



Department for  
Communities and  
Local Government

C4 45  
NALC

APPLICATION FOR BORROWING APPROVAL FOR TOWN/PARISH COUNCILS

- If you have any queries about completing this form please contact your local county association.
- When completing this form please use CAPITALS.
- Once completed and signed please send this form to your local county association.

<b>1. Name of Council</b>	Rye Town Council
<b>2. Name of Clerk Working Address (inc. Postcode) Telephone Email address</b>	Richard Farhall, Town Hall, Rye TN31 7LA 01797 223902 townhall@ryetowncouncil.gov.uk
<b>3. Name of Chair Home Address (inc. Postcode) Telephone Email address</b>	Councillor Jonathan Breeds, The Queens Head, Landgate, Rye TN31 7LH 01797 226929 jonathanbreeds_70@hotmail.com
<b>4. District/Unitary Council area</b>	Rother
<b>5. Purpose of Borrowing</b> Please give a brief description of the purpose for which funds are required and the amount(s) of finance involved:- a) Purchase of land/buildings b) Construction/building works c) Provision of other assets d) Provision of grant to another body e) Other - please specify	£210,000 towards the purchase of one 2-bedroom dwelling to let to a young Rye household at a discounted rent.
<b>6. Total Contract/Project Value</b> <b>Minus</b> Funding from Council's own resources Funding from other sources <b>Equals</b> Amount to be borrowed	£ 230,000 £ 20,000 £ 0 £ 210,000
<b>7. Deadline for approval (if applicable)</b> If borrowing is required by a specific date – eg an auction date, or to meet matchfunding requirements - give details here.	N/A
<b>8. Is funding from other sources confirmed?</b>	N/A
<b>8. Proposed Borrowing Source</b>	PWLB
<b>9. Intended Borrowing Term (please specify the number of years)</b>	50

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<b>10. Details of Existing Loans [none]</b>	<b>1<sup>st</sup> loan</b>	<b>2<sup>nd</sup> loan</b>	<b>3<sup>rd</sup> loan</b>	<b>4<sup>th</sup> loan</b>
Date Taken Out				
Amount Outstanding	£	£	£	£
Unexpired Term				
Source				
<b>11. Precept for current year</b>	£ 122,100			
<b>12. Number of Electorate</b>	3389			
<b>13. Value and purpose of all funds, capital/revenue reserves and balances currently held</b>	£203,111 (including £87,731 Earmarked – see attached)			
<p><b>14. Approval of Full Council</b></p> <p>The above application was agreed by resolution of the full Council on 27 June 2016. The Report to Council and Budget attached have been taken to and approved by the full Council, and the draft Minutes attached have been seen and authorised for submission by the Chairman.</p> <p>The Council undertakes to notify the Department for Communities and Local Government (DCLG), as soon as reasonably practicable, in the event:-</p> <ul style="list-style-type: none"> <li>• of not exercising the approval, or,</li> <li>• it finds that the original amount requested is greater than the actual borrowing need.</li> </ul> <p>SIGNED..... DATE 27 June 2016 (Chair of the Council)</p> <p>NAME Jonathan Breeds</p> <p>SIGNED..... DATE 27 June 2016 (Responsible Financial Officer)</p> <p>NAME Richard Farhall</p>				

## DISCOUNTED ACCOMMODATION PROPOSAL

### 1 x 2-BED COSTING (MAY 2016) - AMENDED

As at 13.5.16 the following 2-bed houses (outside the Citadel) could be found via Rightmove (**sold/asking prices**):

Lea Avenue	£155,000
Fishmarket Rd	£170,000
South Undercliff	£175,000
Fishmarket Road	£185,000
South Undercliff	£190,000
South Undercliff	£210,000
Fishmarket Road	£215,000
Western Barn Close	£249,995
Springfield Drive	£270,000
Military Road	£279,950

As at 13.5.16 the following 2-bed dwellings **to let** could be found via Rightmove:

Regent Square	£196pw
Western Barn Close	£190pw
Eagle Road (flat)	£160pw
Wish St (flat)	£138pw
The Mint (flat)	£150pw
High St (flat)	£156pw
Ferry Road (flat)	£162pw

### TOTAL COSTS (estimated)

*Figures exclude VAT (where applicable) - it is assumed that all VAT is recoverable*

#### SET UP COSTS (est)

#### Notes

Property purchase price	£199,000
Stamp duty (April 2016 on)	£7,450
Full structural survey	£600
Legal fees	£1,750
Refurbishment	£20,000
Contingency	£1,200
	<b>£230,000</b>

#### Funded by

Council Tax Support Grant	£15,284	Balance @ 21.3.16: £11,182 + £4,102 (2016-17 provision)
General Reserve	£4,716	
PWLB (loan)	£210,000	
	<b>£230,000</b>	

<i>ANNUAL EXPENDITURE (est )</i>		<b>Notes</b>
Loan repayment	8,605	£210,000 @ 3.3% (fixed - <i>annuity</i> ) for 50 years (total repayable: £430,250)
Maintenance	3,000	
Insurance	500	
Deposit Grant Fund	884	Provision – cannot be drawn down by tenant until tenancy end – placed in an Earmarked Reserve.
	<b>12,989</b>	
 <i>ANNUAL REVENUE (est)</i>		
Discounted Rent: £165pw (£715pcm)	8,151	Assumes 95% occupancy and let and management undertaken by the Council. (A social rent would be £148pw.)
2016-17 budget provision	£2,000	Would continue into subsequent years
Town Hall Cottage rent budget <i>surplus (part)</i>	£2,838	New tenant is actually paying £1,150pcm (budget is £875pcm) – producing an actual annual budget surplus of £3,300 (assuming 100% occupancy).
	<b>12,989</b>	

## RYE TOWN COUNCIL

### DISCOUNTED ACCOMMODATION: PROVISION

### BRIEFING PAPER (CONSOLIDATED AND UPDATED)

Eighteen months or so ago the Council began to explore a proposal that it should purchase a number of residential properties to let to Rye families at an affordable rent. The advantages and disadvantages following were identified initially (when the Council was considering purchasing two properties):

#### *Pros/Strengths*

- Property is consistently a safe investment in the long term.
- Addition to the housing stock of two affordable rented dwellings available for younger Rye families – meeting a social and economic need - enabling them to remain within the Parish/area (rather than move to Hastings/St Leonards).
- The Council would have complete control over the eligibility and assessment criteria.
- A proportion of the rent would be used to offset the loan repayments.
- The Council would appear more ‘relevant’ by meeting a demonstrable local need.
- In the unlikely event that the initiative fails the asset can be sold and the loan redeemed.
- The cost of borrowing remains relatively low – repayments (PWLB) may be fixed and spread up to 50 years.
- Councils may borrow (without additional DCLG approval/scrutiny) up to £500,000 for a single purpose in a financial year.

#### *Cons/Risks*

- Impact on staff time (primarily during the set up stage – assuming a lettings agent is appointed to manage the tenancies thereafter).
- Additional maintenance responsibilities.
- Adverse impact if there is a change in Government policy – especially extending the Right to Buy to tenants with parish/town Council landlords - or subjecting parish/town councils to the Excessive Council Tax Referendum rules (currently effectively restricting Council Tax increases to 1.99%).
- Residential lets are an exempt taxable supply – the purchase and refurbishment of the two buy-to-lets could easily push the Council’s total exempt VAT expenditure over the £7,500pa partial exemption recovery limit – in which case the Council would be unable to recover **any** of its total exempt VAT expenditure (*See VAT – below*)

#### **Refinement**

The proposal was subsequently honed - on 29 February 2016 Council resolved to adopt the Affordable Accommodation Working Group’s Recommendations:

- (a) That, as a first step towards providing accommodation below market rent, RTC resolves to purchase – primarily by way of a loan - one 2-bed property located within the Parish boundary.
- (b) That the Council operates a discounted rent scheme which incorporates the maintenance of a reserve which tenants reaching the end of their tenancy [maximum of 5 years] may seek to draw on in order to help them secure their next property.

At the same meeting the Working Group was tasked with overseeing the public consultation required to support the application for borrowing approval and the Council recorded its preference for proceeding on the basis of the Clerk’s original ‘precept neutral’ costing - ie achieving a Town Hall Cottage rental of £1,150pcm (whilst accepting that this might require flexibility in relation to the ‘no pets’ restriction).

### **Consultation**

Following an announcement at the 2016 Annual Town Meeting held in March, in April 2016, every household within the Parish received a flyer outlining the proposal and recipients were asked to answer (online or via completion and return of the flyer) the question following:

*Do you support Rye Town Council’s unique proposal to borrow £210,000 to purchase a two-bedroom property in Rye to let to a Rye household at a discounted rent?*

88% of the Rye parishioners/businesses responding answered ‘yes’ (summary attached).

On 23 May 2016, the Council resolved that, once the tenant eligibility and assessment criteria had been determined, it would publish a briefing sheet and arrange a public drop-in session.

### **Costs (attached)**

The estimated set-up cost is £230,000 – to be funded by way of a mix of a loan, the Council Tax Support Grant reserve and the General Reserve.

The estimated annual expenditure in Year 1 is £12,989 – financed by the discounted rental income, the precept and ‘surplus’ rent generated by the Council’s existing rental property (Town Hall Cottage).

It is anticipated that there would be no need to increase the precept further to fund either the direct or indirect (see next para) costs associated with this proposal (mindful of the possibility of the Council being subjected to the Excessive Council Tax Referendum Regulations at some future point).

*Note* There could be an **indirect** cost – absorbing part of the estimated total cost of opting to tax weddings and Town Hall lets over a 3-year period (see **VAT, Recommendations I-J**):

Year 1 - £2,200                      Year 2- £1,000                      Year 3 - £1,100

These ‘absorption’ costs would be funded from the General Reserve – ie there would be no precept rise to cover them.

## Outstanding matters

Upon confirmation that borrowing approval has been obtained, the Working Group will need to draft recommended eligibility and assessment criteria for prospective tenants.

### VAT

Members are aware that it is possible that acquiring additional rental properties might mean that the Council is unable to recover **any** of the VAT it incurs on expenditure associated with it making exempt supplies.

There is an underlying concept of EU law that VAT can only be recovered on expenditure incurred in connection with the generation of VAT-able income. Therefore, income generated on lettings and leases (exempt activities) is, in principle, irrecoverable.

However, the partial exemption rules state that where this VAT is 'insignificant' all exempt-attributable VAT may be recovered (along with other VAT) provided that it is **not** more than £7,500pa or 5% of all VAT incurred. If the total of all exempt-attributed VAT exceeds this limit **none** of it may be recovered.

This is important because the Council currently has the following exempt activities: weddings/lets at the Town Hall, the under-lease with the Rugby Club and letting the Town Hall Cottage. This could mean that in some years the VAT incurred on expenditure associated with these activities (eg repairs and maintenance, professional fees, advertising and publicity) might be irrecoverable. This situation would arise if the total taxable expenditure attributable to these exempt activities exceeded £45,000pa (excl VAT). It is conceivable that, in any one year, repairs to the Town Hall Cottage, Town Hall or the proposed discounted rental property could exceed £45,000. If the Council incurred taxable expenditure in one year of £45,001 it would effectively be relinquishing its entitlement to recover £7,500.17 of VAT (at the current rate).

**Question** *Can this risk be realistically managed or must RTC accept that for some years it will exceed the limit and not be able to recover its exempt-attributable VAT?*

### CURRENT EXEMPT ACTIVITY

*Note There is no exempt activity at the Heritage Centre*

**Town Hall Cottage** Normally let (unfurnished) at a market rent. Refurbished November 2015-February 2016 at a cost of £22,512 + VAT

**Freda Gardham Playing Field** The Council has a 999-year lease from the freeholder. The Rugby Club has 75-year underlease at an annual rent of £500.

**Town Hall** Mixed use. The building provides office space for Town Hall staff and meeting space for the Council. The exempt activity relates to areas that may be hired only: the Council Chamber (mainly hired for weddings - £22,000pa revenue), two kitchens and the Buttermarket. In relation to weddings there is little direct taxable expenditure – mainly advertising.

### CONSIDERATIONS

The Town Hall Cottage is an 18<sup>th</sup> century Listed property that should be maintained regularly.

The Town Hall is an 18<sup>th</sup> century Grade II\* Listed property that requires repairs estimated at £90,000.

The additional residential rental property is likely to require some refurbishment (property-specific and therefore difficult to forecast).

Over the last 12 months the Council has incurred just under £7,500 of VAT associated with exempt activity; however, this is before the uses of the Town Hall (exempt and non-business) have been apportioned – meaning that the Council comfortably remained below the exempt activity £7,500pa recovery limit.

Relevant expenditure does not just include property repairs but also professional fees, advertising of weddings etc.

If the Council inadvertently recovers partially-exempt VAT to which it is not entitled (ie in excess of £7,500pa), HMRC has 4 years within which to claw it back.

**MITIGATING THE RISK (OF EXCEEDING THE £7,500PA PARTIAL EXEMPTION RECOVERY THRESHOLD):  
OPTIONS**

**1 Town Hall Cottage**

- (a) Spread planned maintenance over a number of years (and hope that emergency expenditure is infrequent and relatively low value).
- (b) Where possible, use contractors that are not VAT-registered (restrictive).
- (c) Ensure that the tenancy agreement obliges the tenant to undertake/commission and fund as many repairs as can reasonably be expected.
- (d) For minor maintenance use direct labour or volunteers (Members).

**2 Proposed discounted rental property**

- (a) Purchase new build only - thereby minimising capital expenditure in the short-medium term (requires a larger loan).
- (b) Buy property requiring minimal maintenance in the short-term – and then spread planned maintenance over a number of years (and hope that emergency expenditure is infrequent and relatively low value).
- (c) Where possible, use contractors that are not VAT-registered (restrictive).
- (d) Ensure that the tenancy agreement obliges the tenant to undertake/commission and fund as many repairs as can reasonably be expected.
- (e) For minor maintenance use direct labour or volunteers (Members).

**3 Town Hall**

- (a) Spread planned maintenance over a number of years (and hope that emergency expenditure is infrequent and relatively low value).
- (b) Where possible, use contractors that are not VAT-registered (restrictive).
- (c) For minor maintenance use direct labour or volunteers (Members).



- (d) Apportion overheads between exempt activity (weddings/lets) and non-business use (office space, Council meetings) as accurately as possible using a method likely to be acceptable to HMRC.

*Note If it was determined that weddings/lets accounted for 20% of the use of the Town Hall, then 20% only of the cost of, say, roof repairs would be attributed to exempt activity. If the cost total cost of the repairs was £10,000, £2,000 of this would be considered to be expenditure attributed to exempt activity. Only the VAT due on the £2,000 (£400) would count towards the £7,500pa partial exemption limit.*

- (d) Opt to tax the building. The Council would elect to charge VAT on weddings/lets. Weddings/Lets would move from being an exempt activity to a taxable supply. This would mean that **all** VAT incurred repairing the Town Hall could be reclaimed in the usual manner – and the VAT **would not** count towards the £7,500pa partial exemption limit. It has been established that the Council could ‘self-certify’ (rather than need to seek HMRC approval) by simply giving HMRC 30 days’ notice. NALC and SSALC tend to favour this option for village/community halls because most of their activity is exempt and many of the premises need regular – and often major – repairs. This option would require a specific Council resolution.

SSALC’s financial advisor is inclined also towards the Council opting to tax the Town Hall. There would be no need to apportion overheads four times a year (at the time each quarterly VAT return was due) and – assuming the recommendations in respect of the Freda Gardham Playing Field are accepted – the Council need be concerned only with exempt attributable VAT associated with expenditure on its residential lets – expenditure which would be easier to identify and administer. Additionally, it would be helpful to have this in place if the Council intends to take on additional exempt activities in the future – eg another ‘buy-to-let’ or the Salts being transferred from Rother District Council (letting pitches/playing areas to a sports club for more than 10 sessions is an exempt activity).

*Disadvantages:*

(i) Unless the Council is prepared to absorb the cost, wedding and hire fees would increase by 20%. Absorbing the cost entirely would cost RTC £4,400pa. An alternative might be to increase charges by 10% and absorb the other 10% (annual loss of c£2,200 – assuming the additional 10% charge did not deter bookings) – but see Recommendation J.

(ii) Once the option to tax is in place it cannot be ‘undone’ for 20 years.

#### **4 Freda Gardham Playing Field**

- (a) Reduce the annual £500 rent to £1. This would mean that the lease would no longer be an exempt activity but a non-business use (outside the VAT regime). The Council could therefore recover any VAT incurred on work undertaken at the Field.
- (b) Opt to tax (the under-lease does not prohibit the charging of VAT). A disproportionate response.
- (c) Retain the £500pa rent (exempt activity) but, if the Council decided to spend money on the field (or pavilion) it could resolve to donate the goods/service to the Rugby Club. (Donations/Gifts are a non-business activity and outside the scope of VAT – and the Council can recover the VAT.)

*Note The Council would not need to donate goods/services if, in any particular year, there was no risk of it exceeding the partial exemption limit.*

## **DISCUSSION**

Acquiring an additional residential rental property would increase the risk, in some years, of the Council exceeding the £7,500pa partial exemption VAT recovery limit.

In any year that this occurs the Council would forfeit its right to recover VAT of £7,500+.

The risk is greatest within the next few years (Town Hall repairs and possible refurbishment of the proposed discounted rental property). Thereafter, a combination of planned and unplanned expenditure attributable to the Council's exempt activity could push it over the partial exemption limit.

The Town Hall Cottage has just been refurbished and is unlikely to require significant expenditure in the near future.

## **RECOMMENDATIONS**

### **Generally**

- A Programme repairs to assets giving rise to exempt-attributable VAT so that they are spread over a requisite number of years.**

Rationale: To greatly reduce the risk of exceeding the partial exemption recovery threshold in any single 12-month period.

### **Freda Gardham Playing Field**

- B Retain the £500pa rent (and continue its exempt use) but, if there is a need to spend money on the facility and - depending on whether there is a risk of exceeding the annual partial exemption limit - make a grant to the Rugby Club or donate goods/services to it.**

Rationale: Grants/Donations/Gifts are a non-business activity and any VAT incurred is recoverable.

### **Town Hall Cottage**

- C Ensure that the tenancy agreement obliges the tenant to undertake/ commission and fund as many repairs and costs as can reasonably be expected.**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

- D Where possible, use contractors that are not VAT-registered.**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

- E For maintenance use direct labour and/or volunteers (Members).**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

### **Discounted rental property**

- F Seek to ensure that the purchased property requires as little refurbishment as possible – utilising a full structural survey.**

Rationale: To minimise expenditure giving rise to exempt-attributable VAT.

- G Ensure that the tenancy agreements obliges the tenants to undertake/ commission and fund as many repairs and costs as can reasonably be expected.**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

- H Where possible, use contractors that are not VAT-registered.**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

#### **Town Hall**

- I Consider opting to tax the Town Hall only when borrowing approval (to enable the purchase of a discounted rental property) has been confirmed by DCLG.**

Rationale: To restrict exempt-attributable VAT to the Council's residential lets only – and ensure that the required repairs to the Town Hall may be undertaken at any time (funds permitting).

- J Phase in the impact of paying VAT on those hiring the Town Hall for weddings and other purposes by absorbing the cost of the VAT introduced over 3 years: Year 1 – 50%; Year 2 – 25%; Year 3 – 25%. The average cost of a wedding is £315. Therefore, the average charge would rise as follows:**

**Year 1 – to £347      Year 2 – to £363      Year 3 – to £379**

**The Council's loss on weddings (assuming demand was constant) by absorbing the cost of VAT (ie not passing it on to the customer in full) would be approximately:**

**Year 1 - £2,200    Year 2 - £1,000    Year 3 - £1,100**

- K Where possible, use contractors that are not VAT-registered.**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

- L For maintenance use direct labour and/or volunteers (Members).**

Rationale: To reduce the exempt-attributable VAT incurred by the Council.

- M Instead of opting to tax: appoint an advisor to agree with HMRC a beneficial 'special method' of apportioning overheads between exempt and non-business use.**

Rationale: To minimise expenditure giving rise to exempt-attributable VAT.

RF13.6.16