitting a joint application with all Norfolk local authorities for a Business rates Pilot for 2018/19 by the deadline of 27 October 2017;
6. Give Delegated Authority to the Council's Section 151 Officer in consultation with the Portfolio Holder for Finance and other Norfolk authorities to finalise the application subject to a positive business case

Reasons for Recommendations:	Entering in to a business rates pilot could see NNDC retain around £345,000 (based on current projections and assumptions) in extra business rates income for the 2018/19 financial year over and above what has currently been budgeted, as the area would get to keep and share the 50% of the rates that is normally sent back to central government.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW
(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

Cabinet Member(s)	Ward(s) affected
Contact Officer, telephone number and email:	

1. Introduction

1.1 The Department for Communities and Local Government (DCLG) published the Business Rates Pilot Prospectus on 1 September 2017. This included an invitation to Local Authorities to apply to pilot 100% business rates retention in 2018/19, and supplementary guidance about the implications for existing business rates pools. The full documents can be accessed here: https://www.gov.uk/government/publications/100-business-rates-retention-pilots-2018-to-2019-prospectus. This document provides a summary of the key issues, and proposes an outline bid framework for consideration.

1.2 Norfolk County Council (NCC) proposes to take forward an application for pilot status in conjunction with all Norfolk districts, subject to district support. In the event that any Norfolk district is not supportive of an application, it appears unlikely that DCLG would approve a pilot and so NCC would **only wish to proceed on the basis of all districts participating**.

1.3 A report was initially circulated by NCC seeking feedback from Section 151 Officers which was then also discussed with Norfolk Chief Executives and Leaders at the meeting of 21 September 2017, at which point all authorities indicated that they were willing to support submitting an application for Business Rates Pilot status subject to a final business case.

1.4 As part of their strategic financial planning report NCC's Policy and Resources Committee were asked to agree to explore a Business Rates Pilot bid in principle at its meeting of 25 September. The recommendations in relation to the pilot which were agreed were as follows and confirm the in principle decision to pursue a business rates pilot.

2. The opportunity for Norfolk

2.1 Norfolk meets the Government criteria for new business rates pilots. The Government is particularly interested in piloting in two-tier areas and wishes to focus on rural areas.

2.2 All Norfolk districts are currently forecasting to receive business rates in excess of their Settlement business rates baselines for 2018-19. These forecast levels of business rates allow a Business Rates Pool to be beneficial, with Norfolk predicted to retain an additional £4m of business rates in saved levy payments.

2.3 Under the current 50% rates retention system, central Government receive half of the growth in Norfolk's business rates. By piloting 100% business rates retention, Norfolk local authorities would retain the central Government share of rates growth. This is the financial benefit of becoming a pilot for Norfolk.

2.4 Current forecasts indicate that this could be around £10m in 2018-19[1]. This would be a one-off benefit as the pilot prospectus indicates that pilots will be offered for one year only.

2.5 The pilot prospectus states that *"authorities selected as pilots for 2018-19 will be expected to forego Revenue Support Grant (RSG) and Rural Services Grant"*. This means that the Norfolk Pilot would provide "core" funding for £246m of services **before the benefit of any retained growth**. The pilots still operate within the system of tariffs and top-ups to adjust for differences between funding levels and business rates collected. Government baselines expect Norfolk to collect £262m business rates in 2018-19 so the Norfolk pilot would be in a tariff position of around £16m.

[1] Work to validate this forecast gain is continuing.

2.6 If an application for a Norfolk pilot for 2018-19 is approved, **the existing Norfolk Business Rates Pool will be superseded and dissolved**. The forecast £4m saved levy benefit would go to the pilot and not the pool. The governance arrangements of the pilot will need to set out how the gain and loss of all business rates growth and decline, including this £4m, is split between Norfolk's local authorities.

Table 1: Summary of proposed impact on all business rates growth forecast for 2018-19

Element of Growth	Forecast 2018-19 Value £m	Under current arrangements	Under Pilot arrangements
Saved Levy	4.116	Spent on economic development projects	Retained in Norfolk – use of funds TBC
District share of growth	4.116	Retained by relevant district	Retained in Norfolk – use of funds TBC
County share of growth	2.058	Retained by County	Retained in Norfolk – use of funds TBC
Central share of growth	10.291	Retained by Central Government	Retained in Norfolk – use of funds TBC
Total	**20.582**		

2.7 The pilot prospectus states that Government *"particularly want to see additional growth being used to* ***<u>promote the financial stability and sustainability of the pooled area</u>****. In addition, we would expect some retained income from growth to be invested to encourage further growth across the area"*.

2.8 The proposal from NCC which has been put forward was therefore **that additional funding retained through the pilot should be targeted at promoting financial stability and sustainability, while the value of what would have been the saved levy continues to be spent on economic development projects**. This would align with the Government's stated pilot criteria and mean that pool spend on economic development does not disappear following the establishment of a pilot. The pilot governance arrangements will need to set out how the remainder of the business rate growth, and indeed any deficit in times of business rate decline, is distributed. **This would mean district councils continue to have the opportunity to bid for a significant proportion of rates growth** retained in Norfolk to support further economic development in the region.

3. Key issues

3.1 **Timescales:** The deadline for pilot applications is Friday 27 October 2017. This is a very short window for Norfolk authorities to all agree on a pilot proposal.

3.2 **Scope:** The pilot prospectus sets out an expectation for pilots to cover "functional economic areas". It is unclear what Government would consider the Norfolk functional economic area to be. If the Government considers it to be Norfolk and Suffolk there will be a need to consider Suffolk local authorities' thoughts on piloting and potentially the New Anglia LEP view but this might be very difficult to achieve given the tight timescales we are currently working to.

3.3 **Tier split:** All authorities will need to come to an agreement on how to share the rewards and risks of Norfolk business rates growth and decline.

3.4 **Risk:** For the 2017-18 pilots, the Government agreed a 'no detriment' clause, guaranteeing that these areas will not be worse off as a result of participating in the pilot. However, the Government has not guaranteed the inclusion of a 'no detriment' clause for the 2018-19 pilots. Any pilot application will need to make clear whether or not we would be willing to proceed without the benefit of 'no detriment'. Presumably bids will be more likely to be successful without the benefit of 'no detriment'. Should a Norfolk bid proceed without a 'no detriment' clause, Norfolk local authorities would have to agree how to fund any reduction in rates up to the level of the pilot safety net. The pilot safety net is 97% of baseline funding level across Norfolk, meaning **the unfunded risk to the pilot is a potential £7.371m** below baseline funding levels.

3.5 **Appeals:** 100% Business Rates Retention will increase the risk which rates appeals pose. Taking on the central share of business rates will increase the volatility in income local authorities experience through business rates appeals and applications for rates relief. It is very difficult to get any kind of estimate on what the level of appeals is likely to be, as appeals are dealt with entirely by the Valuation Office and Tribunal. It will be some time before any clear information on the impact of appeals and the likely levels of appeal is available, although we do hold a Business Rates Reserve that would help to mitigate against any loss of income to the General Fund.

3.6 **Governance:** Government is looking to test authorities' governance and administration arrangements to learn from the pilots' experiences. Predicting business rates income is difficult and authorities are dependent on third party software. The move to 100% rates retention will mean local authority budget setting is further dependent on business rates forecasting and impacted more by the volatility of the business rates system. There will also be complications and areas to clarify around the workings of the new system, such as the continuation of Section 31 grant payments. Norfolk authorities share forecasts for the current business rates pool and continued collaboration will be required between local authority officers. A decision will need to be made on the lead authority for the pilot. The NCC currently carries out this function for the pool and has offered to do so for any pilot bid, but district officers have more knowledge of detailed business rates workings and forecasting, so close collaboration will be required whatever model is adopted.

3.7 **Competition:** There will be competition from other areas looking to gain financially from pilots and central Government will only be able to fund a limited number of pilots. Thought will need to be given to what our 'offer' is to Government.

4. Timetable

4.1 The table below sets out the indicative timetable for progressing a pilot application should this course of action be supported.

Table 2: Proposed timetable

Norfolk Leaders confirm support	21 September 2017 - complete
NCC Policy and Resources Committee agree to progress	25 September - complete
NNDC Cabinet approval to progress	2 October 2017
Section 151 Officers Meeting	Early October
Leader / Member sign-off of bids	October
Pilot bid submitted to DCLG	27 October 2017
Successful pilots announced in Local Government Finance Settlement	December 2017
Pilots launched	April 2018

4.1 In the event that there is an appetite to pursue a pilot application confirmed it is proposed that a Section 151 meeting be convened as soon as possible to further discuss the detail of the submission.

5. Financial Implications and Risks

5.1 There are a number of financial risks which need to be considered, although it should be noted that there are similar risks in respect of the current pooling arrangements.

5.2 There is a potential risk from a decline in rates. The pilot collectively would need to fund any reduction in rates up to the safety net level. Funding would fall by £7.371m below baseline funding before DCLG would pay the pilot a safety-net. This (plus any growth already built in as part of 2018-19 budget planning) is the financial risk exposure the pilot would face. The business rates pool has a £1m volatility fund which, if still available, could be carried into the pilot to cover part of this risk.

5.3 The 2017-18 business rates pool is also forecasting a saved levy of around £4m. If a pilot were to proceed and rates forecasts significantly reduced in early 2018-19, the pilot would need to look to set aside some of this £4m to further mitigate this risk. Potential risk sharing arrangements for this (still to be finalised) are discussed in more detail below.

Table 3: Safety net estimate of financial risk

Expected Rates Take (a)	£262.128m
Pilot Tariff (b)	-£16.428m
Baseline funding through pilot (c) = (a+b)	£245.700m
Pilot Safety-net (d) = (c x 97%)	£238.329m
Amount below baseline funding before safety-net (d-c)	**-£7.371m**

5.4 Business rates income is difficult to estimate a year in advance and decisions on whether to bid for pilot status will be based on uncertain forecasts. There remains continued uncertainty around business rate income and local authorities have little control around appeals and applications for relief. An adverse decision on NHS Trust relief applications alone would put Norfolk business rates below baseline levels.

5.5 There is a potential for the Norfolk Fire Service to leave the remit of Norfolk County Council and become part of the Police and Crime Commissioner's office. This would present further complications for distribution of funding in any Norfolk business rates system.

5.6 Some districts have raised concerns around the increased risk to Norfolk of business rate appeals. The most substantial one of these is the appeal by NHS Trusts on the basis that they should be considered as charities. If this was to be successful in the future, this would represent a significant financial outlay for Norfolk districts. In the event that DCLG proceed without a 'no detriment' clause, it is proposed to request that DCLG underwrite this specific risk relating to the NHS appeals, which would make the increased risk from business rate appeals much more modest.

5.7 Following initial discussions there was not a consensus view at this point amongst the districts, the following key points have been made:

There is general agreement:

- that it is worth pursuing a bid; and
- about how to share existing retained growth income

There are different views about:

- the approach to a "no detriment" clause and risk sharing more generally; and
- the approach to sharing the additional growth retained via a pilot

5.8 Following the submission of the papers to the Norfolk Chief Executives and Leaders at the meeting of 21 September 2017 benefit sharing proposals have been put forward as follows for further discussion and consideration;

- £4million for Economic Development / Infrastructure projects
- £8 million for County Council
- £4million for equal sharing between the seven districts

- £4million to be split between districts based on % of growth achieved

Table 4: Potential pilot sharing proposals

Local Authority	**Saved pool levy**	**NCC share**	**Equal district share**	**District share based on growth**	**Total share**	**% Share (excl Ec Dev pot)**
	£m	**£m**	**£m**	**£m**	**£m**	**£m**
Norfolk County Council		8.232			8.232	50.0%
Breckland			0.588	0.774	1.362	8.27%
Broadland			0.588	0.467	1.055	6.41%
Great Yarmouth			0.588	0.410	0.998	6.06%
Kings Lynn and West Norfolk			0.588	0.766	1.354	8.22%
North Norfolk			***0.588***	***0.611***	***1.199***	***7.28%***
Norwich			0.588	0.048	0.636	3.86%
South Norfolk			0.588	1.040	1.628	9.90%
Economic development projects	4.116				4.116	
	20%	40%	20%	20%	100%	
NORFOLK	**4.116**	**8.232**	**4.116**	**4.116**	**20.580**	**100%**

5.9 As outlined above there is a potential risk regarding the £7.371m in terms of the safety net although it should be noted that there are similar financial risks around the current pooling arrangements. While a risk sharing approach has not as yet been agreed in respect of this, early discussions have suggested it could be borne on the basis of the shares outlined within Table 6 above. This would mean that the County would cover 50% (c£3.69m) of the total while NNDC would potentially need to cover 7.28% (c£0.537m).

5.10 However as mentioned previously we do hold a Business Rates Reserve that would help to mitigate against any loss of income to the General Fund. It should also be noted that officers do not feel that this represents a significant risk to the participating authorities as a decline in rates over this short term period is felt to be unlikely and there is also further mitigation potentially available from the £1m volatility fund.

5.11 Using these proposals the potential gain to NNDC in 2018/19 compared to the projection at the time the 2017/18 budget was complied, is an additional £345,000. This is largely due to the Norfolk Business Rate Pool levy of £339,000 not being payable. In addition the anticipated share of the Pilot gain to NNDC as shown in Table 4 is £6,000 above NNDC's 40% share of the anticipated growth.

6. Sustainability

6.1 There are no sustainability implications directly resulting from the recommendations or options contained within this report.

7. Equality and Diversity

7.1 There are no equality and diversity implications directly resulting from the recommendations or options considered in this report.

8. Section 17 Crime and Disorder considerations

8.1 There are no Crime and Disorder implications directly resulting from the recommendations or options considered in this report.

9. Conclusions

9.1 Central Government have confirmed that they are keen to receive pilot prospectus applications from both two-tier and rural area which should put any joint application from Norfolk in a strong position for approval.

9.2 Pilots operated during 2017/18 have seen significant financial benefits from these arrangements. Entering into a joint business rates pilot could see NNDC retain around £345,000 (based on current projections and assumptions) in extra business rates income for the 2018/19 financial year.

9.3 This approach would also help support closer working and a more collaborative approach county wide and provide Central Government with valuable learning in respect of the potential future operation of the business rates system.