Committee:	**Cabinet**	**Agenda Item**
Date:	**24 October 2013**	12
Title:	**Pooling of Business Rates**	
Portfolio Holder:	**Councillor Robert Chambers**	Key decision: **Yes**

Summary

1. On 12 September the Cabinet decided, in principle, to join an Essex Business Rates pool, subject to a final decision at today's meeting. This was predicated on the basis that no authority can be worse off as a member of the pool than they would have been outside it. The pool was expected to earn a surplus which would be distributed to the member authorities on a basis to be agreed.

2. Since 12 September more financial analysis has been undertaken on how the pool would operate. It has been identified that there is a very unlikely scenario which could lead to pool members being worse off compared with not being in the pool. This is, if the average business rates income across all pool members was to reduce from the forecasted position, by more than 3.92%. At this point, the surplus earned by the pool would be zero. If the average drop in business rates income across all pool members was more than 3.92%, a deficit would arise. At an average loss of 5%, the pool would be in deficit by £1.25m – of which the UDC share would be about £50,000. It is considered very unlikely that the average loss of revenue would reach 3.92% nevertheless the basic premise upon which the pool is founded has altered.

3. Discussions with other Essex authorities have also highlighted that an individual authority will not be considered to be a suitable pooling partner for 2014/15 if there is a risk of shortfall in their business rates income. Because of the ongoing issues with the second largest rating assessment in Uttlesford, there is a risk that Uttlesford would fall into this category, as borne out by the forecasts for the 2013/14 financial year (please see budget monitoring report on today's agenda). If the problems with this site continue through into 2014/15, the loss of income could outweigh the expected growth, and in a pooling situation this would reduce the surplus earned by the pool and distributed to the partners.

4. For the above reasons, it is no longer felt to be appropriate that UDC puts itself forward as a pooling partner for 2014/15, but reserves its position for 2015/16.

Recommendations

5. The Cabinet is recommended to:

    a) Continue to support the principle of joining a business rates pool

    b) Agree that UDC should not put itself forward as a pooling partner for 2014/15, but to reserve the position for 2015/16.

Financial Implications

6. There are no direct financial implications as no effects of joining a pool had been assumed in the budget.

Background Papers

7. None

Impact

Communication/Consultation	Cross-Essex collaboration through the Essex Strategic Leaders Finance Group.
Community Safety	No specific issues.
Equalities	No specific issues.
Health and Safety	No specific issues.
Human Rights/Legal Implications	No specific issues.
Sustainability	No specific issues.
Ward-specific impacts	No specific issues.
Workforce/Workplace	No specific issues.

Business Rates Pool

8. Notwithstanding the recommendation above, it is relevant to apprise the Cabinet of the progress made in setting up the pool.

9. Since 12 September discussions have taken place between the Essex authorities. All authorities except Thurrock, Brentwood and Maldon have indicated their willingness to form a pool, to operate on the following basis:

   a) The members of the pool are Essex County Council, Essex Fire Authority, Basildon, Braintree, Castle Point, Chelmsford, Colchester, Epping Forest, Harlow, Rochford, Tendring, Uttlesford and Southend.

   b) The County Council to be the ‘lead’ authority and act as ‘banker’. The banker will receive and make payments from/to member authorities as required to ensure that the pool completely matches the position a member would have been in if they had not pooled.

   c) The pool will retain a reserve of £1 million to be earmarked for making safety net payments to authorities who suffer a significant (>7.5%) drop in business rates, to replicate the Government safety net system. The size of the safety net reserve to be kept under review and replenished or adjusted as required.

d) The remaining surplus to be distributed to member authorities on a fair pro-rata basis using a formula which combines the Government's NDR Baseline and Baseline Funding Need for each authority. This approach obviates the need for a complex governance process.

e) Progress to be monitored by the Essex Strategic Leaders Finance Group, supported by Essex Chief Finance Officers.

10. The next stage is for an application to be submitted on the pool's behalf to DCLG by 31 October. DCLG will confirm the existence of the pool when the Local Government Finance Settlement is published, probably in early December. Each member authority then has a 28 day window of opportunity to withdraw from the pool. If any authority was to withdraw at that stage, then the whole pool would be terminated and there would not be another opportunity to form a pool until 2015/16.

11. Based on analysis performed by an independent business rates pooling expert and Chelmsford City Council, the pool is expected to earn a surplus during each of the next few years as follows:

£m	**2014/15**	**2015/16**	**2016/17**	**2017/18**
Forecasted Surplus earned by the pool*	**3.131**	**3.232**	**3.970**	**4.186**
Less amount retained for safety net payments**	(1.000)	**	**	**
Less amount paid to banker to cover admin costs***	(0.010)	(0.010)	(0.010)	(0.010)
Amount for distribution	**2.121**	**3.222**	**3.960**	**4.176**
ECC share 42%	0.891	1.353	1.663	1.754
Fire share 9%	0.191	0.290	0.356	0.376
Southend share 11%	0.233	0.354	0.436	0.459
Districts share 38%	0.806	1.225	1.505	1.587

*figures assume Uttlesford is in the pool

**an amount may be needed to replenish the safety net fund, if it has been used

***nominal sum still to be confirmed at the time of writing this report

12. The actual outcomes of the 2014/15 pool will not be certain until completion of the 2014/15 audit process in September 2015.

13. The percentage shares shown above are the result of a formula calculation that combines each authority's Government assessment of its Business Rates Baseline and its Baseline Funding Need. Using the former measure would unfairly disadvantage the County Council (17%) and using the latter measure would unfairly benefit them (67%). The agreed method steers a middle course and through discussion has been accepted by the parties as a fair distribution method. (The former measure would give Uttlesford 7% of the total, and the latter measure 1%. The combined measure gives Uttlesford 4%.)

14. In relation to the premise that a member of the pool would not be worse off compared with remaining outside of the pool, that is still true for all likely scenarios. However a reduction in business rates income to the pool above 3.92% would result in each pooling member incurring a deficit as summarised below.

Percentage change from current forecast	**Total Business Rates Income**	**Pool surplus for distribution**	**Uttlesford share**
+4%	£254.4m	£6.5m £5.5m excluding safety net reserve	£220,000
0% (no change) (base assumption)	£244.2m	£3.1m gross £2.1m excluding safety net reserve	£85,000
-3.92%	£234.4m	£nil	£nil
-5%	£231.6m	£1.25m deficit	£50,000 deficit

15. The Council has had difficulties with collecting business rates from the second largest rating assessment in the district, the Diamond Hangar at Stansted Airport. Following a bad debt write off and court proceedings which wound up the previous ratepayer, the new occupant is currently receiving a six month empty property relief. This is due to end in December. Until the new ratepayer establishes a track record of paying business rates and this becomes a stable revenue stream, officers consider that there is a risk of an ongoing issue with this particular account. The effect in the current financial year is already that the Council's share of retained business rates will be below the baseline level. There is a possibility of a similar situation arising in 2014/15. In a worse case scenario this would outweigh the growth in business rates revenue expected to arise at other sites.

16. The pooling partners have established a position that any authority where there is a risk of a reduction in business rates income would not be considered to be suitable pooling partners because they would in effect be taking money away from the pool that would otherwise be distributed to the partners.

17. While the principle of pooling remains sound it is no longer felt to be appropriate that UDC joins the pool for 2014/15. Instead it is better to reserve the position for 2015/16 by which time the issues at Diamond Hangar should be resolved and the first year's experience of the pool can be used to inform the ongoing arrangements.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The pool is terminated because of a member authority withdrawing	1 (only an unexpected material change in an authority's circumstances would justify consideration of a withdrawal)	4 (the pool would collapse and therefore, a loss of funds to Central Government would arise)	Formal commitment from each member authority. Oversight and resolution of issues by the ESLF group.
A significant business rates down turn affects the pool's ability to function as intended	2 (economic challenges remain but a significant county wide downturn is not likely. If one was to occur, there would be many other challenges for local government)	3 (reduced or no surplus to distribute)	Review pool membership on annual basis.

1 = Little or no risk or impact
2 = Some risk or impact – action may be necessary.
3 = Significant risk or impact – action required
4 = Near certainty of risk occurring, catastrophic effect or failure of project.