

Report to Portfolio Holder for Resources and Reputation

Subject: National Non-Domestic Rates - Discretionary Relief Application – Nottingham Heritage Vehicles Charity – Area C6, Bestwood Business Park, Bestwood, Nottingham, NG6 8TQ

Date: 2nd October 2020

Author: Revenues Services Team Leader

Wards Affected

All

Purpose

The purpose of this report is to seek approval for discretionary charitable relief under section 47 of the Local Government Finance Act 1988

Key Decision

This is not a key decision.

Recommendation(s)

THAT:

The application for discretionary relief under section 47 of the Local Government Finance Act 1988 is allowed at a rate of 20% of the annual National Non-Domestic Rates due.

1 Background

- 1.1 An application for discretionary charitable relief was received on 3rd June 2020 from Nottingham Heritage Vehicles Charity of 49 Valley View, Mansfield, Nottingham, NG18 4US for Area C6, Bestwood Business Park, Bestwood, Nottingham, NG6 8TQ (Appendix 1)

- 1.2 The legislation governing the application for charitable relief from National Non-Domestic Rates is sections 43, 45 and 47 of the Local Government Finance Act 1988.
- 1.3 Section 43 provides that where, on the day concerned, the ratepayer is a charity or trustees for a charity and the hereditament is wholly used for charitable purposes (whether of that charity or of that and other charities), the chargeable amount is to be calculated using the following formula:

$$\frac{A \times B}{C \times 5}$$

This is in effect a charge of 20% of the original charge, and therefore a mandatory relief of 80%.

- 1.4 A charity does not necessarily need to be registered with the Commissioner for Charities to be deemed a charity in its legal sense. The principles of charitable status were expressed by Lord McNaughten in *Income Tax Special Commissioners v Pemsell* (1891) in the following four principle divisions:
- i) trusts for the relief of poverty;
 - ii) trusts for the advancement of religion;
 - iii) trusts for the advancement of education;
 - iv) trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- 1.5 Discretionary relief under section 47 may be granted as long as the criteria for mandatory relief are met. The amount of discretionary relief given can be any amount up to the remaining 20% charge after mandatory relief is applied, meaning the chargeable amount could be 0.
- 1.6 A Practice Note issued by the Department for the Environment and the Welsh Office jointly in 1990 recommends that although authorities may wish to have readily understood policies for deciding whether or not to grant relief, and for determining the amount of relief to grant, they should not adopt a policy or rule which allows a case to be disposed of without any consideration as to its individual merits.
- 1.7 The billing authority may not award discretionary relief unless it is satisfied that the hereditament is used for purposes which are of benefit to the local community and that it would be reasonable for the billing authority to award relief, having regard for the interests of the persons liable to pay its Council Tax.

2. Proposal

- 2.1 Nottingham Heritage Vehicles Charity is a registered charity (Number 1155404) with the Commissioner for Charities in England and Wales (Appendix 2).
- 2.2 The application form at (Appendix 1) states the charity's main objectives are to preserve, for the purpose of education, local heritage with the involvement of community members, all of which are volunteers.
- 2.3 The hereditament for which relief is requested is used to house vehicles from the charity collection on rotation with their main charity building. It also allows their volunteers to work on the vehicles on site.
- 2.4 The financial accounts published for 2017 and 2018 are included (Appendix 3 and 4) as well as a screenshot of their present account standing (Appendix 5).
- 2.5 It is proposed that relief is allowed in this case at a rate of 20% of the National non-domestic Rate chargeable, as it is considered that the objectives of this charity are in line with the Council's objectives to conserve, enhance, promote and celebrate our heritage as stated in the Gedling Plan 2020 – 2023. It is considered that as local volunteers are involved that the charity benefits locally.

3 Alternative Options

- 3.1 An alternative to the proposal would be to refuse relief.
- 3.2 Another alternative to the proposal would be to grant relief at a different rate to the proposed 20%. Relief could be granted at any rate between 1% and 20%. This alternative is not proposed as it is considered that the charity's objectives are suitably aligned with the Council's plan to afford a grant of relief at 20%.

4 Financial Implications

- 4.1 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.
- 4.2 The rates payable after mandatory relief for the financial year 2020/21 is £256.00. The rates payable if the 20% discretionary relief were applied would be zero.

The rates payable after mandatory relief for the financial year 2019/20 is £252.00. The rates payable if the 20% discretionary relief were applied would be zero.

- 4.3 The rates payable after mandatory relief for the financial year 2018/19 is £46.60. The rates payable if the 20% discretionary relief were applied would be zero.
- 4.4 The accounts of the charity have been scrutinised by one of the Council's Accountants and advice has been given that there is no excess surplus, and no excess debt. The charity appears to be operating in a financially responsible and solvent manner.
- 4.5 Copies of the charity's accounts and documents showing the charity's current financial standing are held on file by the Revenues Services team.

5 Legal Implications

- 5.1 Section 47 of the Local Government Finance Act 1988 permits the billing authority to grant discretionary rate relief. Regard has been given to relevant government guidance in relation to discretionary relief when coming to this recommendation.
- 5.2 Guidance issued by the Office of the Deputy Prime Minister in December 2002 warns of the possibility of discretionary rate reliefs contravening European state aid rules. European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including National Non-Domestic Rates, can constitute state aid.
- 5.3 In practice, aid to village shops, most local "commercial" charities and other small-scale local service organisations (B&Bs, small retailers, child care facilities etc) will not be caught by the state aid rules as long as they are independent businesses because they are deemed incapable of affecting intra-community trade. On the other hand, any manufacturing operation, however small, is normally deemed capable of affecting intra-community trade. This means that rate relief for butchers, or farmers producing cheese, sausages, cider and other foodstuffs for example, would constitute state aid.
- 5.4 There are general exemptions from state aid rules where the aid is below a de minimis level. This level is set at €200,000 to any one business over a period of three years.

6 Equalities Implications

- 6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 – Charity Commission Registration

8.2 Appendix 2 - Constitution

8.3 Appendix 3 – 2017 Published Accounts

8.4 Appendix 4 – 2018 Published Accounts

9 Background Papers

9.1 None identified

10 Reasons for Recommendations

10.1 The main objectives of the organisation are aligned with the Council's objectives to conserve, enhance, promote and celebrate our heritage, as stated in the Gedling Plan 2020 – 2023.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer