

# BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

Cabinet: 8<sup>th</sup> January 2020

Report of the Executive Director of Core Services

## 2020/21 BUSINESS RATES – CALCULATION OF THE AUTHORITY'S LOCAL SHARE

### 1. Purpose of the Report

- 1.1 This report sets out the 2020/21 estimated Business Rate Local Share for the Council that is built into the 2020/21 budget and outlines the process for calculating the National Non Domestic Rates Return (NNDR1) to be submitted to the Ministry for Housing, Communities and Local Government (MHCLG) by 31<sup>st</sup> January 2020.

### 2. Recommendations.

- 2.1 That Members note the process for estimating the retained Business Rate Local Share for 2020/21 set out in the report and agree that the 'local share' for Barnsley will be £23.614M (excluding S31 Grants) in line with the Council's Medium Term Financial Strategy (MTFS).
- 2.2 It is recommended that the final submission is approved by the Service Director Finance - S151 Officer in consultation with the Cabinet Spokesperson for Core Services.

### 3. Background

- 3.1 The Government's reform agenda introduced the local Business Rates Retention (BRR) scheme from 1<sup>st</sup> April 2013 which altered the way revenue from business rates is distributed. From this date, councils now collect and retain 49% of business rates (known as the Local Share) and this amount forms part of the funding of the Council's agreed 2020/21 budget.
- 3.2 The Government announced a move to allow all Councils to retain 75% of business rates they collect by 2020/21. As a result of the primary legislation not being approved in time, the implementation date is expected to be delayed to 2021/22.

### 4. Current Position

#### Local Business Rates Retention

- 4.1 Under the Business Rates Retention (BRR) scheme councils are required to estimate the total business rates to be collected in their area.
- 4.2 After taking account of reliefs, appeals and other variables, councils are required to pay 50% of this net amount over to Central Government and 1% to local Fire Authorities. The remaining amount (49%) is then available to contribute to the Council's budget planning process.
- 4.3 The key steps involved in the process of estimating the local share of business rates which are retained by the Council are attached at Appendix 1, with a summary below highlighting a number of issues that need to be considered when calculating the Business Rate base

for 2020/21.

### ***Small Business Rates Relief***

- 4.4 From 1<sup>st</sup> April 2017, the Government announced changes to the entitlement threshold for qualifying small businesses. The table below highlights the current threshold:

	<b>Current Threshold (Gross RV)</b>
100% Relief Awarded	Up to £12,000
Tapered Relief Awarded	From £12,001 to £14,999
Bills calculated on Small Business Rate Multiplier	From £15,000 to £51,000

- 4.5 Following these changes the amount of Small Business Rate Relief (SBRR) awarded has increased significantly and it is expected that this trend will continue. This results in a reduction in the amount of rates retained by the Council (the Local Share).
- 4.6 However, Government have confirmed that S31 Grant will continue to be awarded to compensate Local Authorities for the changes made to the SBRR threshold in 2017.
- 4.7 The Chancellor of the Exchequer in his 2018 autumn budget also announced that all small retail businesses with a rateable value of £51,000 or less will see their bills cut by 1/3 for a minimum period of 2 years. This measure has resulted in a further reduction in the amount of rates retained by the Council. Government have announced that all Local Authorities affected by this change will continue to be compensated via S31 Grant.
- 4.8 An estimate has been made for the S31 grants to be received and has been built into the MTFS accordingly.

### ***Deductions for Estimated Charitable Reliefs***

- 4.9 Charities are awarded 80% mandatory relief. This continues to be a significant issue for the Authority as schools that become academies will automatically receive relief on their business rate charge.
- 4.10 In addition, the legal case of Derby Teaching Hospital Trust and 16 other NHS trusts V Derby City Council (and other Local Authorities, including Barnsley) was heard the week commencing 4 November 2019. This legal challenge is associated with the award of 80% mandatory relief to NHS Trusts. Mr Justice Morgan has now handed down the judgement that Derby Teaching Hospital Trust is not a charity for the purposes of section 43(6) of the Local Government Finance Act 1988, meaning that they are not entitled to 80% mandatory relief. Whilst positive it is expected that the Trust will make an application to the Court of Appeal over the judgement. Future reports will update on this position.

### ***Empty Properties and Business Closures***

- 4.11 Under the current Business Rates scheme, business properties that become vacant are eligible for empty property relief. The amount of relief awarded is dependent on the type of property that becomes vacant. For industrial use properties a maximum of 6 months relief can be awarded with a maximum of 3 months relief being awarded to other property types. However, a ratepayer can re-apply for relief after a period of 6 weeks occupation meaning that a business can effectively receive over 10 months relief in any financial year.

- 4.12 Whilst the total amount of relief to be awarded during 2020/21 is difficult to predict, the total rates to be collected has been adjusted to reflect known circumstances. This includes the impact of the ongoing Glass Works regeneration scheme.

### ***Enterprise Zones***

- 4.13 All rates collectable from businesses within Enterprise zones are required to be paid to the Local Enterprise Partnership (LEP's) rather than being retained by the Local Authority.
- 4.14 There are currently 2 approved Enterprise Zones within the Barnsley area at Shortwood and Ashroyd Way. The estimated rates to be collected in 2020/21 from these sites total £0.9M. This amount will be required to be paid to the Sheffield City Region Combined Authority and therefore the impact of this has been built into the 2020/21 income forecast.

### ***Check, Challenge and Appeal***

- 4.15 The Check, Challenge and Appeal process was introduced on 1<sup>st</sup> April 2017. This is a three stage process which is instigated by any ratepayer who believes that the rateable value of their business premises have been calculated incorrectly. All appeals are processed by the Valuations Office (VO). Appeals usually take place over a 5 year period in line with the VO's property revaluation timetable.
- 4.16 The Check, Challenge and Appeal process appears to have reduced the number of cases that reach the appeal stage and are settled more effectively and efficiently. However, the true impact is unknown as ratepayers still have the opportunity to dispute their rateable value within the current revaluation timetable.
- 4.17 As at the end of November 2019 there are currently 217 cases by Barnsley businesses that have been lodged with the Valuation Office currently going through the Check Challenge and Appeal process. The total cost of settling these cases (if they were all successful) is unknown but a provision for the cost of successful appeals has been estimated using current data supplied by the VO and previous settled cases. This provision has been deducted from the amount of business rate income to be retained by the Council.
- 4.18 An example of a recent successful appeal relates to the way in which cash machines (ATM's) are rated. The Court of Appeal ruled that cash machines should not be assessed separately for business rates. The Valuation Office have petitioned this decision to the Supreme Court, if it remains upheld the estimated cost to the Council would be in excess of £1.35M in backdated refunds with an ongoing annual cost of £0.150M.

### ***Business Rate Arrears***

- 4.19 The collection of business rates remains relatively positive in Barnsley and the Council has in place a robust income recovery policy which continues to be actively used as necessary. In order to provide some protection for non-collection, a bad debt provision has been built into the amount of income expected to be collected and retained.

### **Submission of the National Non Domestic Rates Return (NNDR1)**

- 4.20 Councils are required to collect the information highlighted at Appendix 1 and submit it to Government via the NNDR1 return by no later than 31<sup>st</sup> January in any given year.
- 4.21 The NNDR 1 for 2020/21 was received on the 14<sup>th</sup> December and is currently being

reviewed by Officers. As such it is possible that adjustments may be necessary to the position reported in this report; particularly the split between retained rates (Local Share) and the amount of estimated S31 grant, to take into account any changes that may be announced as a result of the forthcoming General Election. Bearing in mind the deadline for submitting the NNDR 1 form is 31 January 2020, it is recommended that approval for the final submission is delegated to the Service Director Finance - S151 Officer.

- 4.22 The position on business rates will continue to be carefully monitored throughout the financial year and reported to Members as part of normal budgetary procedures.

#### Future Changes to the Business Rates Retention Scheme

- 4.23 As mentioned the current Business Rates Retention Scheme (BRRS) allows Local Authorities to retain 49% of all business rates collected locally.
- 4.24 Government have announced that they are to make changes to the BRRS including a proposal to allow Local Authorities to retain 75% of all business rates collected by 2021/22. Further details are expected to be announced during 2020. It is however expected that Government will adjust other funding (e.g public health grant, revenue support grant etc) to ensure any change to retained rates at a local level is cost neutral and as such the Council is not expected to benefit financially from this proposal.
- 4.25 A further report will be submitted to Cabinet to update on the position in due course.

### **5. Options**

- 5.1 The Council is statutorily required to submit a completed NNDR1 form no later than 31<sup>st</sup> January in any given year.

### **6. Local Area Implications**

- 6.1 The impact on local businesses (especially in relation to Government policy changes) is outlined within the report.

### **7. Implications for local people and service users**

- 7.1 No local people or services will be directly affected by this report.

### **8. Financial Implications**

- 8.1 From the introduction of the BRR scheme on 1<sup>st</sup> April 2013 the Council retained 49% of the amount it collects. Following the 2017 Business Rate Revaluation, an estimate of the amount to be retained in 2020/21 has been made and totals £23.614M. This amount has been built into 2020/21 Budgetary Procedures. In addition, the Council is required to notify Central Government and South Yorkshire Fire and Rescue Authority (SYFRA) of their share of business rates income.
- 8.2 The business rate baseline remains extremely volatile with a number of key factors that can influence its position; none more so than the ongoing legal challenges currently being progressed. The move to 75% retention places even more importance on the monitoring of the budgeted position. A rigorous monitoring process has been put in place with any material variations against the budget being reported to Cabinet as part of the normal quarterly financial monitoring process.

8.3 Any variations identified from this exercise will affect the Council's Collection Fund Reserves, which will in turn impact on the Council's MTFs. These variations will also impact the amounts paid over to Central Government and the SYFRA.

**9. Employee Implications**

9.1 No existing employees are adversely affected by this report.

**10. Communications Implications**

10.1 None directly arising from this report.

**11. Tackling Health Equalities**

11.1 There are no known implications.

**12. Climate Change & Sustainable Energy Act 2006**

12.1 There are no known implications.

**13. Risk Management considerations**

13.1 As the business rates retention scheme forms a major part of the Council's future funding position any forecast decline may pose a significant risk. As such this has been included within the Authority's strategic risk register (strategic risk 3034 refers).

**14. Health & Safety Issues**

14.1 There are no implications.

**15. Compatibility with European Convention on Human Rights**

15.1 There are no implications.

**16. Promoting Equality and Diversity and Social Inclusion**

16.1 There are no implications

**17. Reduction of Crime and Disorder**

17.1 There are no implications.

**18. Consideration of Biodiversity**

18.1 There are no implications.

**19. List of Appendices**

Appendix 1- Process for calculating the National Non Domestic Rates Return

## **PROCESS FOR CALCULATING THE 2019/20 NNDR 1 FORM**

### **Step 1 – Calculation of Gross Debit**

The gross debit is calculated by taking the gross rateable value of properties on the ratings list within the Barnsley area and applying a business rate multiplier as set by Government.

The rateable value to be used is that based on the revised 2017 Revaluation as at 1<sup>st</sup> April 2017.

### **Step 2 – Deductions for Estimated Reliefs Awarded**

Certain types of organisation (certain small businesses, charities, empty properties) are entitled to business rates relief. These include charitable trusts and other similar organisations including academies.

Any estimated reliefs to be awarded in the forthcoming year are deducted from the gross debit and thus affect the amount to be retained by the Council.

### **Step 3 - Losses in collection**

As part of the estimate of business rates revenue to be collected locally, councils are required to make an estimate of any losses in collection it anticipates in any given year.

A prudent estimate based on the current collection rate being achieved together with past years actual losses, has been made. This has been built into the overall calculation of business rates to be collected and equates to a collection rate in the region of 97%. There has been considerable investment in both time and resources in collection/ recovery processes over the last 18 months and the new methods adopted by the Council (including charging orders, a new enforcement framework and bankruptcy and petitions) should help to achieve the target for 2020/21.

### **Step 4 – Enterprise Zones**

Under the new scheme councils are required to pay 100% of the business rates collected on properties that sit within enterprise zones over to the Local Enterprise Partnership.

There are currently 4 properties within Barnsley that sit within the Sheffield City Region Enterprise Zone. The business rates to be collected on these properties will be deducted from the estimated business rates for 2020/21 to be paid to the LEP.

### **Step 5 - Renewable Energy Schemes**

From 1<sup>st</sup> April 2013 the Council are able to retain 100% of the business rates levied on companies engaged on any new Renewable Energy business where the energy produced is above a certain threshold. To date only one eligible property of this type has come on to the rating list since this time. (NOTE: a number of the renewable energy businesses were already on the rating list prior to 1<sup>st</sup> April 2013).

## Step 6 - Business Growth/Decline

As part of the scheme councils are also required to make an estimate for any growth or decline in businesses within their area. Council's will retain 49% of the business rates revenue estimated from any growth anticipated.

Based on local intelligence, an analysis has been made of any future growth within the Barnsley area. There is no anticipated net growth during 2020/21 within the area that would make a significant impact on the overall amount of business rates to be collected. It is therefore proposed not to include anything for net business rate growth in the final submission to Government. The MTFS does include some growth (e.g Glassworks) from 2021/22.

Councils will however also have to take 49% of the loss in revenues from companies that go out of business. Specifically it is difficult to quantify any impact of the ongoing economic uncertainty surrounding BREXIT.

## Step 7 - Appeals

Appeals occur when a business believes that the business rates they have been charged have been calculated unfairly. All appeals are processed by the Valuations Office. Appeals usually take place over a 5 year period in line with the Valuations Office property revaluation timetable.

## Step 8 Transitional Protection Payments

Government undertakes a ratings revaluation of business premises every 5 years. The next revaluation has been undertaken and took effect from 1<sup>st</sup> April 2017. Where a properties ratings value has significantly changed as a result of re-valuation the business in question is awarded Transitional Rate Relief to protect them from significant changes.

Any transitional rate relief that is awarded is therefore deducted from the total amount of business rates levied.