

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

**23 September 2015**

**Report of the Director of Finance and Transformation**

**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 a renewal application for discretionary rate relief. A renewal application for rural rate relief is dealt with at paragraph 1.2. Details of a new application for rural rate relief is shown at Paragraph 1.3. Details of a new application for discretionary rate relief is shown at paragraph 1.4.**

**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 application 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 I have listed, at **[ANNEX 3]**, another application that has been received.
- 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 the organisation shown at **[ANNEX 3]**, I have considered the application and believe that it 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 this case. Further details on the organisation (so far as I have them) can be provided, at the meeting, if requested by Members.
- 1.1.6 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 organisation concerned, it would be prudent to advise the organisation 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.
- 1.1.7 Members are **REQUESTED** to **RECOMMEND** to Cabinet that in respect of the re-application for relief as shown at **[ANNEX 3]**, 20% discretionary rate relief be awarded with effect from 1 April 2015 and time-limited to 31 March 2017.

## **1.2 Renewal application 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 parish in respect of this case because it is not a new application for relief but a renewal request.
- 1.2.2 The application for relief is shown at **[ANNEX 4]**. 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’.
- 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 application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rural rate relief. If relief is awarded, Members might wish to consider time-limiting any award of relief to 31 March 2017.

1.2.6 As mentioned at paragraph 1.1.6, Members might consider that, when writing to the organisations concerned, it would be prudent to advise the organisation 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 application for rural rate relief**

1.3.1 The application is for The Village Pantry Tea Rooms Project at 2 Forstal Road, Aylesford (Rateable value £11,000).

1.3.2 The applicant is not entitled to 50% mandatory relief as the property’s rateable value exceeds the threshold. However, as this is a new business, Members can consider an award of up to 100% discretionary relief for two years as per the policy shown at **[ANNEX 2]**.

- 1.3.3 The property is used as a community tea room/village hub. The applicant has stated that they provide support to handicapped and elderly residents of the village and that the survival of the project depends entirely on 100% relief being awarded. A meeting has also been arranged with the Post Office with regards to providing their service within the property.
- 1.3.4 For Members information, no rates were paid for the two years prior to the tea room opening as the previous occupant of the property was subsequently dissolved having suffered financial difficulties.
- 1.3.5 The applicant has provided a letter **[ANNEX 5]** and supporting statement at **[ANNEX 6]** from the local church that highlights the positive effect the tea room has had on the area and local residents.
- 1.3.6 Aylesford Parish Council was also invited to comment on the application in line with the Council's policy. The matter was discussed at their meeting on 25 August 2015, and they have responded as follows:
- Aylesford Parish Council would fully support the Village Pantry's application for rate relief. It is the sole facility of its kind in the Parish and would be to the detriment of the whole Parish, and in particular to residents and visitors to Aylesford Village, if it were to close. It is also used by small groups as a meeting place, is family friendly and an asset to other businesses in the village.
- 1.3.7 Should Members decide to award 100% discretionary relief, the applicant will receive £4,375.96 relief for 2015/16. As mentioned at paragraph 1.3.2, relief may be awarded for two calendar years. Therefore, as the applicant started trading on 3 April 2015, Members may consider time-limiting any award of relief to 31 March 2017 which will be consistent with other awards of discretionary relief this financial year.
- 1.3.8 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief.

#### **1.4 New application for discretionary rate relief**

- 1.4.1 A request has been received under Part 2 of the criteria shown at **[ANNEX 1]** for discretionary relief to be considered for all the properties in the Borough occupied by Barclays Bank Plc, HSBC Bank Plc, Lloyds Banking Group and TSB Bank Plc. The combined rateable value of the properties occupied by the banks is £273,000.
- 1.4.2 The reason for the application is that each organisation is accredited with the Living Wage Foundation. I understand that Brent Council considered this matter in January this year to award relief based on the cost of obtaining accreditation. I am also aware that this request has been sent to other local authorities to consider.

1.4.3 Members' attention is drawn to the 'main criteria' used by this Council in considering discretionary rate relief applications which are as follows:-

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.

1.4.4 Clearly, these organisations meet none of the main criteria and therefore, Members may wish to recommend to Cabinet that relief should not be granted.

1.4.5 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief.

## **1.5 Legal Implications**

1.5.1 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.

## **1.6 Financial and Value for Money Considerations**

1.6.1 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.

## **1.7 Risk Assessment**

1.7.1 The only risk that I am aware of is a legal challenge to the Council's decisions (see above). This is unlikely.

## **1.8 Equality Impact Assessment**

1.8.1 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 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 since 22 July 2015, and held in Financial Services.

Sharon Shelton  
Director of Finance and Transformation