

TONBRIDGE & MALLING BOROUGH COUNCIL
FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

03 June 2015

**Joint Report of the Director of Finance and Transformation and
Cabinet Member for Finance, Innovation and Property**

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 APPLICATIONS FOR DISCRETIONARY RATE RELIEF

A report giving details, at Paragraph 1.1., of renewal applications for discretionary rate relief. Renewal applications for rural rate relief are dealt with at Paragraph 1.2. Details of new applications for discretionary rate relief are shown at Paragraph 1.3.

The previously agreed criteria for determining applications for discretionary rate relief are attached at [ANNEX 1].

The Council's policy in respect of rural rate relief is attached at [ANNEX 2].

1.1 Renewal applications for discretionary rate relief

1.1.1 Members will be aware that discretionary rate relief can be granted (as shown at [ANNEX 1]) either as a top-up to mandatory rate relief (in respect of charitable organisations and community amateur sports clubs) or, on its own, to non profit-making organisations that are not charities etc. (and do not therefore qualify for mandatory rate relief).

1.1.2 Organisations that had awards of discretionary rate relief time-limited to 31 March 2015 have been invited to re-apply, and we have listed, at [ANNEX 3], the applications that have been received so far.

1.1.3 The annex details the level of discretionary rate relief awarded in 2014/15 and the amount of relief the organisation would receive in 2015/16 if the same level were awarded.

1.1.4 There is no longer a direct cost to the Council in awarding relief. However, Members should note that all awards of relief affect the Council's business rate yield; for 2015-16, based on previous criteria and level of applications, it has been estimated that £202,000 discretionary relief will be awarded.

- 1.1.5 In respect of those organisations shown at **[ANNEX 3]**, we have considered each application and believe that each organisation meets the criteria, and is of particular benefit to the needs of the residents of the Borough. Therefore, there appear to be good grounds for continuing the current level of discretionary rate relief in each case. Further details on each organisation (so far as we have them) can be provided, at the meeting, if requested by Members.
- 1.1.6 Members are advised, however, that Cobdown Sports & Social Club have asked for the maximum award of relief this financial year as they are still struggling to break even (they were previously awarded 10% top up relief for the period 1 April 2013 to 31 March 2015).
- 1.1.7 The club offers the only squash and croquet facilities in the area and provides training for juniors in these sports. It also offers training facilities to Kent County Football Association. That having been said, the unfavourable economic climate affects many organisations and business, as well as the Council. Therefore, unless Members consider that Cobdown should be made an exception, it would appear that an increase in the level of relief is not justifiable and we have reflected that in the recommendation below.
- 1.1.8 Should Members support a maximum award of 20% top up relief, the club will receive an additional £3,253.80 relief for 2015-16. Members may also wish to time limit an award of relief to 31 March 2016, considering the financial status of the club. Should Members decide to leave the level of relief at 10%, then we suggest that it is time-limited to 31 March 2017.
- 1.1.9 The Council's own financial position is, of course, still very challenging and it is important to recognise that whilst it may be possible to provide the level of assistance at the current time, it may not be sustainable into the future. Accordingly, Members might consider that, when writing to the organisations concerned, it would be prudent to advise the organisations that there could be a reduction in the level of relief awarded by the Council in the future should further applications for relief be made.
- 1.1.10 Members are **REQUESTED** to **RECOMMEND** to Cabinet that:
- 1) in respect of re-applications for relief as shown at **[ANNEX 3]** with the exception of Cobdown Sports & Social Club and the Pre-School Learning Alliance, 20% discretionary rate relief be awarded in each case with effect from 1 April 2015, and time-limited to 31 March 2017;
 - 2) in respect of the re-application from the Pre-School Learning Alliance, 5% discretionary rate relief be awarded with effect from 1 April 2015, and time-limited to 31 March 2017;
 - 3) in respect of the re-application from the Cobdown Sports & Social Club, 10% discretionary rate relief be awarded with effect from 1 April 2015, and time-limited to 31 March 2017.

1.2 Renewal applications for rural rate relief

1.2.1 Members will be aware that discretionary rural rate relief can be granted either as a top-up to mandatory rural rate relief or, on its own, in cases where mandatory rural rate relief may not be granted (as shown at **[ANNEX 2]**). Members will also be aware that it is the Council's policy to seek the views of the appropriate parish councils in respect of applications for rural rate relief regarding properties in their areas. However, we have not consulted the parishes in respect of these cases because they are not new applications for relief but renewal requests.

1.2.2 The applications for relief are shown at **[ANNEX 4]**. Before we comment on the merits of the applications that Members have before them, we think it worthwhile to draw Members' attention to the following aspects of the rural rate relief policy (as previously agreed by Members).

- The legislation underpinning the rural rate relief scheme recognises the importance of small rural businesses. As such, a rural business (post offices, general stores, public houses etc) occupying premises with a rateable value under a specified level, may qualify for mandatory rural rate relief. This gives a business an automatic entitlement to 50% rate relief. Up to a further 50% discretionary relief may be awarded by the Council, to top up the mandatory relief.
- If a rural business has no entitlement to mandatory rural rate relief, because it occupies premises with a rateable value over a specified level, or there is more than one such similar business in the settlement area, then the Council may grant discretionary relief (this may not be awarded if the rateable value of the premises exceeds £16,500).
- The policy states, as general considerations, that the 'Council wishes to target relief primarily at properties that are providing essential facilities for the local community ... where the number of such facilities in any settlement is limited **and mandatory rural rate relief has been awarded**'. The policy goes on to state that, 'as a general rule, the Council takes the view that the amount of relief that it would grant should decrease as the number of shops in a rural settlement increases'.
- Notwithstanding the foregoing, the policy does give Members the scope to grant relief to businesses that would not otherwise qualify for relief under the terms of the policy but are 'demonstrably important to the life of the community'.

1.2.3 As stated at previous meetings of your Board, we do not think that consideration of the applicants' accounts will greatly assist Members. In some cases losses will be shown and in others profits. Should Members support the loss-making businesses in preference to those that are showing a profit or vice versa? In the case of those that are showing a loss, this might be because of various factors,

e.g. the expenses incurred by the business or drawings by the owners. What is reasonable? Is the business occupying premises that are too large; is its stock appropriate; is it maximising income?

- 1.2.4 Bearing in mind the comments in the foregoing paragraph, we would suggest that Members focus on the nature of the business; its location; its intrinsic value to the local community; and the impact on the community were it to be lost, rather than whether the business is being run in a way that Members consider appropriate.
- 1.2.5 Members are **REQUESTED** to consider the applications and make appropriate **RECOMMENDATIONS** to Cabinet regarding discretionary rural rate relief. If relief is awarded, Members might wish to consider time-limiting any awards of relief to 31 March 2017.
- 1.2.6 As mentioned at paragraph 1.1.9, Members might consider that, when writing to the organisations concerned, it would be prudent to advise the organisations that there could be a reduction in the level of relief awarded by the Council in the future should further applications for relief be made.

1.3 New applications for discretionary rate relief

- 1.3.1 Since the last meeting of the Board, we have received four new applications for rate relief that have reached a stage where they are ready for Members' consideration. We give below further details of these applications.
- 1.3.2 **St Johns Ambulance Brigade, 136 Vale Road, Tonbridge, Kent, TN9 1SP. Rateable Value £1,575**
- 1.3.3 The applicant is a registered charity and we have therefore granted 80% mandatory rate relief. It is for Members to decide whether discretionary relief should be granted as well.
- 1.3.4 The applicant has requested the additional 20% 'top up' in respect of their property in Tonbridge which is used for first aid training and a meeting place for volunteers.
- 1.3.5 The Council's criteria for national charities states, as a general rule, the Council is unlikely to grant relief to national charities located within the Council's area unless there is some specific benefit to the residents of Tonbridge and Malling over and above the benefit to the residents of other areas in which the charity operates.
- 1.3.6 As it would appear that there is no specific benefit, Members may wish to recommend to Cabinet that relief should not be granted.
- 1.3.7 Should Members decide to award 20% top up discretionary relief, the applicant will receive an additional £155.30 relief.
- 1.3.8 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is

awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2017.

- 1.3.9 **The Heart of Kent Hospice Trading Ltd, 5 Malling Road, Snodland ME6 5AA. Rateable Value £5,500 and 109 Hall Road, Aylesford ME20 7RE. Rateable Value £24,750**
- 1.3.10 The applicant is the trading arm of the charity, and is conducted for profit. It is not a registered charity, and the granting of mandatory rate relief is not, therefore, appropriate. It is for Members to decide whether discretionary relief should be granted, and if so, the level of relief.
- 1.3.11 The application is in respect of their charity shop in Snodland and their storage facility in Aylesford. The applicant has stated that the majority of goods are donated and that the proceeds from the sale of these goods are used to support the running of the hospice.
- 1.3.12 An application for the charity shop was previously refused by Members on 20 May 2009 (Decision Notice D090071MEM refers) and therefore, unless Members feel that special considerations apply, an award of discretionary relief may not be appropriate.
- 1.3.13 Should Members decide to award 100% discretionary relief, the applicant will receive £2,640 relief for the charity shop and £12,201.75 relief for the warehouse. Members should also be aware that the charity shop is currently benefiting from the retail relief scheme, with £1,500 relief already awarded for the current financial year.
- 1.3.14 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2017.
- 1.3.15 **Holborough Management Ltd, 6 Higham Avenue, Snodland ME6 5GE. Rateable Value £5,800 and 2 Amisse Drive, Snodland ME6 5GN. Rateable Value £4,200**
- 1.3.16 The applicant is not a registered charity; however, it is not conducted for profit as it is established to deliver services to residents of the Holborough housing estate. The granting of mandatory rate relief is not, therefore, appropriate. It is for Members to decide whether discretionary relief should be granted, and if so, the level of relief.
- 1.3.17 The application is in respect of the gymnasium and village hall. The gym is supplied for residents of the estate to use and the hall is used for meetings and social activities.

- 1.3.18 As the applicant is only providing services to residents of the estate (in respect of the gym), Members may feel that an award of discretionary relief is not appropriate. Applications for village halls were previously refused by Members on 8 July 2009 (Decision Notice D090098MEM refers) and therefore, unless Members feel that special considerations apply, an award of discretionary relief may not be appropriate for the hall.
- 1.3.19 Should Members decide to award 100% discretionary relief, the applicant will receive £2,784 relief for the gym and £2,016 relief for the hall.
- 1.3.20 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2017.
- 1.3.21 **The Charity Bank Ltd, Ground & 1st Floor Fosse House, 182 High Street, Tonbridge, Kent, TN9 1BE. Rateable Value £100,000**
- 1.3.22 Applications from **The Charity Bank Ltd** were previously considered at the 14 May 2014 meeting of this Board where Members recommended that the applicant be awarded 80% discretionary relief, time limited to 31 March 2015 (Decision Notice D140052MEM refers) and on 7 January 2015, where Members recommended that the applicant be awarded 30% discretionary relief, time limited to 31 March 2015 (Decision Notice D150001MEM refers).
- 1.3.23 A reduced award of relief was considered appropriate in January as the applicant was relocating to premises with a significantly higher rateable value. The level of relief awarded reflected the increased business rates, with the 30% relief equating to roughly the same amount as the 80% awarded on their previous premises.
- 1.3.24 Since the January meeting of this Board, the Valuation Office has merged the two separate assessments at the address into one assessment, however, there has been no change in the overall rateable value.
- 1.3.25 The Council's criteria state that the amount of relief may be limited where bodies are occupying premises with high rateable values. For 2015/16, an award of 80% relief will reduce the applicant's business rate liability by £39,440. An award of 30% relief will reduce the applicant's business rate liability by £14,790.
- 1.3.26 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members might wish, in view of the uncertainty surrounding Government funding for future financial years, to consider time-limiting any awards of relief, initially, to 31 March 2017.

1.4 Legal Implications

- 1.4.1 As the granting of relief is a discretionary action, the only implication would be a challenge by way of judicial review if an organisation were unhappy with a decision. Such a challenge can succeed only when the Council behaves unreasonably.

1.5 Financial and Value for Money Considerations

- 1.5.1 In respect of all applications for rate relief, the financial considerations of granting relief are as set out in the body of the report. If relief is not granted, there is a beneficial impact on the Council's finances. This should not prevent each application being considered on its own merits however, as there must be some degree of consistency to prevent a legal challenge.

1.6 Risk Assessment

- 1.6.1 The only risk that we are aware of is a legal challenge to the Council's decisions (see above). This is unlikely.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

The Director of Finance & Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

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Applications for relief from the organisations referred to in the main body of the report received since 1 April 2015, and held in Financial Services.

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