

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

21 June 2017

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 renewal applications for discretionary rate relief. Details of new applications for discretionary rate relief are shown at paragraph 1.2.

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 and discretionary rural 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 Members will also 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]). 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.

1.1.3 Organisations that had awards of discretionary rate relief time-limited to 31 March 2017 were invited to re-apply, and I have listed, at [ANNEX 3] and [ANNEX 4], applications that have recently been received.

1.1.4 The annexes details the levels of discretionary rate relief awarded in 2016/17 and the proposed amount of relief the organisations would receive in 2017/18.

- 1.1.5 For Members' information, under the discretionary relief rules, relief can be backdated to 1 April 2016 providing applications are received before 30 September 2017. The applications were received during March to May this year.
- 1.1.6 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 2017-18, based on previous criteria and level of applications, it has been estimated that £224,523 discretionary relief will be awarded.
- 1.1.7 In respect of the organisations shown at **[ANNEX 3]**, I have considered the applications and believe that they meet the criteria, and are 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 all cases. Further details on the organisations (so far as I have them) can be provided, at the meeting, if requested by Members.
- 1.1.8 In respect of Tonbridge Juddians RFC, their CASC status ceased 6 April 2016 as they were no longer able to fully comply with HMRC's revised guidelines. This means they are no longer entitled to 80% mandatory rate relief (and the additional 20% discretionary 'top up') from that date. The club has stated that they remain a community club providing rugby for all age groups and that having to pay rates would have a serious adverse effect on the club's activities. As the property's rateable value exceeds the threshold for small business rate relief, it is therefore proposed that 100% discretionary rate relief is awarded from 6 April 2016, in effect replacing the previous award of relief.
- 1.1.9 In respect of the organisations shown at **[ANNEX 4]**, I have considered the applications for Lucky Hands Ltd and Mr Subasharan and believe that they meet the criteria, and are 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 these cases. In respect of the applications for O'Flanagan and Vyas, these properties are now entitled to 100% mandatory relief. Primary legislation has not been updated as yet, so Government expects the current award of 50% relief to be 'topped up' to 100% as per **[ANNEX 5]**. The proposed relief amounts shown at **[ANNEX 4]** therefore reflect the additional 50% discretionary relief. Further details on the organisations (so far as I have them) can be provided, at the meeting, if requested by Members.
- 1.1.10 The criteria is currently being reviewed and will be brought to the next meeting of this Board for Members to consider. It is suggested, therefore, that Members only consider awarding relief for 1 year (rather than previous awards of 2 years) so that organisations can reapply using the new criteria in 2018/19.
- 1.1.11 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 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.

- 1.1.12 Members are **REQUESTED** to **RECOMMEND** to Cabinet that, in respect of the re-applications for relief as shown at **[ANNEX 3]** and **[ANNEX 4]**, discretionary rate relief be awarded with effect from 1 April 2017 (bar Tonbridge Juddians where relief to be awarded from 6 April 2016) and time-limited to 31 March 2018.

1.2 New applications for discretionary rate relief

- 1.2.1 Since the last meeting of the Board, I have received one new application for rate relief that has reached a stage where it is ready for Members' consideration. I give below further details of this application.
- 1.2.2 **Mereworth Village Hall Committee, Mereworth Village Hall, 149 Butchers Lane, Mereworth, Maidstone, Kent, ME18 5QD. Rateable Value £2,750**
- 1.2.3 The applicant is a registered charity and I have therefore granted 80% mandatory rate relief. It is for Members to decide whether discretionary relief should be granted as well.
- 1.2.4 Their previous application for discretionary relief was considered by Members on 8 July 2009. On that occasion, Members refused to award relief on the basis that, as the services provided by village halls and community centres are generally focused on residents of the communities in which they are situated, it might be considered that it is inappropriate that residents of the whole Borough should be funding rate relief on such premises.
- 1.2.5 Therefore, unless Members feel that special considerations apply, an award of discretionary relief may not be appropriate.
- 1.2.6 Should Members decide to award 20% discretionary relief, the applicant will receive £263.45 for the current financial year.
- 1.2.7 Members are **REQUESTED** to consider the application and make an appropriate **RECOMMENDATION** to Cabinet regarding discretionary rate relief. If relief is awarded, Members are requested to consider time-limiting any awards of relief, initially, to 31 March 2018 as per para 1.1.10.

1.3 Legal Implications

- 1.3.1 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.

1.4 Financial and Value for Money Considerations

- 1.4.1 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.

1.5 Risk Assessment

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

1.6 Equality Impact Assessment

- 1.6.1 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 March 2017 and held in Financial Services.

Sharon Shelton
Director of Finance and Transformation