

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

**17 September 2018**

**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 and an application for hardship relief is shown at paragraph 1.3**

**The Council's policy in respect of discretionary rate relief is 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 2018 were invited to re-apply, and I have listed, at [ANNEX 2], applications that have recently been received.
- 1.1.3 The annexes detail the levels of discretionary rate relief awarded in 2017/18 and the proposed amount of relief the organisations would receive in 2018/19.
- 1.1.4 For Members' information, under the discretionary relief rules, relief can be backdated to 1 April 2017 providing applications are received before 30 September 2018. The applications were received since May this year.
- 1.1.5 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 2018-19, based on previous criteria and level of applications, it has been estimated that £223,954 discretionary relief will be awarded.

- 1.1.6 At the previous meeting of this Board, Members considered that the re-applications from the Tonbridge Juddians RFC and K Sports Management Limited should be deferred to enable a review of their accounts and level of business activity. I have now received further information from these organisations including up to date accounts.
- 1.1.7 In respect of Tonbridge Juddians, they hold a strong balance sheet with the clubhouse being their largest single asset, and therefore the club's biggest NNDR liability. The profitability of the club has been negative for the last two years but the year ending 30th April 2018 shows a marked increase on the previous year mainly down to a donation received by the club. Income generated from bar sales are being pushed back into the club as the subscriptions of £70k are outweighed by the playing costs of £118k.
- 1.1.8 A small loan to the RFF (Rugby Football Foundation) of just under £10k remains; however, given the movement on the last two years it is likely to be paid in the next two financial years.
- 1.1.9 Given the size of the club membership I cannot see that the provision of the sports facilities are likely to change in the near future; according to the website the club covers all ages 6 and up.
- 1.1.10 They have also explained that all profits go towards the furtherance of rugby in Tonbridge as follows
- The Club runs its in-club functions through the T J Supporters Club (to limit liability if it all goes wrong as it did with the Annual Ball in 2016) however there was a profit of £2,400 in 2016/2017
  - The "Rentals" income of £11,372 was mainly from members (birthday, christening, anniversary's, wakes etc) however £3,425 was from external organisations predominately Pole Twist and Rock Choir with bits from South Tonbridge WI, Tonbridge Arts Festival and Ardula driver training
  - The "kit sales" are largely shirts/shorts/socks etc for mini and junior players with some weather proof gear
- 1.1.11 Based on the information provided, it is my opinion that an award of 100% discretionary relief is appropriate, time limited to 31 March 2020 when their financial situation can be reviewed again.
- 1.1.12 In respect of K Sports, their accounts show that the limited company made a loss in their last financial year of trading which has resulted in a negative net value on their balance sheet. The balance sheet itself shows no tangible assets as these are owned by Marpaul Holdings (K Sports Parent Company).
- 1.1.13 The accounts do not give sufficient information in order to assess the breakdown of the company's income that may be derived from community activities.

- 1.1.14 Whilst the company does provide community facilities for the local area, it has begun actively marketing both educational and apprenticeship schemes in a way to support income, these will encompass residents from other boroughs as well as our own.
- 1.1.15 Therefore, based on the information provided, it is my opinion that an award of discretionary relief is appropriate but on a reduced basis considering the services they are offering are not solely for residents of the borough.
- 1.1.16 Based on a previous award of 90% discretionary relief, Members may feel that a lower award of relief is now more appropriate, time limited to 31 March 2020 when their financial situation can be reviewed again.
- 1.1.17 In respect of the scout/guides organisations shown at **[ANNEX 2]**, I have considered the applications and believe that they comply with the policy, 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.
- 1.1.18 At the previous meeting of this Board, Members endorsed the practice of advising organisations that there could be a reduction in the level of relief awarded in the future. Members also recommended a requirement for organisations to reapply every two years with the exception of scout/guides groups which were regarded as “de minimis” in terms of the level of relief awarded.
- 1.1.19 Members are **REQUESTED** to **RECOMMEND** to Cabinet that, in respect of the re-applications for relief as shown at **[ANNEX 2]**, discretionary rate relief be awarded to the scout/guides groups indefinitely with effect from 1 April 2018. In respect of Tonbridge Juddians RFC and K Sports Management Limited, discretionary rate relief be awarded with effect from 1 April 2018 and time-limited to 31 March 2020.

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

- 1.2.1 Since the last meeting of the Board, I have received three new applications for rate relief that have reached a stage where they are ready for Members’ consideration. I give below further details of these applications.
- 1.2.2 **Kent Archaeological Society, Room 20, The Manwaring Building East Malling Research Station, New Road, East Malling, West Malling, Kent, ME19 6BH. Rateable Value £640**
- 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 The property is used for the storage of books, papers and equipment.

- 1.2.5 As the property is used solely for storage and the organisation has members throughout Kent, Members might be inclined to refuse an award of discretionary relief as the policy states the Council is unlikely to grant relief unless there is some specific benefit to the residents of Tonbridge & Malling Borough Council over and above the benefit to the residents of other areas in which the charity operates.
- 1.2.6 However, should Members decide to award the maximum 20% 'top up' relief as a 'special case', the applicant will receive £63.10 for the period 1 April 2018 to 31 March 2019.
- 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 2020 as per para 1.1.19.
- 1.2.8 **Housing & Care 21, Flat 4 Watercress Court, 98 Mill Street, East Malling, West Malling, Kent, ME19 6BU. Rateable Value £6,200**
- 1.2.9 The applicant is a non-profit private registered provider of social housing and I have therefore granted 80% mandatory rate relief. It is for Members to decide whether discretionary relief should be granted as well.
- 1.2.10 The property is used as an office to carry out the day-to-day work of the organisation.
- 1.2.11 Members might be inclined to refuse an award of discretionary relief as the policy states the Council is unlikely to grant relief where the applicant is a Housing Association.
- 1.2.12 However, should Members decide to award the maximum 20% 'top up' relief as a 'special case', the applicant will receive £595.20 for the period 1 April 2018 to 31 March 2019.
- 1.2.13 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 2020 as per para 1.1.19.
- 1.2.14 **Hospice In The Weald, 19 & 21 Swan Street, West Malling, Kent, ME19 6JU. Rateable Values £10,750 and £8,700**
- 1.2.15 Although the applicant is a registered charity, the property is occupied by their trading arm 'Hospice in the Weald (Trading) Ltd, and therefore, is not entitled to mandatory relief. It is for Members to decide whether discretionary relief should be granted, and if so, the level of relief.
- 1.2.16 The property (currently separately assessed for rating purposes) has been used as a charity shop selling donated items since 4 April 2018.

- 1.2.17 Members might be inclined to refuse an award of discretionary relief as the policy states the Council is unlikely to grant relief to charity shops or shops operated by the trading arms of charities.
- 1.2.18 However, should Members decide to award the maximum 100% relief as a 'special case', the applicant will receive £5,117.59 (for no.19) and £4,141.68 (for no.21) for the period 4 April 2018 to 31 March 2019.
- 1.2.19 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 2020 as per para 1.1.19.

### 1.3 Application for Hardship relief

- 1.3.1 The application is from The Green Barn Farmshop Ltd in respect of their premises at 2 The Pavilion, Tonbridge, Kent, TN9 1TE.
- 1.3.2 The Council is empowered to award hardship relief under S.49 of the Local Government Finance Act 1988.
- 1.3.3 When considering applications for this relief, Members must be satisfied that the ratepayer would sustain hardship if relief was not awarded and it is reasonable to award relief having regard to the interests of persons subject to its council tax.
- 1.3.4 There is no statutory definition of hardship. Members should therefore bear in mind:
- Will the employment prospects in the area be worsened by the company going out of business?
  - Will the amenities of the area be reduced?
- 1.3.5 The application, by email, is shown at **[ANNEX 3]** highlighting the downfall in trade and the loss to the Tonbridge community should they have to close. The latest financial information is shown at **[ANNEXES 4 and 5]**.
- 1.3.6 Following the revaluation in April 2017, the property's rateable value reduced from £49,250 to £45,000. The amount due for 2017/18 was £21,882.37 compared to £22,824.05 in 2016/17. The 2018/19 charge is £21,600.
- 1.3.7 The applicant has highlighted they are an award winning café and bakery; however, there are many food establishments in the locality so it is not felt that the amenities of the area would be reduced.
- 1.3.8 Members should also note that the applicant has other premises in Orpington (opened 2015) and Maidstone (opened July 2017).

1.3.9 As the rates charge has reduced following the revaluation, and the applicant has opened a new premises last year, Members might consider that an award of hardship relief is not appropriate on this occasion.

1.3.10 Should the applicant be considered as a 'special case', up to 100% relief can be awarded (£21,600 for 2018/19).

1.3.11 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 award of relief, initially, to 31 March 2019.

## 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 I am 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 May 2018 and held in Financial Services.

Sharon Shelton  
Director of Finance and Transformation