

BRISTOL CITY COUNCIL

Overview & Scrutiny Management Board

15 August 2013

Report of: Stephen Hilton, Bristol Futures Service Director

Title: Retail Levy

Ward: Citywide

Officer Presenting Report: Jason Thorne, Economy, Enterprise & Inclusion Co-ordinator

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RECOMMENDATION

That Scrutiny considers the issues set out in this report and from witnesses in making its decision on whether to support a Local Works proposal to seek powers for an 8.5% retail levy on large retail properties from Government. This might include recommending amendments to the proposal.

Summary

The report sets out the policy context and background to the motion. Initial consultation following the motion is included, as well as some analysis on the retail market in Bristol. Current issues on business rates and business rate retention are set out, and the retail properties in Bristol potentially affected by the proposal are listed. Information on retail levies in the UK is included, along with information on the existing and planned Business Improvement Districts in Bristol. The report sets out a number of issues for the Board to consider, identifies potential risks, public sector equalities duties and provides an overview of legal and resource implications.

The significant issues are presented in section 1 below.

1. The significant issues in the report are:

- 1.1 Full Council on 18 June agreed the motion detailed at page 2. The objective of this Scrutiny session is to make recommendations about whether the Council should support the Local Works proposal to seek powers for such a levy from Government. This might include recommending amendments to the proposal.
- 1.2 It is beyond the scope of this meeting to decide whether the Council should make use of any such powers in future: if powers were granted, then further detailed consultation would need to be carried out if the Council were to consider using the powers to implement a levy. There is no guarantee that Government would grant these powers. In considering this extensive consultation would need to take place.
- 1.3 Destination Bristol, Bristol Alliance/Cabot Circus, Institute of Directors and some businesses have objected to the proposal. Their concerns include:
- a) It will deter future investment/regeneration
 - b) Negative impact on employment/jobs
 - c) Negative impact on tourism
 - d) It penalises larger successful businesses
 - e) Will increase costs for businesses already under pressure, potentially leading to higher prices for consumers and cutting costs with suppliers.
 - f) contradicts the vision of being the most open and welcoming city for businesses
- 1.4 The Federation of Small Businesses, although supportive of the proposal, raise some concerns which need more thought and the Bristol Pound suggest a clear purpose for the funding generated by the levy.
- 1.5 The risk and equalities sections pose a number of issues and questions which need considering in further detail by the OSMB. Risks identified include:
- Loss of investment, especially in the city centre.
 - Increased business and investment uncertainty.
 - Loss of employment/jobs.
 - Impact on existing and planned BIDs, including reputational issues for the Council and Bristol.
 - Potential financial implications – a shortfall in revenue income for areas covered by BIDs. There may be an expectation on the Council to meet this shortfall. This could lead to unplanned expenditure.
 - Bristol perceived as anti-business and closed for business.

- 1.6 Common issues which impact on retail business performance include the high cost of business rates, the growth of online shopping and out of town developments.
- 1.7 There are currently three Business Improvement Districts covering Bristol's 'town centres'. These have been critical to supporting private sector led partnership working and investment. The Broadmead BID alone has stimulated investment of £1,570,000 over the last 5 years, in addition to voluntary and in-kind contributions made.
- 1.8 Bristol City Centre performs well from a retail market perspective. However, it faces strong competition from The Mall at Cribbs Causeway and other centres in the South West. Vacancy rates in the city centre are slightly above average for the principal competing centres.
- 1.9 There are thirty four retail properties that would be affected if a levy (in line with the motion) was implemented in the future (see Appendix A). 15 (44%) of the retail properties are located in Bristol city centre (14 in Bristol Shopping Quarter - Broadmead/Cabot Circus and 1 in Old Market). 12 (35%) are based in 'out of town' locations or are standalone, with the remaining 7 (21%) retail properties based with 'town centre' locations. 11 (32%) of the retail properties could be described as being in 'supermarket' use. 44% of the retail properties are located within areas deemed to be within the 10% most deprived within England (2010 Index of Multiple Deprivation).
- 1.10 The existing annual business rates bill for the 34 retail properties ranges from £235,000 to £1,573,140 (an average of £540,057 per retail property). The annual income in Bristol via an 8.5% levy would be in the region of £3.3m based on current rateable values (rateable values can change). The average annual levy contribution would be £97,462.50 per property.
- 1.11 Northern Ireland operates a retail levy on properties across Northern Ireland with a rateable value of £500,000 or more. The policy driver for the retail levy in Northern Ireland was to help rebalance the economy and provide small business rate relief. To our knowledge there are no retail levys in operation or formally proposed in England.
- 1.12 Alteration of current Business Improvement District proposals and European State Aid are key legal considerations. It is not possible at this stage to determine whether the proposed measures would constitute State Aid. Key considerations are outlined but this is a complex area and further consideration would need to be given to the issues raised.

2. Policy

- 2.1 The Council has no policy in terms of introducing a retail levy. It has been supportive of Business Improvement Districts.
- 2.2 Bristol's strategic planning support for its forty seven 'town centres' is set out in the Bristol Core Strategy (June 2011). This is in line with the Government's National Planning Policy Framework.

3. Consultation

3.1 Internal

Nicola Yates (City Director), Liam Nevin (Service Director – Legal Services), Peter Robinson (Service Director – Finance), Peter Holt (Service Director – Communications & Marketing), Julia James (Service Director – Integrated Customer Services), Kevin Smith (Business Rates Group Leader), Annabelle Armstrong-Walter (Equalities – Team Manager), Lloyd Mead (Management Accountant), Karen King (Economy, Enterprise & Inclusion – Service Manager), Jude Williams (Scrutiny Officer), Jill Mikkleson (Human Resources Manager), Rachel Fella (People Business Partner), Mark Williams (Programme Manager), Mike Ayres (Principal Property Portfolio Officer), Cllr Mark Bradshaw (Assistant Mayor and Cabinet Member), Party Group Leaders.

3.2 External

Destination Bristol, Cabot Circus/Bristol Alliance, Association of Town & City Management, Business West, Institute of Directors, Federation of Small Businesses, British Retail Consortium, Tesco, traders' associations across the city, shopping centre management organisations.

4. Context/background

- 4.1 The following motion was agreed at Full Council on 18 June 2013:

“Bristol City Council notes the campaign being run by ‘Local Works’ entitled ‘Save our communities from large supermarkets’. The campaign specifically asks councils to submit the following proposal under the Sustainable Communities Act’

‘That Government gives local authorities the power to levy a new local rate of 8.5% on large retail outlets in their area with a rateable value not less than £500,000 and the power to use the revenue collected to improve local economic activity, local services and facilities, social and community wellbeing and environmental protection.’

Council notes that within Bristol such a levy could raise up to £1.6 million from the city's largest supermarkets alone and potentially a much larger figure from 'all the large retail outlets' referred to by the campaign (Council notes that supermarkets cannot legally be singled out for the purposes of the levy).

Council believes that the idea of seeking powers for a levy on retail outlets should be explored and requests that the Overview and Scrutiny Management Committee delegate this inquiry to the relevant scrutiny commission and report back to Council in September."

- 4.2 This motion is as a result of a national campaign by an organisation called Local Works, an umbrella organisation who were instrumental in bringing about the Sustainable Communities Act and working with councils and the community to ensure it is used to achieve its objectives. Local Works are contacting local authorities about this particular campaign and encouraging members of the community to encourage councils to support the issue.
- 4.3 The Sustainable Communities Act (SCA) provides a process by which local communities can, through their local council, propose changes at a national level (such as legislation or policy) that could improve the economic, social or environmental wellbeing of their local area.
- 4.4 Initially, this proposal came to the Council's attention through an e-petition request for the Council to consider whether it would support the proposal. The petition closed in December with 239 signatures, see http://epetitions.bristol.gov.uk/epetition_core/view/SupermarketLevy
- 4.5 Local authorities do not currently have the power to levy this tax, hence the call under the SCA for Government to grant this power. As a power, the local authority can then decide whether it wishes to make use of that power or not.
- 4.6 The objective of this Scrutiny session is to make recommendations about whether the Council should support the above Local Works proposal to seek powers for such a levy from Government. This might include recommending amendments to the proposal.
- 4.7 It is beyond the scope of this meeting to decide whether the Council should make use of any such powers in future: if powers were granted, then further detailed consultation would need to be carried out if the Council were to consider using the powers to implement a levy.

5. Retail market in Bristol

- 5.1 DTZ completed a Bristol City Centre Retail Study for Bristol City Council in June 2013; some of the key findings are set out below:
- 5.2 'Bristol City Centre clearly performs well relative to the principal competing centres. The opening of Cabot Circus in 2008, in particular, has served to enhance the city centre's offer and attractiveness at a time when Bristol is faced by increasingly strong competition from The Mall at Cribbs Causeway and other centres in the South West.
- 5.3 Bristol City Centre, compared with the principal competing centres, has risen most in the shopping centre rankings since 2007 (from 27th to 12th in 2010); and is now positioned behind Cardiff City Centre (10th). To that end, our analysis of retail status and performance shows that Bristol City Centre out-performs all principal competing centres with the exception of Cardiff, which is a larger centre and attracts a higher quantum of comparison retail expenditure. Bristol City Centre, however, comprises more major retailers (as defined by Experian Goad) and this demonstrates its overall health and performance.
- 5.4 Vacancy rates in Bristol City Centre are slightly above average for the principal competing centres. The Experian Goad survey undertaken in April 2012 identified 90 vacant units (20% of the total number of A1-A5 units) in the Broadmead / Cabot Circus area, representing 14,790sqm and 11.5% of the total of such floorspace. Around one-third of these vacant units are concentrated in The Galleries (29), as well as several on The Horsefair and within Cabot Circus and The Arcade.
- 5.5 The majority of vacant units (66 or 73% of the total number of vacant units) in the Broadmead / Cabot Circus area are less than 200sqm. Only two vacant units measure above 500sqm; all other vacant units (22) are 200-500sqm. Vacancies are, therefore, predominantly smaller-sized units.
- 5.6 Given the status and apparent health of Broadmead/Cabot Circus, the current proportion of vacant units is surprising and, by comparison, higher than other, less prime retail areas of the city centre such as Queen's Road/ Park Street (9.5%) and Christmas Steps/ St Michael's (16.4%). This high vacancy rate is mainly because the large scale Cabot Circus scheme came to market at the time of recession.'

- 5.7 Common issues raised by the retail sector which impact on business performance include the high cost of business rates, the growth of online shopping and out of town developments (which include an abundance of free parking).
- 5.8 There is currently a Commons Select Committee looking at the UK retail sector, see www.parliament.uk/business/committees/committees-a-z/commons-select/business-innovation-and-skills/inquiries/parliament-2010/uk-retail-sector for evidence submitted to date.

6 Business Rates

- 6.1 The issue of business rates was highlighted in the much publicised Portas Review (December 2011) which stated 'Quite frankly, the costs of trading in many areas far outweigh the benefits of being in town. As I have been researching this report, the financial burden imposed by business rates has come up time and time again. I think that more can be done to make business rates work for high street businesses.'
- 6.2 The debate on the issue of rates continues with many high profile retailers calling on Government for reform, see www.telegraph.co.uk/finance/newsbysector/retailandconsumer/10160982/A-blueprint-to-overhaul-business-rates-and-help-save-the-high-street.html.
- 6.3 Larger business properties in England are currently charged a higher multiplier to help support Small Business Rate Relief. 'A Small Business Rate Relief scheme was introduced in England in 2005. Those properties that are eligible for small business rate relief have a slightly lower business rate, of around 0.7 pence in the pound, compared to other businesses. This applies up to a rateable value threshold of £18,000. A relief on rates liability is also provided where the property has a rateable value of less than £12,000. The level of relief has been temporarily increased for the period 1 October 2010–31 March 2014.' (Adapted from Rating of Commercial Properties: small businesses, large retail properties and empty shops, Public Consultation Paper June 2011). Further detailed information can be found in Appendix B. In general terms the cost of this relief is borne equally between central and local government.

7. Business Rate Retention

- 7.1 Since 1990 business rates have been collected by councils and added to a central 'pool' for redistribution to councils. This changed with effect from 1 April 2013 when a business rate retention scheme was introduced to provide a direct link between business rates growth and the amount of money councils have to spend on local people and local services.

7.2 Councils keep a proportion of the business rates revenue as well as growth on the revenue that is generated in their area. This provides a strong financial incentive for councils to promote economic growth. Business rates retention is at the heart of the government's reform agenda and will help achieve two priorities: economic growth and localism.

7.3 The scheme allows for 'safety net' payments to be made to councils to allow stability of income over the medium term where business rate income falls by a certain amount. These payments are intended to provide support if, for example, a major local employer closes.

8. Retail properties potentially affected by the proposal in Bristol

8.1 The thirty four retail properties listed in Appendix A would be affected if a levy (in line with the motion) was implemented in the future. The appendix provides the name and address of the business, the rateable value of the property and its annual levy contribution based on the motion.

8.2 15 (44%) of the retail properties are located in Bristol city centre (14 in Bristol Shopping Quarter - Broadmead/Cabot Circus and 1 in Old Market). 12 (35%) are based in 'out of town' locations or are standalone, with the remaining 7 (21%) retail properties based with 'town centre' locations. 11 (32%) of the retail properties could be described as being in 'supermarket' use.

8.3 44% of the retail properties are located within areas deemed to be within the 10% most deprived within England (2010 Index of Multiple Deprivation).

8.4 The existing annual business rates bill ranges from £235,000 to £1,573,140 for the 34 properties with rateable values of 500,000 or more. The average annual bill of £540,057 is per retail property. Here is a working example of annual rates payable based on the current business rate multiplier (0.471):

Property with rateable value of 500,000 x the business rate multiplier (0.471) = £235,500

8.5 The annual income in Bristol via an 8.5% levy would be in the region of £3.3m based on current rateable values (rateable values can change). The average annual levy contribution would be £97,462.50 per property.

9. Initial consultation following the motion

9.1 Following the Full Council motion on 18 June 2013, the Council made contact with the city's traders' associations, business groups, shopping centre managers and professional support organisations to gather initial views on the motion. In turn some of these organisations circulated information to their business members who have also provided feedback.

9.2 In terms of these organisations, Destination Bristol, Bristol Alliance/Cabot Circus and Institute of Directors object to the proposal. Reasons cited include the following issues:

- Contradicts vision of being the most open and welcoming city for businesses.
- Penalises successful large businesses.
- Will deter future investment/regeneration and lead to an increase in empty properties.
- Negative impacts on employment.
- Negative impacts on tourism.
- Increasing costs for businesses that are already under pressure. Large retailers already make significant contributions to the public purse through business rates, VAT, national insurance, s106 agreements etc.
- Bristol Alliance and City Council investment would be undermined.
- Higher prices for consumers and cutting costs with suppliers.

9.3 The Federation of Small Businesses (FSB), Gloucester Road Traders' Association and the Bristol Pound support the motion. The FSB raise some concerns which merit further consideration and the Bristol Pound suggest a clear purpose for the funding generated by the levy.

9.4 Detailed feedback received from these organisations and other businesses can be found in Appendix C.

10. Retail levies in the UK

10.1 Northern Ireland is the only part of the UK which operates a large retail levy. In 2011, the Scottish Government attempted to introduce a similar measure. However, this was not progressed. Scotland has introduced a public health supplement levy, a 9.3% supplement on retail outlets with a rateable value of over £300,000 that sell both alcohol and tobacco. However it has had a mixed response with some criticism over the lack on consultation on the issue in advance.

10.3 The possibility of a retail levy is being considered by other local authorities, including Brighton & Hove and Torbay.

Northern Ireland Retail Levy

- 10.4 There has been a 15% retail levy on properties with a rateable value of £500,000 or more in place across Northern Ireland since April 2012. The levy is paid by seventy seven stores, two thirds of which are 'edge or out of town'. The levy brought in additional revenue of around £5m during 2012/13.
- 10.5 The Head of Rating in Northern Ireland provided a presentation to the Association of Town & City Management Summer School in early July 2013. Key points from the presentation can be found in Appendix D. In summary, every business liable for the levy has paid it, there has been no disinvestment and it helped bring together a unified view on the need for rates revaluation.
- 10.6 The policy driver for the retail levy in Northern Ireland was to help rebalance the economy and provide small business rate relief. The impact of the National small business rate scheme (which does not apply in the same way in Northern Ireland) within Bristol has been significant. In 2012/ 13 the council allowed approximately £7.4m of relief to small business ratepayers (all with rateable values of less than £18,000). The cost of this relief was offset by additional rate levy on all businesses with a rateable value over £18,000 which raised £3.6m.
- 10.7 It should be noted, there has been no reassessment of rateable values in Northern Ireland since 2003, the levy is a temporary measure for 3 years and Business Improvement Districts are not currently in operation. The last reassessment of rateable values in England was in 2010 (the next is due in 2017) and Business Improvement Districts are in operation.
- 10.8 From talking to the Head of Rating in Northern Ireland, it is clear that significant discussions took place with the European Commission in order to introduce a levy which was State Aid compliant, ensuring that potential impacts on competition were fully considered. The need to be State Aid compliant shaped the policy. These issues will need further investigation by the Council in the future, should it wish 1) to apply for the powers and be granted the powers and 2) consider implementing the powers.

10.9 Detailed information which has informed the Northern Ireland levy can be viewed as follows:

- Rating of Commercial Properties: small businesses, large retail properties and empty shops, Public Consultation Paper June 2011 www.dfpni.gov.uk/rating-of-commercial-properties-public-consultation.pdf
- Rating of Commercial Properties: small businesses, large retail properties and empty shops Consultation Outcomes Report, November 2011 www.dfpni.gov.uk/rating-review/consultation_outcomes_report.pdf
- Final Integrated Impact Assessment: Large Retail Levy, December 2011, www.dfpni.gov.uk/rating-review/final_iaa_-_lrl_v2.pdf

11. Business Improvement Districts in Bristol

11.1 A BID is a business-led and business funded body/partnership to improve a defined commercial area. A BID can only be formed following consultation and a ballot in which businesses vote on a BID proposal or business plan for the area.

11.2 Building on the support given to Business Improvement Districts (BIDs), the Council has been developing a policy to support the further development of BIDs.

11.3 There are four Business BIDs in Bristol. The three relating to 'town centres' are detailed in the table below:

BID Area	Number of businesses	Estimated annual amount raised through the levy (without voluntary contributions)	Current Status
Broadmead	281	£314,000	In the fifth year of a second five year BID. BID commenced 01 Nov 2008 and due to end 31 Oct 2013.
Clifton Village	310	£80,000	In the first year of a first five year BID. BID commenced 01 Nov 2012 and is due to end 31 Oct 2017.
Bedminster	225	£80,000	In the first year of a five year BID. BID commenced 01 May 2013 and is due to end 30 Apr 2018.

- 11.3 BIDs in Bristol have built successful private sector partnerships and provided significant additional investment in supporting improvements in streetscape, Christmas lights, events, promotion and marketing, reducing costs (telecoms and utilities), waste and cleansing.
- 11.3 Most BIDs are in their infancy, apart from Broadmead, which was one of the original pilots in England when the BID legislation came into place. The Broadmead BID is consistently highlighted as good practice nationally.
- 11.4 The Broadmead BID was critical to the regeneration and enhancement of the area prior to and following the opening of Cabot Circus, which led to £600m investment in Bristol city centre and improving fortunes in terms of the Bristol's retail performance relative to competitor locations. It is believed that since its inception in 2005, the Broadmead BID has brought in £10m additional funding.
- 11.5 BIDs are currently being considered for the city centre night time economy and for Gloucester Road.
- 11.6 BIDs are considered further in section 16 on legal and resource implications.

12. Other Options Considered

N/A

13. Risks

- 13.1 The following risks have been identified:
- Loss of investment, especially in the city centre.
 - Increased business and investment uncertainty.
 - Loss of employment/jobs.
 - Impact on existing and planned BIDs, including reputational issues for the Council and Bristol.
 - Potential financial implications – a shortfall in revenue income for areas covered by BIDs. There may be an expectation on the Council to meet this shortfall. This could lead to unplanned expenditure.
 - Bristol perceived as anti-business and closed for business.

14. Issues to be considered

- 14.1 In this meeting OSMB should consider whether the Council should support the Local Works proposal and recommend to Government that powers to enable councils to impose a retail levy be introduced: would it be advantageous to the Council in the future to have access to legal powers to impose a retail levy on large retail businesses?
- 14.2 If such powers were available and the Council wished to use them, it would need to explore the risks and benefits of imposing a levy. OSMB may find it useful to take note of these issues in the course of determining its recommendation:
- a. Legal implications – see page section 16.
 - b. Investment of the levy income: it could aid investment in ‘town centres’ and small businesses which would be welcomed. In Northern Ireland the levy funds small business rate relief.
 - c. The impact on investment from existing/new businesses and jobs, especially in the city centre where 44% of the potential businesses who would be levied are located.
 - d. The danger that such a levy might drive investment to competitor locations e.g. Cribbs Causeway, Bath.
 - e. The area covered by the levy – this could potentially extend to the functional economic area - the whole of the West of England.
 - f. The impact of the levy on existing and planned Business Improvement Districts (BIDs). Concerns have been raised over double taxation of businesses in BID areas.
- 14.3 Any future Council decision about implementing a levy would depend on the flexibility of the legislation or guidelines supporting the powers, for example:
- g. Could there be a different levy for those areas where there is already a Business Improvement District?
 - h. Could different levels of levy be considered depending on the location of the retail property and the rateable value (tapered approach)?
 - i. Could a levy be applied selectively, for example confined to supermarkets or properties outside of town centres e.g. where there are large free car parks?
 - j. Could there be a lower levy for those investing in green measures e.g. freight consolidation?

15. Public Sector Equality Duties

- 15.1 Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.
- 15.2 An Equality Impact Assessment has not yet been undertaken. The Council’s Equalities Team have provided some comments which need consideration in further detail:
- i) If the proposal was adopted, how would the Council build equalities into considerations of where we re-invested the funds? What might the priorities be? What do we know about the businesses or local populations that might benefit from investment – and what are the mechanisms for ensuring we look at this through an equalities lens and maximise opportunities?
 - ii) To what extent, if some of the risks that have been raised by stakeholders were to materialise – would that have an impact on equalities groups? For example, if there was disinvestment in a retail park with a local population of x – would it have an adverse impact on them in terms of either (a) local facilities or (b) employment opportunities? What do we know about who these larger organisations employ in terms of workforce? How would we be able to identify and mitigate against any risks?

- iii) General governance and process issues if it was to go ahead – how would you build equalities into this project? What equalities stakeholders or community groups might you need to engage with?

16. Legal and Resource Implications

Legal

The Sustainable Communities Act

- 16.1 The Sustainable Communities Act and associated regulations provide that Councils may submit proposals to the Secretary of State. The Act provides that such proposals may be submitted in response to an invitation from the Secretary of State. It is understood that following the amendment to the legislation in 2010 the practice of the Secretary of State is to no longer apply a deadline for the submission of proposals, and that consequently the invitation is a general one.
- 16.2 Any proposals must meet the objectives of the Act which are to encourage the improvement of the economic, social or environmental well-being of the authority's area. Further details of these criteria are identified in the legislation which provides a detailed schedule of more specific matters to which the Council must have regard in formulating any proposals.
- 16.3 The Council is also required to consult and try and reach agreement about the proposals with persons who in the opinion of the Council are representatives of interested local persons.

Alteration of BID Proposals

- 16.4 Consideration has been given to whether it would generally be possible for BID proposals to make provision for what would happen if a general retail levy were introduced.
- 16.5 Although in certain circumstances BID proposals can be varied, if by doing so the intention was to avoid businesses being liable for two business levy's, then the proposed BID arrangements would have to provide that in the event of a general levy being introduced either;
 - (i) That the BID levy would be reduced or refunded in whole or in part (and by extension that the general levy would pay for the BID works and services) or;

(ii) That the general levy would not be applied

16.6 In either case the bid proposer would be proposing something that is not currently within its powers whilst making an assumption about the relationship between the BID levy and a general levy which at this point cannot be known, and which would require legislation to resolve.

16.7 Therefore, it would not be possible for BID proposals to make provision for what would happen in the event of a general levy being introduced. Should a general business levy subsequently be introduced it would be necessary to determine whether (i) or (ii) was possible based on the content of the new statutory provision that introduced it.

State Aid

16.8 Taxing a certain sector will mean that organisations outside that sector have a commercial advantage over providers within the sector. If the advantage is selective, then it will tend to distort competition and be incompatible with the State aid rules. Whether an advantage is selective will depend on whether:

- the advantage conferred favours undertakings or products in a comparable legal and factual situation; and
- the approach is not justified by the nature or general scheme of the tax system of which it forms part.

The courts recently outlined a 5 step approach to the above:

1. Identify what is normal taxation under the specific tax regime, against which the measure in question is to be compared.

This is the normal rates system imposed on non-residential premises.

2. Identify the objective pursued by the specific tax regime.

Currently, this is improving “local economic activity, local services and facilities, social and community well-being and environmental protection”.

3. Consider whether the situations of the undertakings/products in question are comparable

This requires consideration of whether the:

- a) retail / non retail sectors
- b) large retail / medium and small retail sectors
- c) large retail within Bristol’s boundaries / large retail outside of Bristol’s boundaries sectors are comparable legally and factually.

This would require a detailed analysis of the factual evidence but for present purposes this advice is based on the two assumptions below:

a) retail / non- retail sectors (e.g. industrial, commercial, financial) - these sectors are not competing against the large retail market and so are not in a comparable legal/factual situation.

b) large retail /medium and small retail – these sectors are more likely to be competing against each other and so may be in a comparable legal/factual situation.

It would be necessary to demonstrate that the actual effects of the levy would be minimal, in that companies occupying small and medium sized premises would be unlikely to obtain any commercial advantage (e.g. a larger market share or lower prices) as a result of the levy.

c) large retail within Bristol's boundaries / large retail outside of Bristol's boundaries – again these sectors are likely to be competing against each other and so may be in a comparable legal/factual situation.

4. If they are comparable, consider whether they are taxed differently

These sectors will be taxed differently.

5. If they are taxed differently, consider whether that difference in tax treatment is justified by the objective pursued by the regime.

A similar scheme was implemented in Northern Ireland which involved levying 15% on all retail premises with a rateable value over a certain amount.

16.9 However, the circumstances in Northern Ireland are not entirely comparable. Firstly, no revaluation of rateable properties has been carried out since 2003 (as opposed to 2010 in England), and they also had an ineffective small business rate relief scheme (SBRRS). The objective of their levy was to provide funds for the SBRRS, and to rebalance the rating system. The levy was calculated as the amount necessary for the SBRRS. The large retail sector was picked due to its growth in the downturn period.

16.10 Also, the measure in Northern Ireland was limited to 3 years at the end of which the next revaluation of rateable properties was to occur. This is likely to have influenced the judgement of the EU that the effect on competition would be limited.

- 16.11 Therefore, much of the justification used in the Northern Ireland situation would not be available to the Council and it would be necessary to give further consideration to the justification for the measure generally and the particular criterion proposed, for example why the provision should be limited to the retail sector and upon what basis the threshold should be set at a minimum rateable value of £500,000.
- 16.12 If the proposed measures do constitutes State aid, then if the amount received by each undertaking is less than EUR200k in any 3 year rolling period this would be permitted under the de minimis exemption. However, this exemption may not be available to all undertakings, in particular chains with a considerable number of premises particularly if the scheme is introduced nationally.
- 16.13 In summary, it is not possible to determine at this stage whether the proposed measures would constitute State aid. Key considerations are outlined above, but this is a complex area and further consideration would need to be given to the issues raised.

(Legal advice provided by Liam Nevin – Service Director, Legal Services)

Financial

(a) Revenue

Any additional power which provides local authorities the ability to raise income to support its strategic aims is welcomed. This report is clear that the decision as to whether Bristol would adopt a levy, should legislation be enacted, would be subject to further analysis and consultation. This report in itself therefore has no direct financial impact on the Council at this time and potential impacts cannot be identified until its interaction with the National Rating schemes in place have been agreed.

(b) Capital

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(Financial advice provided by Lloyd Mead – Management Accountant)

Land

Advice not yet received.

Personnel

Advice not yet received.

Appendices:

Appendix A - Retail properties potentially affected by levy proposal (in order by rateable value)

Appendix B - Small Business Rate Relief

Appendix C - Comments received from business organisations and businesses in response to initial consultation

Appendix D - Northern Ireland Retail Levy experience

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers:**

None

Appendix A

Retail properties potentially affected by levy proposal (in order by rateable value)

Name and address of the business	Rateable value	Annual levy contribution based on 8.5% in £
B & Q, Muller Road, Horfield, Bristol, BS7 9NU	500000	42500
Matalan, Unit 4c, Brislington Retail Park, Bath Road, Bristol, BS4 5NG	505000	42925
Gardiner Haskins, Broad Plain, Bristol, BS2 0JP	510000	43350
Toys R Us, Unit 5, Brislington Retail Park, Bath Road, Bristol, BS4 5NG	525000	44625
Sports World International, 13-19, Broadmead, Bristol, BS1 3HF	530000	45050
Zara UK, 40, George White Street, Bristol, BS1 3BA	530000	45050
Waitrose, 51, Northumbria Drive, Bristol, BS9 4HN	535000	45475
Acadia, 39, George White Street, Bristol, BS1 3BA	545000	46325
Top Shop/Top Man, 25, Brigstowe Street, Bristol, BS1 3BH	600000	51000
New Look, 54, The Circus, Bristol, BS1 3BD	600000	51000
Costco Wholesale Uk Ltd, St Brendans Way, Avonmouth, Bristol, BS11 9EZ	605000	51425
Harvey Nichols, 1, Philadelphia Street, Bristol, BS1 3BZ	610000	51850
Boots, 59-63, Broadmead, Bristol, BS1 3EA	640000	54400
Tesco Homeplus, Imperial Park, Wills Way, Bristol, BS13 7TJ	660000	56100
Next, 22, Brigstowe Street, Bristol, BS1 3BH	690000	58650
H & M Hennes 24, Brigstowe Street, Bristol, BS1 3BH	710000	60350
BHS Ltd, 40-46 Broadmead &, 50-70, Merchant Street, Bristol, BS1 3EP	785000	66725
The Range Home & Leisure, Unit 7, Imperial Park, Wills Way, Bristol, BS13 7TJ	860000	73100
J Sainsbury Plc, Unit 14, Clifton Down Shopping Centre, Whiteladies Road, Bristol, BS8 2NN	895000	76075

Marks & Spencer, 78-82, Broadmead, Bristol, BS1 3DW	930000	79050
Asda, Oatlands Avenue, Bristol, BS14 0ST	1040000	88400
Primark, The Horsefair, Bristol, BS1 3BB	1170000	99450
W M Morrison, 692-716, Fishponds Road, Fishponds, Bristol, BS16 3UE	1310000	111350
Tesco, Golden Hill, Bristol, BS6 7YG	1320000	112200
Debenhams Ltd, The Horsefair, Bristol, BS1 3JP	1380000	117300
B & Q Warehouse, Unit 1, Imperial Park, Wills Way, Bristol, BS13 7TJ	1400000	119000
WM Morrison, Peterson Avenue, Bristol, BS13 0BE	1520000	129200
House Of Fraser, The Circus, Bristol, BS1 3BD	1560000	132600
J Sainsbury, Bloomfield Road, Bristol, BS4 3QU	1750000	148750
Tesco Stores Ltd, Muller Road, Eastville, Bristol, BS5 6XU	2510000	213350
J Sainsbury Plc, Winterstoke Road, Bristol, BS3 2NS	2510000	213350
Asda Stores Ltd, East Street, Bedminster, Bristol, BS3 4JY	2640000	224400
Tesco Stores, Callington Road, Bristol, BS4 5AY	2770000	235450
Ikea Ltd., Eastgate Shopping Centre, Eastgate Road, Bristol, BS5 6NW	3340000	283900
Total	38,985,000	3,313,725

Appendix B

Small Business Rate Relief

- Rateable value below £6,000: Small business rate relief set at 100%, rather than the standard 50%.
- Rateable value £6,000 - £12,000: The tapering (on a sliding scale) of small business rate relief is set at 100% at the bottom of this range through to 0% at the top, rather than the standard 50% through to 0%.
- Rateable value between £12,001 and £18,000: No small business rate relief is provided, instead the small business rate multiplier is used.'

Adapted from Rating of Commercial Properties: small businesses, large retail properties and empty shops, Public Consultation Paper June 2011.

Appendix C

Comments received from business organisations and businesses in response to initial consultation

Name of organisation/ business	Object, support or no comment	Detailed comments
Destination Bristol	Object	<p>Destination Bristol (DB) is opposing the motion of a levy on large retail outlets for the following reasons:</p> <p>Bristol wants to become the most open and welcoming city for businesses DB shares the Mayor's recently expressed vision (speaking in Cannes at MIPIM, 14th March 13) for Bristol to become the most open city for business in the UK.</p> <p>Introducing a levy for certain businesses contradicts this vision and sends out the wrong message to investors – preventing instead of encouraging new business; creating new barriers instead of removing red tape. Introducing a levy that penalises successful large retailers undermines the attempts to attract inward investment and will deter future investment and individual store expansion.</p> <p>Negative impact on employment: Bristol should be encouraging job creation, not increasing the cost of doing business.</p> <p>Tourism could also be adversely affected as large retailers attract visitors and provide their suppliers with markets beyond the city.</p> <p>Negative impact on economic regeneration: If larger retailers were to pull out of Bristol or be discouraged from entering the local market, larger retail units might be increasingly difficult to let, leading to shopping areas suffering from large vacant</p>

	<p>sites that are difficult to be filled by small businesses. This could result in declining footfall and negative impacts on other businesses in the area.</p> <p>Alternative approach: DB would advocate a more targeted approach to support local businesses and provide sustainable improvements for high streets/ city centres. Rather than transferring some of the burden to larger retailers we would prefer examining possible relief schemes for small businesses, particularly through a more flexible approach to Business Rates and a strategic and integrated city wide campaign to support local businesses.</p>
<p>Bristol Alliance/ Cabot Circus</p>	<p>Although the campaign relates to mitigating the impact of large supermarkets, Bristol Alliance is deeply concerned regarding the potential implications for other large retail units in Bristol city centre, including those within Cabot Circus. The implications of such a levy would be extremely counter-productive to tenants and retailers wishing to invest in Bristol city centre at a time when retailing as an industry is suffering significantly.</p> <p>Bristol Alliance has worked alongside the City Council to bring forward major investment in the city and also to defend the city centre's role as the principal retail destination in the south-west in the face of serious competition from other destinations (e.g. The Mall, Cribbs Causeway).</p> <p>The investment that Bristol Alliance and the City Council has made (and continues to make) would be seriously undermined by the introduction of a levy of this nature and Bristol Alliance urges the Council not to support this motion.</p> <p>Bristol Alliance (and its advisers) is currently considering the full implications of this suggested levy and the legal basis for its imposition. Further written submissions will</p>

		<p>be made to the Council in due course.</p> <p>At this stage, however, and as a significant investor in the city centre and its surrounding communities, Bristol Alliance objects to the proposed introduction of a levy on large retail units.</p> <p>Bristol Alliance wishes to be kept fully informed of the Council's consideration of this most urgent matter and is likely to attend any forthcoming Scrutiny Session at which this subject is to be considered.</p>
Institute of Directors	Object	<p>On behalf of IoD I would be disappointed to see Bristol City Council support calls for a Levy on large retail outlets for a number of reasons:</p> <p>The retail sector is already under pressure from the effects of internet retailing and the economic downturn so further increase in costs at this time may send others out of business creating unemployment and empty properties.</p> <p>Large retailers can bring much needed investment and employment opportunities and already make significant contributions to the public purse through business rates, VAT, employers NI, section 106 agreements etc.</p> <p>Employees in the retail sector also contribute income tax and NI on earnings and large retailers provide a good number of flexible and part-time employment opportunities which can help people get into work and stay off benefits.</p> <p>If such a levy were to be introduced then these would be met by passing on higher prices to consumers and cutting costs with suppliers.</p>
Rise Music	Object	<p>This is madness and any lobbying by "Local Works"; who are they?, should be resisted at all costs.</p> <p>Is there no end to the insatiable appetite of</p>

		<p>the state to raise taxes wherever they possibly can, at will, to support ill-conceived minority views?</p> <p>Why are you even considering interfering in the free market?</p> <p>Please ask “Local Works” to explain how they believe this tax will “<i>improve local economic activity, local services and facilities, social and community wellbeing and environmental protection</i>”</p>
The Rummer	Object	<p>It is my opinion that a levy should not be implemented.</p> <p>Besides the economic and employment arguments, if large vendors were to pull out of Bristol or be discouraged from entering the local market we may have our shopping areas ruined by large empty sites that small business cannot fill, with a resulting decline in trade for other suppliers in the area.</p> <p>I would oppose any tax increase on any sector within the city. It sends entirely the wrong message to investors, and to anybody hoping to expand their business. Bristol should be a place that is good to do business, not one that throws up more and more barriers.</p> <p>Bristol has a strong independent movement, which shows no signs of ill-health, or a need for state funding or help.</p> <p>A liberal paternalist approach with small targeted schemes would be preferable to bolster communities and local traders. Schemes like the Bristol Pound, or New York's aim to secure a .ny top level domain for its local businesses shows an inventive and positive approach to the problem, as well as gaining a great deal of international press.</p> <p>It is a dangerous precedent to set, and think a levy should be avoided.</p>

Niche Frames	Object	<p>In my opinion the main reason that Supermarkets pose a threat to local shopping areas is that they have large parking areas which are not subject to any charges for their customers. It does not seem likely that any levy charged by the Council on such Supermarkets would be used to provide such facilities in local shopping areas as most of our Councillors seem blissfully unaware or indeed hostile to how essential the motor car is to business!</p> <p>Add to this how in our Shopping street which is Stokes Croft the local food stores with maybe one or two exceptions do a roaring trade in selling cheap and plentiful alcohol and not much of anything else that could be held to be healthy and I think you can say I have no faith in the situation for small shops to improve. Most larger Supermarkets stock more healthy options at a much cheaper price than a lot of local stores.</p> <p>I think as a shopkeeper who dealt with Ikea's arrival in Bristol by working out what we as a small local Picture Framer could do better than them, rather than panic, and saw as a result our business go on to gain strength and flourish I would advice other local businesses to do the same and not rely on the actions of people in the Council who seem to have very little idea of how local business could succeed if it was given a level playing field.</p>
Business West	No comment at this point	
Bramley Pope	Support	<p>If you propose a levy on larger retail and supermarket outlets, it may make them think a little about where they are going to position themselves.</p> <p>Taxing them on holding onto land for redevelopment until 'the time is right' wouldn't go amiss either.</p> <p>Taking out alcohol sales and putting that</p>

		<p>back into off licences, where those sales can be monitored better.</p> <p>Stopping them being 'all things to all' and so leaving very little left for the independent to compete successfully with.</p> <p>I get that people want cheap stuff... we are told constantly that we shouldn't pay so much for goods and services, I fall for it myself.</p> <p>So yes I'm with it all the way, unless they can put forward a really good argument against it, which will probably involve a statement saying they'll have to put up their prices and therefore how evil the idea is... catch 22 maybe.</p>
Beast Clothing	Support	<p>We think this is a great idea, but it goes nowhere far enough. How about charging all retailers business rates at the same rate per square foot, regardless of big they are? The amount we are obliged to pay on our market stall seems totally unfair and unjust. We just want a level playing field which isn't weighted in favour of the large chains.</p>
Common Capital/ Pop-Up Bristol	Support	<p>I think this is one of those where it's kind of political and obvious that some people will love it and some vested interests will hate it. I happen to love it but there you go.</p> <p>But I think the important thing is the principle that councils should use whatever levers they have in their power to support the economic, social and environmental wellbeing of their area. Not many would disagree with that.</p> <p>Recently the Social Value Act introduced a duty on councils to consider this in the procurement process. This had support across the political spectrum and I know your procurement folk are looking at how they can use it. Again hard to disagree.</p> <p>But procurement is just one lever. How the Council manages assets is another (both physical and financial). Business rates are another. Etc.</p>

		<p>Did you see my publication recently on Business Rates on behalf of Social Enterprise UK, Meanwhile Space and 3Space?</p> <p>I would hope you had a strategic business rates policy that worked in your enlightened self-interest which supported businesses which delivered social, economic and environmental wellbeing and penalised those that didn't. Again, tricky to disagree in principle I think.</p>
Association of Town & City Management	No comment	<p>This is something that has been proposed and dropped in Scotland but was successfully brought through in NI. ATCM is yet to take an official position on this because we know there are strong views on both sides and we need to ensure we reflect the opinions of the majority of our membership. We will probably consult on this at some stage but until then, we could not officially support/oppose this. However, if you need any further advice/assistance on experiences of the Large Retail Levy across the UK then we are happy to help.</p>
Tesco	No comment	<p>Will leave British Retail Consortium to respond on behalf of large retailers.</p>
Federation of Small Businesses	Support	<p>We discussed this at our committee meeting and as a group the FSB committee in Bristol are supportive of the move, but with some of the concerns I identified below:</p> <ul style="list-style-type: none"> • what about those businesses who fall just under the threshold - should it not be on turnover? • will it drive away potential future investment? • will the businesses paying the excess have a say in how it is spent? • could it lead to an increase in empty large units? especially as many retailers now have over capacity • what about multi occupancy buildings where some businesses just take up space as sublets - Debenhams

		Not sure how this may impact on the big stores in BID areas it would effectively mean they are paying an additional 10%.
Gloucester Road Traders' Association	Support	I think we would welcome the idea for this levy on the big supermarkets.
Bristol Pound	Support	<p>In principle I think yes, it may get more traction if there is a clear purpose for any fund in terms of long and medium term interventions to support the independent sector.</p> <p>E.g. projects for improving public spaces - for markets? - in deprived areas. Or access to online, web, social media etc. for smaller traders, etc.</p> <p>The funds raised could be denominated in £B.</p>
Radford Mill Farm Shop	Support	<p>I am the owner of Radford Mill Farm Shop, a small retail food store in Picton St., Montpelier. We have traded there for 34 years. When we started in 1979 the British public spent approximately 41% of their disposable income on food; as of 2011 the number is 9.5%. Also, in 1979 there were four supermarkets in Bristol; now there are 52 (counting all the smaller outlets with national branding and distribution). We have seen a general and steady downward trend in our sales, particularly over the last 10 years, which has coincided with a rapid increase in the number of large multiple-outlet stores particularly within a short distance of Picton Street.</p> <p>So taking all that data together, it would seem obvious that the large multiple-outlet retail stores have had a significant effect on our ability to trade successfully; and I suspect the evidence is equally convincing for many other small local retailers in this city and in the rest of the country. That the large multiples have a deleterious effect on the High Street is a no-brainer, and nay-sayers are really not looking at the facts, rather like nay-</p>

sayers about climate change. It seems that the advertising slogan "Every little ... helps" is actually true: it helps the multiples, at the direct cost to the small local retailers.

Therefore I would support the concept of a surcharge on multiples, particularly if the revenue gained was indeed applied to "improve local economic activity" and other services. How would the council administer the revenue to be spent? Does a small Tesco outlet deserve assistance because it is part of the "local economic activity"? Does a local bookmaker deserve such benefit? What about a local massage parlour? What about a small local "Subway" fast-food outlet? What about an independent corner shop that sells cider cheaper than cola?

If I understand this proposal correctly there are some underlying assumptions about large multiples:

- it is inherent in their type of business, and despite some of the services they may offer, that their particular business model and advertising and branding activities are detrimental to local economic activity, local services and facilities, social and community wellbeing and environmental protection; and
- the multiples are well able to afford an extra surcharge.

The inherent nature of the undesirable effects is a key point that needs to be very clearly understood and stated. Otherwise I can envisage well-meaning councillors being advised by well-meaning council officers and solicitors, that they must consider an application for assistance for providing a local pharmacy service, a local fresh-fish monger, computers-to-local-schools, local banking facilities, etc. Needless to say all of those apparently "local" services are seemingly provided by ... the multiples! If this were to

		<p>happen the entire concept of the extra levy would be fatally undermined.</p> <p>Therefore, we have to be very careful - - and very explicit - - about how we are defining "local". It is not the selling of the goods and services; those are always sold locally, or could be sold "locally" by a local franchise operator.. It is the origin of the products and services, the distribution channels, and the advertising/branding of the products that must be evaluated in order to make some judgment. And I can foresee a very long and difficult path ahead; for instance, a massage parlour is clearly offering a local service by any definition, but the evaluation of "social and community wellbeing" could be argued either way, as could the sale of cheap alcohol, and so on.</p> <p>Please advise me how the council is beginning to think about this subject. And also please advise me about the best form of input from a small local shopkeeper.</p>
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Appendix D

Northern Ireland Retail Levy experience

Policy drivers:

- No Revaluation since 2003
- Ineffective small business rate relief scheme
- High street issues
- Downturn & growing unpopularity of rates
- Public spending squeeze

Starting principles:

- Needs primary legislation in Northern Ireland
- Temporary measure for 3 years
- Coupled with doubling of Small Business Rate Relief
- European State Aid compliance shaped policy
- Cannot be just out of town

Working behind the scenes:

- EU Commission
- Looking to Scotland for lessons
- Open to other policies from consultation
- Keeping it simple (billing and valuation)
- Getting help
- Engaging in pre-consultation

Measures of success:

- Everyone has paid the levy
- There has been no disinvestment
- Ikea still open
- No judicial review
- Political success and raised credibility
- Economic impact – probably modest but has acted as a catalyst
- Unified opinion on need for revaluation
- Letters and email from victims