Subject: **100% BUSINESS RATES RETENTION PILOT AND BUSINESS RATES POOL**

Report to: **Policy and Resources Committee – 17 October 2017**

Report by: Finance Director

SUBJECT MATTER/RECOMMENDATIONS

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. The Government invitation sets out that it is particularly interested in piloting in two-tier areas and wishes to focus on rural areas. Norfolk County Council proposes to take forward an application for pilot status in conjunction with all Norfolk Authorities. This report outlines the forecast business rates that could be available from a pilot for Norfolk and proposes that the Council works with Norfolk authorities to progress an application.

RECOMMENDATIONS

1) That Policy and Resources Committee approve that the Council participate in an application to DCLG for a Business Rates Pilot for Norfolk in 2018/2019;
2) That Policy and Resources delegate to the Chief Executive in consultation with the Leader and Finance Director to agree the final details of a pilot bid in consultation with the other Norfolk Authorities;
3) That Policy and Resources Committee agree that should the application for a 100% pilot be unsuccessful Great Yarmouth join the Norfolk Business Rates Pool from 2018/19.

1. INTRODUCTION AND BACKGROUND

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 prospectus. The 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 Authorities, subject to support from all Borough and Districts. In the event that any Norfolk Borough/District is not supportive of an application, it appears unlikely that DCLG would approve a pilot and so the County would only wish to proceed on the basis of all boroughs/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 Under the current business rates retention system 50% is retained locally (at Borough/District (40%) and County (10%) level) and 50% is passed to the Government. Where there is business rates growth above an assumed baseline (set by government as part of the annual Local Government Settlement), 50% can be retained locally and 50% is paid over to the government (a levy) where pooling arrangements are not in place, where pooling agreements exist the levy (i.e. what would have been paid to government) can be retained locally.

1.5 There has been a Norfolk Business rates pool since rates retention was introduced in April 2013, with different boroughs and districts joining to the pool overtime. Great Yarmouth are not currently within the Norfolk pool due to the greater risks it faced in earlier years around being in a safety net position and later years due to the power station appeal. The Council has however been able to access funds from the Norfolk pool through bids made for funding to support growth and economic development projects.

1.6 Should the application to become a 100% pilot be unsuccessful it is proposed that Great Yarmouth Borough Council join the Norfolk pool from 2018/19 as the current forecast indicate a levy would be payable for 2018/19.

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 for 2018/19.

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, the central Government share of rates growth would be retained by the Norfolk Local Authorities, which represents the financial benefit of becoming a pilot for Norfolk. Current forecasts indicate that this could be in the region of £10m in 2018/19 although further modelling of this is still to be completed. This would be a one-off benefit as the pilot prospectus indicates that pilots will be offered for one year only.

2.4 The timescales for submission of an application to become a 100% pilot for 2018/19 is Friday 27 October 2017 and is a short timeframe to agree on a pilot proposal. Announcements are expected as part of the Local Government Settlement announcements in late November/early December and following the announcements it is understood that it will be difficult to withdraw the application.

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[1] of services before the benefit of any retained growth. The pilots would 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 £16.4m[2].

2.6 Table 1 below provides a summary of the 2018/19 multi-year settlement figures for the Norfolk local authorities.

Table 1 – 2018/19 Multi-Year Settlement Figures - Norfolk				
Local Authority	**Business Rates Baseline Funding Level**	**Revenue Support Grant**	**Rural Services Delivery Grant**	**100% BRR Baseline Funding**
	£m	**£m**	**£m**	**£m**
Breckland	3.817	1.071	0.292	**5.179**
Broadland	2.772	0.438	0.000	**3.210**
Great Yarmouth	3.702	2.545	0.000	**6.247**
Kings Lynn and West Norfolk	5.293	1.270	0.286	**6.849**
North Norfolk	3.109	0.536	0.299	**3.943**
Norwich	5.771	0.982	0.000	**6.753**
South Norfolk	3.009	0.417	0.176	**3.602**
Norfolk County Council	149.424	58.035	2.458	**209.917**
NORFOLK	**176.896**	**65.294**	**3.510**	**245.700**

2.7 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.

2.8 The following table 2 summarises the forecast business rates for 2018/19 compared to the baseline.

[1] Aggregate of RSG and Rural Services Grant as assumed in the 2018/19 settlement for all Norfolk Authorities

[2] Based on baseline expected rates of £262.1m less total required funding through pilot of £245.7 rates of £282.7m less baseline funding equates to £16.4m tariff payable.

Table 2 – Forecast Business Rates			
Local Authority	**Business Rates Baseline (Expected)**	**2018/19 Forecast Rates**	**2018/19 Forecast Rates over Baseline**
	£m	**£m**	**£m**
Breckland	30.120	33.898	**3.778**
Broadland	28.789	31.067	**2.278**
Great Yarmouth	29.752	31.752	**2.000**
Kings Lynn and West Norfolk	40.204	43.944	**3.740**
North Norfolk	26.940	29.924	**2.983**
Norwich	79.022	79.259	**0.237**
South Norfolk	27.301	32.867	**5.566**
Norfolk County Council	0.000	0.000	**0.000**
NORFOLK	**262.128**	**282.710**	**20.582**

2.9 Under the current business rates scheme the forecast of growth over the baseline would be split 50% central government, 20% boroughs/districts, 10% County, and 20% economic development projects (assuming a local pooling agreement).

2.10 Table 3 details the forecast of the value of growth for 2018/19 which equates to the forecast saved levy that would otherwise be retained in the pilot. Table 4 then provides a summary of the proposed impact on all business rates growth compared to the current treatment.

Table 3 – Forecast Saved Levy		
Local Authority	**Forecast Saved Levy**	**Forecast Gain to the Pilot**
	£m	**£m**
Breckland	0.756	1.889
Broadland	0.456	1.139
Great Yarmouth	0.400	1.000
Kings Lynn and West Norfolk	0.748	1.870
North Norfolk	0.597	1.492
Norwich	0.047	0.118
South Norfolk	1.116	2.783
Norfolk County Council	0.000	0.000
NORFOLK	**4.116**	**10.291**

Table 4 - 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 – distribution to be agreed by Norfolk Authorities
District share of growth	4.116	Retained by relevant district	Retained in Norfolk – distribution to be agreed by Norfolk Authorities
County share of growth	2.058	Retained by County	Retained in Norfolk – distribution to be agreed by Norfolk Authorities
Central share of growth	10.291	Retained by Central Government	Retained in Norfolk – distribution to be agreed by Norfolk Authorities
Total	**20.582**		

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

2.12 It has been proposed 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 The following outlines the key issues to be considered as part of the proposal:

3.2 **Timescales:** As mentioned above 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, therefore it is proposed that authority be given to the Chief Executive in consultation with the Leader and Finance Director to negotiate the best outcome for the Borough in the final proposal.

3.3 **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.

3.4 **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.

3.5 **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.

3.6 **Appeals Risk:** 100% Business Rates Retention will increase the risk which rates appeals pose as currently an element of this is shared with central government through their retention share. 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 estimate what the level of appeals is likely to be, as appeals are dealt with entirely by the Valuation Office and Tribunal. The current mechanism of business rates allows for appeals provisions to be made based on latest appeal levels including value. The position on NHS trust reliefs is not yet known, although an adverse (for LA's) outcome would be have a national impact on business rates as opposed to being a local issue.

3.7 **Governance:** The 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 upon 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 at officer and member level will be required whatever model is adopted.

3.8 **Competition:** Other Local Authorities will be looking to gain financially from pilots and Central Government will only be able to fund a limited number of pilots.

4. FINANCIAL AND RISK IMPLICATIONS

4.1 A number of the risks of the proposal have been outlined in section 3 Key Issues section of this report. Financial risks from reductions in business rates and the impact of appeals are inherent in the current system of business rates retention. An element of the appeals risk is mitigated by the annual appeals provision that is in the current system and will continue to be in the 100% pilot system if the application is successful.

4.2 Reductions in business rate income as a result of decline and business closure is a risk and within a pilot this would need to be funded upto the safety net level.

4.3 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. The 2017/18 Norfolk 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.

4.4 The pilot prospectus confirms that pilots will have a safety-net of 97% of baseline funding. This increased level from 92.5% under the current system means that Norfolk as a whole will in fact be guaranteed more funding in a pilot in 2018/19 (£238.3m)[3] than under a Norfolk wide 50% business rates retention pool (£232.4m)[4] as set out in the table below. It is however essential to recognise that an individual authority under both the current pool, and in the proposed pilot, could potentially be better or worse off as a result of their individual business rates receipts.

4.5 The current forecasts for business rates income are significantly above the 97% safety net position. The minimum funding level under a pilot is higher than under the current 50% system where the safety net position is 92.5%. There are similar risks around the current pooling arrangements.

4.6 A risk sharing approach has not yet been agreed, early discussions have proposed that this would be met on the basis of the share distribution. The Council hold an earmarked reserve for Business Rates (Collection Fund) which is held to mitigate in-year reductions in business rate income which can be as a result of declines and appeals.

4.7 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.

4.8 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.

4.9 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

[3] £245.7m baseline funding x 97% = £238.3m

[4] Baseline of £176.9m (table 1) x 92.5% = £163.6m, plus RSG and rural services delivery grant = £232.4m

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.

6. CONCLUSIONS

6.1 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.

6.2 Pilots operated during 2017/18 have seen significant financial benefits from these arrangements.

6.3 A pilot 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.

7. BACKGROUND PAPERS

7.1 Reports to Norfolk Leaders and Chief Executive Meetings.

7.2 100% Business Rates Pilot Prospectus.

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	**Comment**
Monitoring Officer Consultation:	
Section 151 Officer Consultation:	
Existing Council Policies:	
Financial Implications:	Detailed in the report
Legal Implications (including human rights):	N/A
Risk Implications:	Detailed in the report
Equality Issues/EQIA assessment:	N/A
Crime & Disorder:	N/A
Every Child Matters:	N/A