

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**FINANCE and PROPERTY ADVISORY BOARD**

**08 January 2014**

**Report of the Director of Finance & Transformation and  
the Cabinet Member for Finance, Innovation & 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. Details of new applications for discretionary rate relief and rural rate relief are shown at Paragraph 1.2.**

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

**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 2013 have been invited to re-apply, and we have listed, at [ANNEX 2], the applications that have been received since the last meeting of this Board.
- 1.1.3 The annex details the level of discretionary rate relief awarded in 2012/13 and the amount of relief the organisation would receive in 2013/14 if the same level were awarded.
- 1.1.4 With the introduction of the business rate retention scheme from 1 April 2013, there is no longer a need to hold a budget within the revenue estimates for the cost of relief awarded. However, Members should note that all awards of relief (whether mandatory or discretionary) affect the Council's business rate yield; for 2013-14, it was estimated that £132,000 discretionary relief would be awarded. That figure excludes any relief that members might grant this evening.
- 1.1.5 In respect of the organisations shown at [ANNEX 2], we have considered the applications and believe they meet at least two of the main criteria identified by

Members, and are of particular benefit to the needs of the residents of the Borough. To remind Members, the main criteria are:

The organisation:

- 1) is a registered community amateur sports club;
- 2) has members;
- 3) gives discounts to members;
- 4) meets one or more of this Council's key priorities;
- 5) is the sole facility in its area.

Therefore, there appear to be good grounds for continuing the current level of discretionary rate relief in each case. Further details on the organisations (so far as we have them) can be provided, at the meeting, if requested by Members.

1.1.6 Members are **REQUESTED** to **RECOMMEND** to Cabinet that:

in respect of the re-applications for relief as shown at **[ANNEX 2]**, 20% discretionary rate relief be awarded with effect from 1 April 2013, time-limited to 31 March 2015.

1.1.7 Members might wish to note that, although the Council has been affected by ongoing cuts in Government grant (excluding New Homes Bonus), we have not put forward the suggestion that there should be any reduction in the level of relief awarded to these organisations. Having said that, Members might consider that they would wish to advise the organisations that there could be a reduction in the level of relief awarded by the Council at such time as they make a further application for relief.

## **1.2 New applications for discretionary rate relief**

1.2.1 Since the last meeting of the Board, we have received two 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.

### **1.2.2 Tonbridge & Malling Leisure Trust**

1.2.3 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.

1.2.4 Members' attention is again drawn to the 'main criteria' as shown at para 1.1.5.

1.2.5 From 1 November 2013, the applicant became liable for the leisure facilities as shown at **[ANNEX 3]** that were previously operated by the Borough Council.

- 1.2.6 The Trust has been established for public benefit to provide both indoor and outdoor facilities in the interests of social welfare; promote community participation in healthy recreational activities and develop the capacity and skills for those members of the community who are socially and/or economically disadvantaged. The Trust operates solely within the Tonbridge & Malling area.
- 1.2.7 The application is in respect of the following properties:
- 1-5 Martin Square, Larkfield (Head Office)
  - Larkfield Leisure Centre
  - Angel Centre, Tonbridge
  - Tonbridge Swimming Pool
  - Poulton Wood Golf Centre
- 1.2.8 Having considered the application, we believe the organisation meets at least two of the main criteria and therefore, Members might be inclined to grant a maximum award of 100% relief (80% mandatory relief plus 20% discretionary relief) for each property.
- 1.2.9 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief.

### **1.3 Think Twice Ltd**

- 1.3.1 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.
- 1.3.2 Members' attention is again drawn to the 'main criteria' as shown at para 1.1.5.
- 1.3.3 The application is in respect of the following properties:
- 17 Kings Hill Avenue, Kings Hill, West Malling, Kent, ME19 4UL (Rateable Value £520,000) for the period 2 August 2012 to 22 November 2013
  - Suite 1, At 35, Kings Hill Avenue, Kings Hill, West Malling, Kent, ME19 4RR (Rateable Value £176,000) for the period from 22 November 2013
- 1.3.4 The charity is established for the advancement of education, relief of poverty and the promotion of good health of vulnerable children. It operates in Central America (Guatemala, El Salvador and Nicaragua) and throughout London.
- 1.3.5 The applicant has advised that the following activities were carried out at 17 Kings Hill Avenue during their period of occupation:

- Art /Photographic exhibition that was open to the public.
- Development of the UK vocational training arm of the charity (known as Constructing Futures) and for associated meetings with Ascentis
- Courses to local youths on various subjects eg
  - Environmental awareness (supplemented by external delivery at Kings Hill youth club)
  - IT workshops
- Community events working with local youths and community groups including
  - ROC (Redeeming our communities)
  - Kent Police (crime awareness)
  - Local church groups
  - Kent Youth Development Forum

1.3.6 Although the applicant appears to meet at least two of the main criteria identified by Members, use of the premises (17 Kings Hill Avenue) appears to be limited. The art exhibition was open, free of charge, for six days per week; however, the environmental awareness courses were only delivered over a period of two weeks, and meetings with ROC and local church groups were only held on three or four occasions.

1.3.7 As the first floor remained unused throughout their period of occupation, it was decided to move to 35 Kings Hill Avenue, as it is a smaller site with fewer overheads.

1.3.8 In respect of 35 Kings Hill Avenue, the applicant has advised that they have received training accreditations from Ascentis to provide vocational courses to all age groups to improve employability, particularly unemployed youth (NEETS). It is unclear, as yet, whether the significant benefit of these courses would be for T&M residents. The courses will cover 44 different vocational areas including:

- Personal advancement and development
- IT skills
- Food hygiene/safety
- Health and safety
- Functional skills
- Access courses into teaching and mentoring

1.3.9 These courses will be delivered, free of cost, commencing mid January 2014 helped by funding contributions from the Skills Funding Agency and other donations. The applicant will also continue to promote the Art/Photographic exhibition for the enjoyment of the local community and will use the building as a hub for the purpose of co-ordinating all programmes, day-to-day administration and for the engagement with other, similar charitable vocational training providers that are local to the area.

- 1.3.10 The applicant has advised that these activities will use approximately two thirds of the space available and have requested an exemption from rates for the part that will remain unoccupied.
- 1.3.11 Members may also wish to note the 'Restrictions on the granting of relief' that are contained in the criteria (Bodies occupying premises with high rateable values) when considering whether relief should be awarded. As can be seen at Paragraph 1.2.13, both properties have very high rateable values with large areas remaining unused.
- 1.3.12 Since 1 April 2013, any award of relief has the effect of reducing the Council's net business rate yield. Part 3 of the criteria states 'In determining the level of relief to be granted, the Council must have regard to its budgetary position.'
- 1.3.13 The applicant's website [www.thinktwiceplease.org](http://www.thinktwiceplease.org) also concentrates mainly on their work in Central America, with no mention of their Kings Hill premises. The criteria also state '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.'
- 1.3.14 In light of the above, Members may therefore be inclined to not award relief on this basis in respect of both properties. However, should Members wish to treat the application as a 'special case', and grant a maximum award of 20% discretionary relief, the applicant will receive £45,235.28 relief in respect of 17 Kings Hill Avenue and £5,904.92 in respect of 35 Kings Hill Avenue.
- 1.3.15 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 2015.
- 1.3.16 **New application for rural rate relief**
- 1.3.17 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 4]**). 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 parish in respect of this case as the previous ratepayer was awarded relief and the business has not changed since it changed hands.
- 1.3.18 The application is for the post office at 30 Swan Street, West Malling (Rateable value £15,000). Before we comment on the merits of the application 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'.

1.3.19 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'.

1.3.20 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?

1.3.21 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.

1.3.22 As mentioned at Paragraph 1.2.23, the previous ratepayer, Mr Madan, was awarded 40% discretionary relief at the 22 May 2013 meeting of this Board (Decision Notice D130061MEM refers).

1.3.23 In light of this previous decision, Members might therefore be inclined to grant a similar award of 40%. Should this amount be awarded, the applicant will receive £1,146.77 relief for the period 1 November 2013 to 31 March 2014.

1.3.24 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 2015.

#### **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 See 'Screening for equality impacts' table at end of report

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

Background papers:

contact: Glen Pritchard  
01732 876146

Applications for relief from the organisations referred to in the main body of the report received between 9 September 2013 and 17 December 2013, and held in Financial Services.

Sharon Shelton  
Director of Finance and Transformation

Martin Coffin  
Cabinet Member for Finance,  
Innovation & Property

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Where a grant of relief is not being recommended, the decisions could affect the viability of a business within the community thereby affecting all persons within the community rather than particular groups.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	The decisions being recommended affect businesses rather than individuals.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*