Council Tax Setting Committee
10 January 2018

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: NATIONAL NON-DOMESTIC RATE RETURN 1 (NNDR1) – 2019/2020

REPORT OF: SERVICE DIRECTOR - CUSTOMERS
EXECUTIVE MEMBER: COUNCILLOR JULIAN CUNNINGHAM
COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

1. EXECUTIVE SUMMARY

1.1 To inform Members of the reporting processes for the NNDR1 Return

1.2. To approve the Draft NNDR1 Return for 2019/2020

2. RECOMMENDATIONS

2.1 That the Draft NNDR1 at Appendix 1 be approved.

2.2 That it be noted that a draft version of the NNDR1 was received on Wednesday 17 December 2018 from the Ministry for Housing, Communities and Local Government (MHCLG) The final version of the NNDR1 will need to be returned to MHCLG by Thursday 31 January 2019

2.3 That the Committee delegates any amendments to the Return resulting from changes to the form and any additional guidance, to the Service Director – Customers in consultation with the Service Director – Resources and the Committee Chairman

2.4 That the Committee notes the inclusion of Hertfordshire as one of the 15 new Business Rate Pilots as announced in the draft Financial Settlement in December 2019 and that the current NNDR 1 does not reflect this.

3. REASONS FOR RECOMMENDATIONS

3.1 To comply with statutory requirements.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 The provision to provide information contained within the NNDR1 is a statutory requirement.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 This is not subject to consultation.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

7.1 The Council has always had a requirement to make an NNDR1 Return to the Secretary of State each year, which has been the Council's estimate of the likely income from Non-Domestic Rates for the following financial year.

7.2 In December 2011 the Government published its proposals for a Business Rates Retention Scheme alongside the introduction of the Local Government Finance Bill, which became an Act in November 2012. The intention of this proposal was to ensure that a proportion of Non-Domestic Rates was locally retained.

7.3 In November 2012 the Government issued a Policy Statement reflecting its desire to see the Business Rates Retention Scheme at the heart of its reform agenda aimed at achieving two of its key priorities: economic growth and localism.

7.4 The amount to be retained by Billing Authorities and the amount to be paid to Central Government and Major Precepting Authorities is to be fixed at the start of the financial year on the basis of the Billing Authority's estimate of its Non-Domestic Rating income for the year (the NNDR1 Return). For this reason, the Government has decided that this return should now be subject to approval by Members.

7.5 The basis on which a Billing Authority is to make that estimate was set out in regulations made under the provisions of the Local Government Act 1988.

7.6 The existing requirements for the calculation of Non-Domestic Rating income for the year are found in Schedule 1 of the Non-Domestic Rating (Rates Retention) Regulations (the Retention Regulations).

7.7 The Regulations require Billing Authorities to calculate the sum due, for that year, and inform;

a) The Secretary of State in respect of the "central share" of their Non-Domestic Rating income;

b) Their Major Precepting Authorities

7.8 In the autumn Budget 2018 the Chancellor announced further support for small businesses' by providing a Retail Discount for two years from 1 April 2019. The value of the discount will be one third of the net rates payable. This is the net amount of rates payable after all Mandatory and Discretionary Reliefs have been applied and only applies to occupied properties.

7.9 Business Rates Local Newspaper Discount has been extended to include the 2019/20 financial year

7.10 Business Rates Public Lavatories Relief was due to take effect from 1 April 2019. This will require a change to primary legislation and therefore will not come into effect until 2020/21.

7.11 Pub Relief ceases on 31 March 2019.

7.12 Supporting Small Business Relief. This relief applies to properties that received Small Business Rate Relief in the 2010 Rating List and as a result of the 2017 Valuation have lost all or part of this relief. This Relief restricts annual increases to £600 for each consecutive year of the 2017 Rating List.

7.13 Discretionary Valuation Relief. This Relief is intended to assist those businesses that faced the steepest rate increases as a result of the 2017 revaluation. Each Local Authority needed to adopt its own qualifying criteria that included properties with a rateable value below £200,000 and had incurred a rate rise of at least 12.5%

7.14 The total Discretionary Valuation Relief fund available was £300m over four years. The Government determined the amount of funds available to North Hertfordshire District Council under this scheme is as follows

Year	**Amount of Funding**
2017/2018	£320,000
2018/2019	£155,000
2019/2020	£64,000
2020/2021	£9,000
Total	**£548,000**

7.15 The funds allocated to each year must be used in year and any unused funds cannot be rolled forward into the future financial year.

7.16 Cabinet approved the Council's Discretionary Valuation Scheme at its meeting on 25 July 2017.

7.17 All Reliefs are subject to State Aid

7.18 Local Authorities will be refunded for the loss in Business Rates receipts as a result of the above measure. Refunds will be made through Section 31 grants.

Recent Case Law

7.19 Automated Telling Machines (ATM). The Valuation Office Agency recently unsuccessfully appealed to The Court of Appeal regarding the rating assessment of ATM's. The Court ruled against the VOA who had separately assessed ATM's found within the curtilage of a shop or petrol station. The value of these separate assessments within North Hertfordshire is £112k. Although the Court gave no leave to Appeal the VOA have sought to petition the Supreme Court.

7.20 Mazars (Stairwell Tax). This is the view of the VOA that different floors within a building occupied by the same ratepayer, which are not contiguous, should be separately rated. It is difficult to quantify the cost of this ruling as we generally cannot identify the properties that have been affected. We have seen our stock rise significantly over the previous two financial years but cannot quantify how many of these will be affected by the Mazars ruling. The Ratepayer will need to apply to the VOA to reverse the original change. It is likely to affect the 2010 and the 2017 Rating List.

Revised MHCLG Policy on Rates Retention Scheme

7.21 On 1 April 2017 the Government launched five pilots to retain 100% Business Rates Retention in those areas with ratified devolution deals. These pilots retained 100% of

Business Rates income and retained all of their growth in Business Rate income at the cost of foregoing most existing grants. Similar pilots were also run in 2018/2019.

7.22 The 2019/2020 Provisional Finance Settlement announced the addition of 15 new Business Rate Pilots. Hertfordshire is one of those pilots, whereby the pilot area will retain 75% of net NNDR collected. The Pilot Scheme will last for one year. In 2020/2021 it is expected that there will be a new Business Rates funding scheme based on 75% rate retention. It is anticipated that this will be less generous than the pilot arrangements.

8. RELEVANT CONSIDERATIONS

The Financial Information Required In The NNDR1

8.1 The Business Rates Retention Regulations require a Billing Authority to calculate its Non-Domestic Rating income by estimating the net payments from ratepayers that will be credited to its collection fund (after having taken account of any rate relief provided to ratepayers and any repayments made to ratepayers).

8.2 2019/2020 will be the sixth year for which Authorities will be required, in accordance with Regulation 13 of the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI 2013/452) (as amended), to estimate the likely non-domestic rating surplus, or deficit on the Collection Fund for the current year.

8.3 Regulation 13 requires an Authority to estimate the surplus/deficit that it believes will exist at 31 March 2019, on the basis of a statutory calculation set out in Schedule 4 to the Regulations (as amended). The estimated amount will be shared between the authority, its major preceptors and central Government and will be added (or subtracted) from each party's share of 2019/2020 non-domestic rating income.

8.4 The 2019/2020 NNDR1 enables (in Part 4) the Billing Authority to provide its estimate of the 2019/2020 Collection Fund surplus/deficit.

8.5 In completing the NNDR1, Billing Authorities will be required to take account of the measures announced by the Chancellor in his Autumn Budget statement as detailed at section 7 above.

8.6 Under the Rates Retention Scheme no amendments or adjustments can be made to the final NNDR 1 return during the 2019/2020 financial year. It is no longer possible to submit a revised calculation (NNDR2) part way through a financial year if there are significant variations to the total rateable value in-year. The final NNDR account for 2019/2020 will be subject to the audited NNDR 3 Return made at the end of the 2019/2020 financial year.

The NNDR Return – Methodology and Assumptions Made

8.7 Part 1 of the Form does not require any input from the Council as it comprises of cells with formulae derived from other parts of the Form.

8.8 Part 2 does require input from the Council.

8.9 Line 1 is the total Rateable Value for the District as at 31 December 2018

8.10 Line 2 is the Small Business Rate Relief Multiplier supplied by MHCLG

8.11 Line 4 gives the Council the opportunity to estimate how much it believes the gross rates payable may increase or reduce during the course of the year

8.12 With the implementation of the 2017 Rating List, the Valuation Office Agency introduced a new Appeals process of, Check, Challenge and Appeal. In essence new Appeals from 1 April 2017 would need to progress through two initial stages (Check then Challenge) before coming before a Valuation Tribunal (Appeal). At each of the preceding stages an amendment could be agreed between the appellant and the Valuation Office Agency. The whole process from Check to Appeal could take up to 3 years to find a solution.

8.13 As at 31 December 2018 only nine Checks have reached the Challenge stage. This provides uncertainly on our ability to estimate further rateable value reductions as there is little evidence on the 2017 Appeal caseload.

8.14 In North Hertfordshire, at 30 November 2018, there are still 191 appeals to be heard from the 2010 Rating List. The Valuation Office Agency is unable to advise the Council on the level of these appeals, for example whether it relates to a small change such as the removal of a small part of the premises, or whether it is a more extensive appeal, which may result in a significant reduction in rateable value. Between 1 April 2018 and 31 December 2018, the rates payable decreased by £297K as a result Appeals. The effect of an Appeal on the 2010 List would have a similar change on the 2017 List. No new Appeals can be made against the 2010 Rating List.

8.15 With the volume of outstanding Appeals and no further notable growth expected it has been estimated that the annual rates payable may reduce by £800k as a result of successful appeals to the 2010 List and the new Check, Challenge and Appeal procedures relating to the 2017 List. The Council is also required to make provision for the cost of the back-dated element of successful appeals. This is dealt with in the collection fund surplus/deficit position in part 4 of the form.

8.16 Line 6 reflects the amount of revenue foregone due to Transitional Relief

8.17 Line 7 reflects the amount of additional income received due to Transitional Surcharge

8.18 Line 9 allows the Council to forecast changes within the Transitional Relief arrangements

8.19 Lines 12 to 18 reflect the various Reliefs available and have been uplifted by 3% to reflect the overall increase in Business Rates announced by the Government and anticipated movement during the year

8.20 Line 20 allows the Council to make a provision for any increases in Mandatory Relief that it may expect in 2019/2020.

8.21 Lines 22 to 26 relate to unoccupied property and these figures have been uplifted by 3% to reflect the overall increase in Business Rates announced by the Government and anticipated movement during the year.

8.22 Lines 27 to 32 relate to Discretionary Rate Relief and have been uplifted by 3% to reflect the overall increase in Business Rates announced by the Government and anticipated movement during the year

8.23 Line 36 allows the Council to adjust the Discretionary Relief forecast by expected growth or reduction

8.24 Lines 38 to 43 are requests from MHCLG for the Council's estimate of lost income due to Discretionary Reliefs funded through S.31 Grants. They do not form part of the NNDR 1 return.

8.25 Line 38 relates to Rural Rate Relief.

8.26 Line 39 relates to Local Newspaper Relief.

8.27 Line 40 relates Supporting Business Relief.

8.28 Line 41 relates to Discretionary Relief Fund.

8.29 Line 42 relates to Telecoms Relief.

8.30 Line 43 relates to Retail Discount.

8.31 Line 44 allows the Council to adjust the forecast for S.31 Grant by growth or reduction

Part 3: Allowable Deductions.

8.32 Line 1 is pre-populated with the net rates payable from Line 46 Part 2

8.33 Line 2 is the estimated amounts to be written off during the year. For the last few years, this figure has ranged from £500K to £650K. The figure has been pitched at the higher end of this range.

8.34 Line 3 is the estimated amount to be repaid in respect of 2019/2020 resulting from successful appeals.

8.35 Line 4 provides the net rates payable less any allowable deductions. This is estimated to be £37,512,473

8.36 Line 5 provides the net rates disregarded for renewable energy.

8.37 Line 6 provides the nets rates disregarded for Shale Gas

Part 4: Collection Fund Balances.

8.38 Line 1 is the opening balance on the Collection Fund Statement as at 1 April 2018. This was --£1,560,855

8.39 Line 2 relates to total amount credited to the Collection Fund in 2018/2019.

8.40 Line 3 relates sums written off in excess of the allowance for collection

8.41 Line 4 is the change to the allowance for non collection.

8.42 Line 5 relates to amounts charged against the provision for appeals following RV list changes

8.43 Line 6 relates to changes to the provision for appeals total amount charged, or to be charged, to the Collection fund in 2019/2020.

8.44 Line 8 relates to Transitional Protection Payments received in 2018/2019.

8.45 Line 9 relates to transfers/payments to the Collection Fund for Year End reconciliations

8.46 Line 10 relates to sums paid into the collection fund during 2018/2019 in respect of the previous year's deficit.

8.47 Line 12 relates to the amount of the transitional protection payments made in respect of 2018/2019

8.48 Line 13 relates the amount paid to Central Government in respect to its share of Business Rates income in 2018/2019.

8.49 Line 14 relates to the amount, paid to date to the Major Precepting Authorities in respect of their share of Non-Domestic Rating income or anticipate transferring to their General Fund up to and including 31 March 2019.

8.50 Line 15 relates to the amount the Authority has transferred into the General Fund in respect of its share of Non-Domestic Rating income or anticipates transferring to their General Fund up to and including 31 March 2019.

8.51 Line 16 relates to transfers made, or to be made, to the Billing Authority's General Fund, and payments made, or to be made, to a Precepting Authority in respect of disregarded amounts.

8.52 Line 17 refers to transfers/payments from the Collection Fund for end-year reconciliations

8.53 Line 18 relates to transfers/payments made from the Collection Fund in 2018/2019 in respect of a previous year's surplus.

9. LEGAL IMPLICATIONS

9.1 Approval of the NNDR1 Return is delegated through the Constitution to this Committee.

9.2 The Council is aware that it has an obligation to submit its NNDR1 Return by 31 January 2019, but MHCLG has made the proviso that further iterations of the Form may yet be issued. This has resulted in the recommendation at paragraph 2.3 that any necessary amendments to the Return resulting from future legislation or guidance be delegated to the Service Director - Customers in consultation with the Service Director – Resources and Chairman of the Committee.

10. FINANCIAL IMPLICATIONS

10.1 Under the Business Rates Retention element of local government funding, the provisional settlement no longer provides guaranteed funding levels, but rather the starting point for Authorities within the scheme. Ultimately, the level of Non-Domestic Rates collected by authorities in 2018/19 will determine the amount received for this element of their funding. In the provisional settlement each Authority is set a Business Rate baseline, which is based on a MHCLG determination of funding need. The difference between the Authorities share of Business Rates income and the baseline determines an amount that is either paid to the Authority (top-up) or by the Authority (tariff). In the absence of a Rates pilot, growth in Business Rates is subject to a levy to limit the increases that the Authority actually receives.

10.2 The NNDR 1 suggests the total net amount of Non-Domestic Rates to be collected in 2019/20 will be £37,462,473.

10.3 The NNDR 1 then indicates that the Council's share of the total Non-Domestic Rates to be collected in 2019/20, after deducting the share of the deficit position should be £13,337,915 (currently unadjusted for the Rates Pilot). This represents 80% of the 50% of total business rates that are kept locally (with 20% being paid to Hertfordshire County Council- HCC). The other 50% is paid over to the Government. The 2019/20 provisional settlement has provided a tariff total of £10,835M. This is based on the 35% that we will notionally retain in the pilot. This will have to be paid over to Central Government regardless of the amount of Business Rates collected.

10.4 Ordinarily the Council would not be protected from an initial fall in Business Rates collection until the safety net figure was reached, i.e. Business Rates due to NHDC could fall by 7.5% below the baseline before safety net funding was received. Participation in the pilot (and the agreement in place governing the arrangement) changes the protection that the Council would receive. Initially any protection would be expected to be funded by other members of the pilot, but the pilot overall would have a 95% safety net.

11. RISK IMPLICATIONS

11.1 The NNDR1 is an estimate of the amount of rates that the Council will expect to collect in 2019/2020. As with any estimate, there is always the risk that it will prove to be inaccurate.

11.2 To mitigate against this, trend data for previous years has been used whenever possible and where assumptions have had to be made, these have been made with a cautious view.

11.3 At the end of the 2019/2020 financial year, an NNDR 3 will be completed and audited, which will determine the final position in terms of Business Rates collected for 2019/2020. Therefore the main risk is in relation to cash flow.

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 The submission of an NNDR1 return is a statutory one. This reports highlights the reporting process and now requires the approval of Members. This does not impact on those that share a protected characteristic as the only change is one of process. If the manner in which business rates was collected changed then this may affect those sections of the community.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and "go local" policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no Human Resources implications to this report.

15. APPENDICES

15.1 Appendix 1 – Draft NNDR1 Return.

16. CONTACT OFFICERS

16.1 Report Author:

Mark Scanes
Systems & Technical Manager
Tel: 01462 474440
Email: mark.scanes@north-herts.gov.uk

16.2 Contributors:

Howard Crompton
Service Director - Customers
Tel: 01462 474247
Email: howard.crompton@north-herts.gov.uk

Ian Couper
Service Director – Resources
Tel : 01462 474243
Email : ian.couper@north-Herts.gov.uk

17. BACKGROUND PAPERS

17.1 None