

Report to Portfolio Holder for Resources and Reputation

Subject: National Non-Domestic Rates – Relief Application – Party Occupied Property

Date: 10th March 2021

Author: Revenues Team Leader

Wards Affected

Colwick

Purpose

The purpose of this report is to seek approval for relief under section 44A of the Local Government Finance Act 1988

Key Decision

This is not a key decision.

Recommendation(s)

THAT the Portfolio Holder:

- 1) Agrees 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.

1 Background

- 1.1 An application for relief as a partly occupied hereditament was received on 20th December 2019 from Hillarys Blinds Ltd in relation to the hereditament known as 2 Colwick Quays Business Park, Private Road No2, Colwick, Nottingham, NG4 2JR
- 1.2 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 (“the Act”).

- 1.3 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 a hereditament is unoccupied, but will remain so for a short time only.
- 1.4 The apportionment mentioned in paragraph 1.3 above means that the overall charge applied to the property is calculated in two parts. One part relating to the occupied section and one part relating to the unoccupied section. The net result of this is a reduction in the overall charge by virtue of either a three or six month exemption being temporarily applied to the apportioned unoccupied part. This is commonly known as “section 44A relief”.
- 1.5 The billing authority is required to terminate this relief if there is a change in the proportions of the occupied and unoccupied parts of the hereditament. 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 Council wishes for relief to continue in the new financial year, the same certificate from the Valuation Officer may be used, unless there are any valuation factors that necessitate a variation in the apportionment.
- 1.6 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.
- 1.7 The covering letter for the original application as well as the original application itself, dated 20th December 2019, are held on file with Revenues Services. They state that the vacant areas were vacant from the start of the lease and would be vacant until 21st January 2020 when they would be fully occupied.
- 1.8 A plan detailing the occupied and vacant areas to support the original application is attached at Appendix 1.

- 1.9 On 15th April 2020 a revised covering letter and application were received and are held on file in with Revenues Services. They confirm the occupation due to happen on 21st January 2020 never took place. This was largely due to the impact of the Covid 19 pandemic on the planned refurbishment works to the warehouse to allow for full occupation and use as office space.
- 1.10 This revised application confirms that as a consequent of paragraph 1.9, there is only now one period of apportionment required, that being from 10th September 2019 as shown in Appendix 1.
- 1.11 On 1st December 2020, information was received to confirm that the vacant areas were now occupied and had been since 31st May 2020 in an effort to make a safe, socially distanced environment for Hillarys workers that had been previously furloughed and had now returned to work

2 Proposal

- 2.1 It is proposed that the application for relief is granted for the period from 10th September 2019 – 31st May 2020 when we know all areas to be occupied. Although there have been some significant changes to initial plans, Hillarys declared and provided supporting detail to show that, when making their initial application for this relief, that the vacant areas would remain vacant for a short time only.
- 2.2 It is further proposed that approval is given for the Revenues Service team to require the Valuation Officer to apportion the rateable value of the hereditament appropriately.

3 Alternative Options

- 3.1 The alternative to the proposals would be to not require the Valuation Officer to apportion the rateable value of the hereditament therefore, not allowing any alteration in charge and subsequent relief.

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 Until the Valuation Officer apportions the rateable value of the property, it is not possible to say what the direct financial outcome will be. The governance arrangements for exercising discretion in these matters require the Portfolio Holder's authority prior to requesting a certificate of apportionment from the Valuation Officer. It is not possible for the Council to predict the exact apportionment values in advance of this decision.

5 Legal Implications

- 5.1 The authority to require an apportionment of a property's rateable value and the subsequent application of relief is held under section 44A of the Local Government Finance Act 1988.

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 – A plan detailing the occupied and vacant areas to support the original, and now only application.

9 Background Papers

- 9.1 None identified

10 Reasons for Recommendations

- 10.1 It is accepted that the parts of the hereditament highlighted on the building plan as vacant within the customer's application for relief, appeared to be vacant as stated and that that situation would remain 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.
- 10.2 An apportionment by the Valuation Office must be required to facilitate the relief.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer