

## CABINET

Wednesday, 7 December 2016

### PROPOSED POLICY AND GUIDANCE FOR LOCAL DISCRETIONARY RATE RELIEF (REP1489)

#### EXECUTIVE SUMMARY

1. This report seeks Cabinet approval to extend WDC's current business rate relief policy to include Local Discretionary Rate Relief (LDRR). As a result of Localism Act 2011 Councils are, via LDRR, able to award rate relief to any type of organisation rather than a nationally pre-defined, relatively narrow range of organisations as was the case prior to this Act.
2. This report sets out a range of criteria for assessing applications for LDRR and also proposes a process for determining such applications. LDRR has the potential to be a powerful tool in achieving the Council's economic growth objectives as set out within the East Suffolk Business Plan and The East Suffolk Growth Plan through incentivising potential inward investors to locate within the District

Is the report Open or Exempt?	Open
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<b>Wards Affected:</b>	All Wards in the District
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<b>Cabinet Member:</b>	Councillor Michael Ladd, Cabinet Member for Tourism, Economic Development & Rural Affairs  Councillor Mike Barnard, Cabinet Member for Resources & Welfare Reforms
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<b>Supporting Officer:</b>	Paul Wood Head of Economic Development & Regeneration 01394 444249 <a href="mailto:paul.wood@eastsoffolk.gov.uk">paul.wood@eastsoffolk.gov.uk</a>
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## **1 INTRODUCTION**

- 1.1 This report proposes an addition to WDC's existing guidance on Non-Domestic Rates - Discretionary Rate Relief to cover Local Discretionary Rate Relief (LDRR). LDRR provides local authorities with the ability to award rate relief to all types of businesses, provided it is in the interests of the Council Tax payer. The ability for local authorities to award such rate relief is derived from section 69 of the Localism Act 2011 which amended section 47 of the 1988 Local Government Finance Act. This additional guidance does not change WDC's approach to those organisations and businesses covered by the 1988 Act.
- 1.2 Prior to this amendment the types of business rate relief which Councils were able to award were prescribed centrally and relatively narrow in their range. They typically focussed on particular types (e.g. non-profit making, charities) or small businesses in specific locations. LDRR provides Councils with much greater flexibility in awarding rate relief and critically is based on locally determined criteria which may support local economic growth objectives.
- 1.3 The purpose of this paper is to establish the criteria and process upon which WDC will make a decision on awarding LDRR. The intention is not to proactively promote this form of business rate relief but the information will be publicly available via the Council's website. The primary purpose of this guidance is to assist the Council in determining such applications.

## **2 PRINCIPLES FOR AWARDING LDRR**

- 2.1 In broad terms LDRR should be applied where a business relocation decision supports WDC's economic growth ambitions and objectives. The strategic context for these objectives is set out in the Council's East Suffolk Business Plan (ESBP) and the East Suffolk Growth Plan (ESGP). Economic growth is central to the Council's strategic objectives and forms one of the 3 pillars which underpin the ESBP. The ESGP, the Council's Economic Growth Strategy, sets out the key growth locations and sectors which we will support to drive economic growth. Furthermore WDC is a delivery partner in the countywide and LEP wide economic growth strategies and the objectives within these plans align strongly with WDC's growth ambitions.

## **3 PROPOSED CRITERIA FOR AWARDING LDRR**

- 3.1 In specific terms it is proposed that the following matters should be considered when determining an award for LDRR:

- **Does the investment benefit local people and/ or the local economy?**

Applications will be considered favourably where they provide significant employment opportunities, benefit the local supply chain and align with WDC's key growth sectors. Additional consideration will be given to applications which propose locating in Lowestoft and in particular within the strategic sites within the Lake Lothing and Outer Harbour Area Action Plan area as well as Enterprise Zones sites post 2018 (if EZ related rate relief has not been extended beyond this date).

Consideration will also be given to businesses that can demonstrate that their presence would act as an anchor for attracting similar businesses. This may be related to their size, status and the particular sector they are operating within.

- **Does the business create or support opportunities for education or training?**

A core element of both the ESBP and ESGP is to improve the level of workforce skills in the district since a highly skilled local workforce is a foundation of a successful local economy. In order for a business investment decision to be considered under this criteria it should demonstrate a commitment to upskilling its current and future workforce.

- **Has relocation to the Enterprise Zone been seriously considered?**

Applicants will need to demonstrate that serious consideration has been given to relocating to one of WDC's Enterprise Zone (EZ) sites, where businesses are eligible for 100% business rate relief (up to the state aid limit). A strong and compelling case will need to be provided as to why relocation onto one of these sites is not considered to be a viable proposition.

It should be noted that EZ related business rate relief only applies for 5 years provided the business occupies a property within the EZ before 31 March 2018. Discussions with DCLG are ongoing about extending this benefit, however at the time of writing this report no extension has been confirmed.

- **Will the premises be occupied?**

No relief will be granted for premises where there is no intention for them to be occupied immediately.

- **Is the ratepayer eligible for any other mandatory or discretionary relief?**

LDRR is unlikely to be granted other than in exceptional circumstances if the ratepayer is entitled to other mandatory or discretionary rate relief.

- 3.2 It is important to note that meeting the above criteria does not automatically mean that LDRR will be awarded. Furthermore if a decision to award LDRR is made the level of relief should relate to the extent to which the above criteria are met.

## **4 PROPOSED LDRR APPLICATION PROCESS**

- 4.1 It is proposed that an awarding panel consisting of the Cabinet Members for Economic Development and Resources and the relevant Strategic Director, in consultation with the Head of ED&R and Chief Financial Officer, will determine if applications for LDRR are to be awarded. Each application for LDRR will need to be submitted on a formal application form and will include the following information:

- Demonstration of how the business meets the criteria set out in 3.1
- Business plan with 12 month financial forecast
- Last 2 years audited accounts
- Purpose and use of the property
- Details of the nature of the business
- What steps have been taken to meet or mitigate the Business Rates liability (i.e. any other discounts or reductions awarded)
- How granting the discount will benefit the district (in both economic and non-economic terms)
- Evidence of other reliefs, grants, benefits etc which may be deemed as state aid within the current and previous two financial years

Applications will be determined by the panel with reference to the above criteria and The Council will notify the applicant in writing of the outcome of their request. Where the application is unsuccessful the Council will explain the reasons why the decision was made.

### **The Right to Appeal**

Section 47 awards are administered under The Local Government Finance Act 1988 and awards are not subject to a statutory appeals process. Appeals will therefore be decided by the Council.

The Council will operate the following policy for dealing with appeals:

- An applicant who disagrees with a decision may ask for the decision to be reviewed.
- The request must be made in writing within one calendar month of the original decision.
- Where possible the Council will resolve the matter and provide reasons of the decision to the applicant either verbally or in writing.

Decisions will be reviewed by the panel.

The applicant will be notified of the outcome within 14 working days with full written reasons for the decision.

## **5 STATE AID CONSIDERATIONS**

- 5.1 EU state aid rules generally prohibit government subsidies to businesses. Providing discretionary relief to ratepayers can in some cases be deemed to be State Aid.
- 5.2 There is, however, a general exception to the state aid rule where the aid is below a “de minimis” level. The De Minimis Regulations allow a business to currently receive up to €200,000 of De Minimis aid (€100,000 in the road freight transport sector) in a rolling three year period (consisting of the current financial year and the two previous financial years). The De Minimis Regulation and limit is subject to update and changes in legislation.
- 5.3 To administer De Minimis it is necessary for the Council to establish that the award of aid will not result in the business having received more than €200,000 of De Minimis aid. The Council will ensure compliance with the legal requirements and any permitted exemptions. Each case will be considered based on the organisation’s individual circumstances in full consideration of the state aid rules.

## **6 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?**

- 6.1 The aim of the LDRR policy and guidance is to support potential inward investors locating within the district and Lowestoft in particular. As such this supports the vision and the economic strategy element of the ESBP. Furthermore this policy also supports specific ESBP actions relating to business support and training.
- 6.2 These proposals also support the Financial Self-Sufficiency objective of the ESBP since the aim is to grow the district’s business base and in the medium to long-term this will increase overall business rate receipts.

## **7 FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 7.1 The awarding of LDRR in part or in full will have a short-term impact on business rate receipts; however in the medium to long-term it will grow the business rates base through the attraction of additional business investment within the district. Furthermore without adopting an LDRR policy it is highly likely that a number of potential investors would not have considered locating within the district and may well have been attracted to other areas where LDRR does apply.
- 7.2 As stated above it is proposed that a panel of Cabinet Members and officers will determine applications for LDRR.

## **8 OTHER KEY ISSUES**

- 8.1 This report has been prepared having taken into account the results of an Equality Impact Assessment, a Sustainability Impact Assessment and a Partnership Impact Assessment.

## **9 CONSULTATION**

- 9.1 Consultation has taken place with SMT, ED&R, Finance and Legal teams as well as the Anglia Revenues Partnership.

## **10 OTHER OPTIONS CONSIDERED**

- 10.1 The only other option is to continue with a policy to not operate LDRR. This position was deemed untenable if the Council is to deploy all its powers to proactively secure business investment in the district in line with the ESBP vision, three pronged strategy and specific economic growth actions.

## **11 REASON FOR RECOMMENDATION**

- 11.1 By adopting a policy which allows the Council to award LDRR we are maximising the tools at our disposal to secure new business investment within the district. Furthermore this allows the Council to direct this investment in line with our key growth sectors and our strategic employment sites. As stated above this supports the ambitions of the ESBP on multiple levels.

### **RECOMMENDATIONS**

1. That the Council adopts the proposed policy and guidelines to determine applications for LDRR.
2. That the Council approves the establishment of a panel consisting of the relevant Cabinet members and officers to determine applications for LDRR.

### **APPENDICES - None**

### **BACKGROUND PAPERS - None**