Committee	Cabinet
Date	04/06/2024
Subject	Revised ESC Local Discretionary Rate Relief Policy
Cabinet Member	Councillor Toby Hammond Cabinet member with responsibility for Economic Development & Transport
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Key Decision?	Yes
Is the report Open or Exempt?	OPEN

Purpose/Summary

This report sets out ESC's revised Local Discretionary Rate Relief (LDRR) policy. The purpose of the policy is to provide the Council with a flexible incentive when encouraging business investment into the district. The policy was originally adopted in 2016 and this revision reflects the priorities within the Council's new Strategic Plan – Our Direction 2028 and particularly the Thriving Economy theme. Specifically, the amended policy seeks to more explicitly encourage investment from businesses engaged in environmentally positive activities e.g. clean energy investment, whilst discouraging those actively involved in the oil and gas sector.

The report sets out the revised criteria for considering LDRR applications and the governance in place to ensure robust decision making which supports the delivery of the Council's strategic plan ambitions.

Recommendation(s)

That Cabinet

1. Approve the revised Local Discretionary Rate Relief policy which more strongly aligns with Our Direction 2028.

Strategic plan

How does this proposal support Our Direction 2028?

Environmental Impact	**Continued commitment to net zero by 2030** By focussing more strongly on encouraging business investment from businesses engaged in environmentally positive activity this will support the Council's wider ambition to achieve net zero across the district and Suffolk. **Support, promote and implement green tech** The revised policy will provide significant financial incentives for businesses which invest in green tech in the district and therefore encourage greater adoption within the local economy.
Sustainable Housing	Not applicable
Tackling Inequalities	Not applicable
Thriving Economy	**Encourage investment in East Suffolk's key sectors** The LDRR policy has been specifically designed to attract investment which supports the district's key economic sectors. The revised policy includes additional criteria which more explicitly supports investment in sector's which support the Council's net zero ambitions e.g. clean energy including offshore wind and green hydrogen.

	Encourage creativity, enterprise and support start-ups A business investment incentive of this nature fully supports the Council's objective to support creativity, enterprise and start-ups by reducing the financial challenges to the establishment this type of economic activity.
Our Foundations / governance of the organisation	Not applicable

Justification for recommendations

1. Background

1.1 The former Waveney District Council's Cabinet adopted the LDRR policy in November 2016. This was principally initiated to enable significant inward investment into strategic employment sites in Lowestoft in support of the Council's then regeneration and development programme for the town. Following the creation of East Suffolk Council in April 2019, the policy was extended to cover the whole new district.

1.2 The adoption of LDRR represented an addition to the Council's existing guidance on Non-Domestic Rates. 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 Local Government Finance Act 1988. This additional guidance does not change the Council's approach to those organisations and businesses covered by the 1988 Act.

1.3 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 will support the Council's local sustainable economic objectives.

2. Introduction

2.1 In broad terms, LDRR should be applied where a business relocation decision supports the Council's Strategic Plan and specifically, Thriving Economy priorities. Further strategic context is provided in the Council's East Suffolk Economic Strategy which provides a framework for enabling a sustainable and inclusive local economy. Delivering sustainable and inclusive economic growth is central to the Council's strategic objectives and forms one of the 4 themes which underpin Our Direction 2028.

2.2 The East Suffolk Economic Strategy identifies the key sectors and areas for sustainable economic development. The LDRR policy has been designed as a further lever to enable the Council's ambitions to ensure we are supporting appropriate business investment in these sectors and areas.

3. Proposal

3.1 The revised LDRR policy (see appendix) sets out a range of criteria which applicant businesses should demonstrate how they meet to be eligible for consideration of this rate relief, these include:

i. 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 East Suffolk's key sectors. The Council is particularly keen to encourage investment from businesses with a low/ zero carbon focus and/ or engaged in substantial environmentally positive activities. Businesses actively engaged in the oil and gas sector will not be eligible for rate relief. This is the key revision to the existing LDRR policy and ensures that this investment incentive is now explicitly aligned with the net zero aspirations of the Council's strategic plan.

Additional 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. Further consideration will also be given to applicants who propose to locate in one of East Suffolk's strategic employment sites e.g. the Power park in Lowestoft where the Council is encouraging investment from the clean energy sector.

ii. Does the business create or support opportunities for education or training?

A core objective of both the Council's Strategic Plan and East Suffolk Economic Strategy 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 and supports ESC's inclusive growth agenda, where all residents can benefit from economic investment. 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.

iii. Will the premises be occupied?

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

iv. Is the ratepayer eligible for any other mandatory or discretionary relief?

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

If it is more appropriate that a new business investment should take place on the Freeport, where in addition to rate relief, many other tax incentives apply, applicants will be advised of this. It is not the intention of LDRR to compete with business benefits offered on the Freeport East Tax Sites.

3.2 If an applicant meets the above criteria, it does not automatically follow that they will be awarded LDRR. This will be judged on the extent to which a business investment can demonstrate it will deliver against the criteria and therefore align with ESC's sustainable and inclusive economic growth objectives. All applications will be assessed by the LDRR panel which will comprise:

- Cabinet members for Economic Development and Finance
- Strategic Director with responsibility for Economic Development

- Heads of Service for Finance and Economic Development

3.3 A report will be compiled for the panel setting out how the applicant does or does not meet the agreed criteria. A recommendation will also be provided proposing the level of LDRR award and the duration this will be applied for subject to Minimal Financial Assistance (MFA) public authority subsidy control rules.

3.4 In addition to the LDRR application, applicants will also be required to provide:

- Business plan with a 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 their Business Rates liability (i.e. any other discounts or reductions awarded)
- Evidence of other reliefs, grants, benefits etc which may be deemed as state aid within the current and previous two financial years

3.5 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.

3.6 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.

3.7 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.

3.8 Decisions will be reviewed by the panel and the applicant will be notified of the outcome within 14 working days with full written reasons for the decision.

4. Financial Implications

4.1 The maximum amount that an applicant can be awarded will be subject to the Minimal Financial Assistance (MFA) subsidy control rules which have replaced the previous EU state aid rules. A public authority can only award a subsidy of up to £315k over a three-year period as MFA.

4.2 Clearly, awarding rate relief will have implications for Council income derived from non-domestic rates, so a balance will continue to be struck between awarding such an incentive and the impact on Council finances. This will largely be driven by the criteria (i) above i.e. a focus on incentivising significant inward investment which in the long-term will generate business rates income far in excess of the initial rate relief award and further act as an attractor for additional business investment and an expansion of the business rates base.

5. Legal Implications

5.1 Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 and allows the Council to grant discretionary reliefs to any ratepayer, subject to the Subsidy Control Act 2022 and the requirements/thresholds therein.

6. Risk Implications

6.1. The award of Section 69 rate relief is a discretionary power. The Council will determine the outcome of each application on its own merits after applying the guidance detailed in the policy document (Appendix A).

7. Options

7.1 The Council has a choice on whether to continue offering LDRR as a business investment incentive and if not would default to the mandatory non-domestic rate relief which all Councils offer. As described above, these are centrally prescribed and do not offer flexibility in using such incentives to meet strategic plan objectives. By revising the existing LDRR policy, the Council can provide a business investment incentive which it has complete control over and can support the delivery of its Thriving Economy and Environmental Impact priorities.

8. Recommendations

8.1 That Cabinet approves the revised Local Discretionary Rate Relief policy which more strongly aligns with Our Direction 2028.

9. Reasons for Recommendations

9.1 The Council's existing LDRR policy reflects the priorities of the previous strategic plan and therefore required a revision and refresh to fully align with the updated priorities, specifically those within the Thriving Economy and Environmental Impact themes. Through this revision the Council will have a powerful incentive to attract environmentally positive business investment across the district and also within specific strategic employment sites.

10. Conclusions/Next Steps

10.1 Approval of the revised policy will allow the Council's ED&R team and our inward investment partners to use this incentive when negotiating with potential inward investors. It will make clear the Councils investment priorities with a renewed environmentally positive approach to investment support and better complement the existing regeneration and development programmes across the district.

Areas of consideration comments
Section 151 Officer comments: As referenced in the finance section of the report, the Council will need to fund its share of any award under the local discretionary rate relief scheme. The Council's share is 40% with the remainder shared between Central Government (50%) and Suffolk County Council (10%). The exception is for renewable energy projects, where the Council receives 100% of the business rates income. The Government introduced a new exempt from business rates from April 2023 until 2035 for eligible plant and machinery used in onsite renewable energy generation and storage (a tangible rateable part of a building) and the Council is compensated for this adjustment to rateable values.
Monitoring Officer comments: Section 69 of the Localism Act 2011 allows local authorities to reduce non-domestic rates ('business rates') for any local ratepayer for any reason. However, the local authority may only grant the discount if it would be reasonable to do so having regard to the interests of council taxpayers in its area. Under the Subsidy Control Act 2022, public authorities can award subsidies of up to £315,000 as Minimal Financial Assistance. However, £315,000 is a cumulative total. In applying for and accepting any subsidy award, applicants should be required to declare that the financial assistance they are seeking/accepting will not cause them to exceed the Minimal Financial Assistance threshold.
Equality, Diversity and Inclusion/EQIA: Equality Impact Assessment EQIA577622562 undertaken which shows a positive impact on the socio-economic protected characteristic.
Safeguarding: **N/A**
Crime and Disorder: N/A
Corporate Services implications: *(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)* Due to the level of LDRR awards anticipated (based on previous experience) there will be a minimal impact on corporate services.
Residents and Businesses consultation/consideration: Consultation has taken place with businesses likely to be impacted by this revision

Appendices:

Appendix A	East Suffolk Local Discretionary Rate Relief Policy June 2024

Background reference papers:

Date	Type	Available From