

Report to Portfolio Holder for Resources and Reputation

Subject: National Non-Domestic Rates - Discretionary Relief Application

Date: 6th June 2018

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Wards Affected

Daybrook

Purpose

The purpose of this report is to consider an application for relief under section 44A of the Local Government Finance Act 1988.

Key Decision

This is not a key decision.

Background

- 1 An application for relief as a partly occupied hereditament was received on 4th March 2018 from Sainsbury's Supermarkets Ltd in relation to the hereditament known as Sainsbury's Supermarket, Nottingham Road, Arnold, Nottingham, NG5 6LA.

Proposal

- 2 The legislation governing the application for relief from National Non-Domestic Rates on the grounds of part occupation is section 44A of the Local Government Finance Act 1988.

- 3 Section 44A of the Act permits a billing authority to require the Valuation Officer to apportion the rateable value of a hereditament between the occupied and unoccupied parts, and to certify that apportionment, where it appears to the authority that part of it is unoccupied but will remain so for a short time only.
- 4 Additional guidance from the Office of the Deputy Prime Minister (ODPM) has clarified that there is no restriction, express or implied, in section 44A as to the type of property or ratepayer, or to the circumstance in which relief may be given. The discretion of billing authorities only extends to deciding whether or not to allow relief and what is a short period in relation to the hereditament or ratepayer. All circumstances are different and rules as to what constitutes a short time will amount to a blanket policy where applications are not considered on their own merits.
- 5 The department for Communities and Local Government has issued guidance in respect of the Rating (Empty Properties) Act 2007. As regards section 44A relief, the calculation should now reflect the new 3 month and 6 month exemption periods created by SI 2008/386. This means that under the CLG guidance, relief for the vast majority of cases will be calculated for 3 or 6 months only with empty rates deduction and then have a nil entitlement even though an operative period runs on. Other classes of property will continue to benefit from section 44A relief even though the 3 or 6 month free period has expired.
- 6 The billing authority is required to terminate this relief if there is a change in the proportions of the occupied and unoccupied parts. It may then require a new certificate from the Valuation Officer based on the revised circumstances. Relief should also be terminated at the end of the financial year and, if the discretion is exercised to apply relief in the new financial year, the same certificate may be used unless there are any valuation factors that necessitate a variation in the apportionment.
- 7 It should be noted that a partly occupied property is an occupied hereditament for the purposes of section 43 of the Local Government Finance Act 1988 and is rateably occupied in accordance with the definition contained in section 65 of that Act. If the billing authority exercises discretion to relieve an occupation that falls somewhere between fully occupied and unoccupied, this will be a relief against the section 43 'occupied hereditament' charge. If the provisions of section 44A are not applied, then the fully occupied charge applies under section 43.
- 8 The covering letter for the application as well as the application form are attached at Appendix 1, states that the vacant areas will not be in use for the period 18th March 2018 to 2nd May 2018 due to works being carried out to allow for occupation by a high profile tenant.
- 9 An email was sent to the applicant on 9th March 2018 requesting a copy of the plans showing the vacant area and also advising that the Council will arrange

an inspection of the area. This email and the agents response can be seen at appendix 2.

- 10 A plan showing the vacant area highlighted in green is attached at Appendix 3.
- 11 An inspection of the property was made on 16th March 2018. The inspector confirmed that the applicant was clearing another area of the store to allow the highlighted area to be cleared prior to works being carried out. A statement from the inspector can be seen at appendix 4.
- 12 It is proposed that the application is granted as an inspection of the property on 16th March 2018 found that the stated vacant parts were being cleared ahead of the works commencing on the 18th March 2018. Whilst no further visits were made by the authority, Officers within the department regularly observed that works were taking place in the highlighted area up to the start of May 2018.
- 13 In order to grant relief, the Council must require the Valuation Officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts and certify the apportionment under section 44A of the Local Government Finance Act 1988.

Alternative Options

- 14 The alternative to the proposals would be not to require the Valuation Officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts and therefore not apply any relief.

Financial Implications

- 15 Under the arrangements for local business rate retention in England, the cost of all reliefs is split between the Government, Gedling Borough Council and the major precepting authorities.
- 16 As the granting of this relief is done by requiring the valuation officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts, it is not possible to say what the direct financial outcome will be as the Portfolio Holder's authority must be sought before a certificate of apportionment can be required from the valuation officer.

Appendices

- 17 Appendix 1 – Letter of Application
- 18 Appendix 2 - Request for Inspection and Response

- 19 Appendix 3 – Site Plan
- 20 Appendix 4 – Inspector’s Statement

Background Papers

- 21 None identified.

Recommendation(s)

THAT:

- (a) The application for relief under section 44A of the Local Government Finance Act 1988 is allowed and that the valuation officer should be required by the Council to apportion the rateable value of the hereditament between the occupied and unoccupied parts and certify the apportionment under section 44A of the Local Government Finance Act 1988 for the period 18th March 2018 to 1st May 2018.

Reasons for Recommendations

- 22 It is accepted that the parts of the hereditament highlighted on the building plan as vacant are vacant as stated and will remain so for a short time only. Therefore, the criteria allowed for the granting of relief under section 44A of the Local Government Finance Act 1988 have all been met.