

## **Officer Executive Decisions**

### **New Builds Empty Property Rate Relief**

**Delegation from Leader and Cabinet and date:** On 11 February 2014 the Cabinet adopted the schemes for the relief of business rates, including new builds empty property relief, and delegated to the Chief Finance Officer, in consultation with the Portfolio Holder for Finance, the detailed application of those schemes (Decision 30/2014).

A copy of the report is available via the following link:

<http://democracy.medway.gov.uk/mgAi.aspx?ID=8829>

**Decision:** To introduce a New Builds Empty Property Rate Relief in line with Government guidelines subject to the amount of relief not exceeding Government funding.

**Reasons for Decision:** To encourage the development of new industrial property within Medway.

**Date of Decision:** 7 April 2014.

**Officer:** Mick Hayward, Chief Finance Officer. 01634 332220

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**Details of any other options considered and rejected:** See attached report to the Chief Finance Officer.

**Conflicts of Interest:** None

## **REPORT TO CHIEF FINANCE OFFICER AND PORTFOLIO HOLDER FOR FINANCE**

**MARCH 2014**

### **BUSINESS RATES NEW BUILDS EMPTY PROPERTY RATE RELIEF**

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Portfolio  
Holder for Finance

Report from: Mick Hayward, Chief Finance Officer

Author: Jon Poulson, Revenues & Benefits Manager

#### **Summary**

This report sets out Medway Council's Business Rates New Builds Empty Property Rate Relief Policy.

#### **1. Background**

- 1.1 The Local Government Finance Act 1988 provides local authorities with discretionary powers to grant relief from non-domestic rates on property occupied by charities and other non-profit making organisations. Following the introduction of the Business Rates Retention Scheme the Government, Medway Council and Kent & Medway Fire Authority share the cost of granting such relief on a 50:49:1 basis.
- 1.2 Current policy for the determination of awards of relief and the guidelines that underpin such awards were set out in a report to Cabinet on 12 March 2013.
- 1.3 The Localism Act 2011 introduced an additional power for local authorities to award a local discretionary relief where it is in the council tax payers' interests to do so. The cost of any such discount is ordinarily borne on the same basis as outlined at 1.1 above.
- 1.4 In the Autumn Statement 2012, Government announced its intention that, subject to consultation, the Government would exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to the state aids limits.
- 1.5 As this is a temporary measure, the Government is not changing the rules on when a property becomes liable for empty property rates. Instead they are providing the exemption by reimbursing local authorities that use their discretionary relief powers (under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances.

- 1.6 It is for individual local billing authorities to decide to grant relief under section 47 but central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified.
- 1.7 The stated purpose of the measure is to help stimulate construction. Construction decisions take into account the risk of paying empty property rates on newly built commercial property if the property does not become fully occupied straight away. Reducing this risk may incentivise some commercial property projects to go ahead that wouldn't otherwise, helping to stimulate the construction industry.
- 1.8 On 11 February 2014 the Cabinet adopted the schemes for the relief of business rates, including new build empty property relief, and delegated to the Chief Finance Officer, in consultation with the Portfolio Holder for Finance, the detailed application of those schemes (Decision 30/2014).

## **2. The Current Position**

- 2.1 The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 provide that empty property rates are not payable until a non-industrial property has been empty for 3 months or an industrial property has been empty for 6 months. After this initial 3 or 6 month exemption period, full rates become payable.
- 2.2 In accordance with cabinet decision 61/2013 no categories have currently been identified for the purposes of awarding local discretionary rate relief under section 47 LGFA 1988.

## **3. Empty Property Rate Relief Scheme**

### **3.1 Period of relief**

- 3.1.1 The policy is for the relief to apply to unoccupied non domestic properties for the first 18 months following completion, if completed after 1 October 2013 and before 30 September 2016.
- 3.1.2 In practice an unoccupied new build would benefit from the relief for the periods that rates are payable, ie once the initial 3 month or 6 month period at 2.1 above has elapsed, subject to the state aid limit.
- 3.1.3 The relief runs with the property, not the owner, and may apply more than once if the property is occupied for a short period within the 18 month timeframe. An example is a new shop empty for 8 months, occupied for 4 months and then empty again. The rate account would show:

3 months exemption (non-industrial property)  
5 months discretionary new builds empty property rate relief  
4 months occupied rates

- 3 months exemption (non-industrial property)
- 3 months discretionary new builds empty property rate relief

## **4.2 Definition of New Property**

- 4.2.1 Applies to all unoccupied hereditaments that are wholly or mainly qualifying new structures.
- 4.2.2 Structures means foundations and/or permanent walls and/or permanent roofs.
- 4.2.3 New means completed less than 18 months ago and after 1 October 2013 and before 30 September 2016.
- 4.2.4 Completed means ready for occupation for intended purpose or a date specified in a completion notice.
- 4.2.5 Wholly or mainly means more than half
- 4.2.6 Includes refurbished properties using existing foundations or a retained facade

## **4.3 Splits, Mergers and Alterations to existing hereditaments**

- 4.3.1 Wholly or mainly new structures completed within the specified period
- 4.3.2 Does not apply to all splits and mergers. The new hereditament must be wholly or mainly new structures. Hence if the extension or new part in a merger is less than half, it will not qualify.
- 4.3.3 New means completed in the last 18 months and within the specified period.

## **4.4 State Aid Relief**

- 4.4.1 State Aid is support from public bodies which has the potential to distort competition and effect trade between member states of the European Union.
- 4.4.2 Any form of discretionary rate relief may amount to State Aid.
- 4.4.3 State Aid is generally prohibited, but there are exceptions and aid is allowed under the 'de-minimis' rules. For most businesses this currently means €200,000 over 3 years from ALL sources.
- 4.4.4 The Government will not fund relief that exceeds the de-minimis limits and it is incumbent on the billing authority to administer the relief in such a way as to ensure the de minimis rules are complied with. In effect, this means asking the ratepayer to complete a declaration.

## **5. Financial and legal implications**

- 5.1 The financial and legal implications are set out in the body of this report.

## 6. Recommendations

6.1 That the Chief Finance Officer and Portfolio Holder for Finance agree:

- To implement a new builds empty property rate relief for hereditaments as defined at 3 and 4 above.
- That the amount of relief to be awarded is calculated in accordance with 3. above but limited to that funded by central government
- Relief may only be awarded upon receipt of a completed application form and declaration that the award shall comply with the EU law on State Aid.
- Appeals against a refusal to grant relief will be dealt with as follows:
  - Initial review by the Revenues and Benefits Service Manager;
  - Second stage review by the Chief Finance Officer;
  - Final appeal to cabinet.

Lead Officer contact:

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Background Papers: Business Rates New Build Empty Property – Guidance  
(DCLG September 2013)

Recommendations approved by:

Chief Finance Officer

Mr M E Hayward.....Dated.....

Portfolio Holder for Finance

Councillor Alan Jarrett .....Dated.....