

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

24 September 2014

**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

This report gives details of new applications for discretionary rate relief.

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

1.1 New applications for rural rate relief

1.1.1 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 1]**). 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 on 4 June 2014.

1.1.2 The application is for Hadlow Superstore, 4-6 The Broadway, Hadlow (Rateable value £14,250). 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'.

- 1.1.3 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'.
- 1.1.4 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?
- 1.1.5 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.
- 1.1.6 As mentioned at Paragraph 1.1.1, the previous ratepayers, Messrs P, R & K Patel, were awarded 80% discretionary relief at the 22 May 2013 meeting of this Board (Decision Notice D130061MEM refers).
- 1.1.7 In light of this previous decision, Members might therefore be inclined to grant a similar award of 80% to the new ratepayer, Mr Subasharan. Should this amount be awarded, the applicant will receive £4,427.92 relief for the period 4 June 2014 to 31 March 2015.
- 1.1.8 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 2015.

1.2 Legal Implications

- 1.2.1 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.

1.3 Financial and Value for Money Considerations

- 1.3.1 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.

1.4 Risk Assessment

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

1.5 Equality Impact Assessment

- 1.5.1 See 'Screening for equality impacts' table at end of report

The Report of 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
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Applications for relief from the organisations referred to in the main body of the report received between 25 April 2014 and 31 August 2014, and held in Financial Services.

Sharon Shelton
Director of Finance and Transformation

Martin Coffin
Cabinet Member for Finance,
Innovation and Property

Screening for equality impacts:		
Question	Answer	Explanation of impacts
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.

Screening for equality impacts:		
Question	Answer	Explanation of impacts
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.