

APPENDIX O

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 30TH NOVEMBER 2010

Title:

NATIONAL NON-DOMESTIC RATES - APPLICATION FOR RATE RELIEF

[Portfolio Holder for Finance: Cllr M H W Band]

[Wards Affected: N/A]

Note pursuant to Section 100B(5) of the Local Government Act 1972

An annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in paragraph 3 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, viz:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Summary and purpose:

The purpose of this report is to consider an application received by the Council for non-domestic rate relief, as provided for in the Local Government Finance Act 1988.

How this report relates to the Council's Corporate Priorities:

Supporting local business relates to the corporate environment priority to protect and enhance Waverley's communities.

Equality and Diversity Implications:

When determining an application for a rate relief reduction, officers will base their decisions solely on the criteria and guidelines and not discriminate against any particular group or groups. Officers will also aim to consider any impact on equality and diversity in the community of the organisation applying for relief.

Resource and legal implications:

The resource implications are dependent upon the outcome of the Executive's consideration of the application. If rate relief were to be granted, 75% of the relief will be offset against the contributions made to the NNDR Pool and the General Fund will meet the remaining 25%. There is no specific budget provision to meet this application for relief.

Introduction and Background

1. The Council's Scheme of Delegation includes provision that the determination of discretionary rate relief in respect of new applications is delegated to the Deputy Chief Executive in accordance with the policy adopted by the Council. However, where an application is received which is requesting hardship relief, or an appeal is lodged against a delegated decision made by the Deputy Chief Executive, the application and appeal is submitted to the Executive for consideration.
2. Set out at Annexe 1 for the information of Members is a note of the powers contained in section 49 of the Local Government Finance Act 1988 to reduce or remit the non-domestic rates on the grounds of hardship, together with guidance issued by the Government. A ratepayer has submitted an application to the Council to reduce their non-domestic rates on the grounds of hardship.
3. Details relating to the application, and the financial implications for the Council, are contained in (Exempt) Annexe 2 attached. In this case, officers do not consider that the application meets the Government's guidance on hardship rate relief. However, the Council is keen to help businesses that find themselves in financial difficulty wherever possible by encouraging them to seek support from one of the specialist organisations in the Borough. The Don't Lose Your Home or Business project has made many referrals in the last 2 years to the network of business support organisations that exist in the Borough, including two of Waverley's partners, Enterprise First and Business Link. It is proposed that this applicant is offered support in this way.

Recommendation

It is recommended that:

1. as set out in (Exempt) Annexe 2 to this report, no relief be granted on this occasion as it is considered that this application does not meet the Government's guidance on hardship rate relief; and
2. the Don't Lose Your Home or Business team help this applicant to seek alternative business support and advice; and
3. in future, where it is clear that an application does not meet the Government's criteria, the Executive delegate the decision to the Deputy Chief Executive, who will ensure that the applicant is referred to Waverley's business support partner organisations and the Council be recommended to amend the Scheme of Delegation accordingly.

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ANNEXE 1

NATIONAL NON-DOMESTIC RATES - RATE RELIEF

Hardship provisions of the Local Government Finance Act 1988

- 1 Section 49 of the Local Government Finance Act 1988 gives a billing authority discretion to reduce or remit the payment of rates where an authority is satisfied that the ratepayer would (a) sustain hardship if it did not do so, and (b) it is reasonable for the authority to do so having regard to the interests of its Council Tax payers. For Members' convenience, Section 49 ss (1) and ss (2) is reproduced below:-

Section 49 - Reduction or remission of liability

- (1) A billing authority may -
- (a) reduce any amount a person is liable to pay to it under ss 43 or 45 above, or
 - (b) remit payment of the whole of any amount a person would otherwise be liable to pay to it under ss 43 or 45 above.
- (2) But an authority may not act under this section unless it is satisfied that-
- (a) the ratepayer would sustain hardship if the authority did not do so, and
 - (b) it is reasonable for the authority to do so, having regard to the interests of persons subject to its council tax levy.

- 2 The relevant points from the Government's guidance on Hardship are summarised below:

“Chapter 7 – Hardship

7.1 Section 49 to the Local Government Finance Act 1988 gives billing authorities the discretion to reduce or remit the payment of rates for any ratepayer. A billing authority can reduce or remit the payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so and it is reasonable for it to do so having regard to the interests of its council tax payers.

7.2 Whilst it is for each authority to decide upon the facts of each case whether to exercise its powers under Section 49 - and to judge the extent of these powers - authorities may wish to bear the following guidance in mind:-

- (i) Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give hardship relief: each case should be considered

on its own merits and the application process kept as simple and streamlined as possible to enable decisions to be made quickly;

- (ii) Reduction or remission of rates on grounds of hardship should be the exception rather than the rule;
- (iii) All relevant factors affecting the ability of a business/ratepayer to meet their liability for rates should be taken into account;
- (iv) 75% of the cost of any reduction or remittance of rates is offset against an authority's payment into the national non-domestic rates pool: 25% must be borne locally and met by the authority;
- (v) The 'interests' of the council taxpayers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the only provider of a service in its area;
- (vi) Where the granting of relief would have an adverse effect on the financial interests of council taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to council taxpayers if the other interests of the council taxpayers are greater;
- (vii) The hardship caused to a ratepayer may be self-evident, for example where a business has been affected by severe loss of trade, due to external factors such as natural disasters. However, authorities may wish to consider how the business can demonstrate such loss of trade or business. For example, do accounts, order books, till receipts or VAT returns show a marked decline in trade compared to corresponding periods in previous years?
- (viii) Authorities should be clear in awarding relief that it will be granted only for the period for which there is clear evidence of hardship for the ratepayer concerned; and
- (ix) To guard against fraudulent claims, authorities should satisfy themselves that the claim is from a ratepayer suffering genuine hardship.
- (x) Hardship relief should be reviewed regularly and should be given for short fixed periods which could be renewed following a review rather than for extended periods without review but can straddle financial years.