



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET – 7 FEBRUARY 2022
Report Number	AGENDA ITEM 9
Subject	S13A DISCRETIONARY COUNCIL TAX APPEAL
Wards affected	Bourton Vale
Accountable member	Cllr Mike Evemy – Deputy Leader and Cabinet Member with responsibility for Finance Email: mike.evemy@cotswold.gov.uk
Accountable officer	Mandy Fathers – Business Manager for Operations and Enabling Email: mandy.fathers@publicagroup.uk
Summary/Purpose	To consider a S13A Discretionary Council Tax discount appeal application
Annexes	None
Recommendation(s)	<i>a) That Cabinet considers the appeal for Council Tax Discretionary discount submitted under Section 13A of the Local Government Finance Act 1992</i> <i>b) That Cabinet upholds the Cabinet Member decision for the reasons detailed in paragraphs 2.3, 3.1 and 6.2 of this report</i>
Corporate priorities	Delivering our services to the highest standards
Key Decision	NO
Exempt	NO
Consultees/Consultation	Leader and Deputy Leader, Chief Executive and Deputy Chief Executive, Monitoring Officer, Interim Head of Legal Services, Finance Business Partner, Group Manager, Director of Finance (Publica)



I. BACKGROUND

- I.1 The owner of Lavandula, a property in Lower Slaughter, made an application for a Discretionary Council Tax discount as the property had experienced severe flooding on 23 December 2020.
- I.2 Lavandula is a Grade II Listed Building with a Band G Council Tax liability.
- I.3 Due to the severity of the flooding, and its Listed status, planning permission was required to remove and refit the interior stone flag floor as well as install damp-proofing measures. These permissions were not approved until 10 August 2021.
- I.4 The schedule of works commenced in the middle part of August 2021, with a completion date expected at the end of December 2021/early January 2022.
- I.5 The discount available for properties undergoing major works such as this is 100% for a maximum period of six months.
- I.6 This discount has been applied to the Council Tax account for the period 24 December 2020 to 23 June 2021, totalling £1,506.52

2. MAIN POINTS

- 2.1 The Deputy Leader and Cabinet Member for Finance considered the initial application for a Discretionary Council Tax discount on 2 December 2021.
- 2.2 When considering the application it was confirmed that Lavandula was not the applicant's main residence, and that the property is normally let to tenants, therefore providing a rental income.
- 2.3 The Deputy Leader and Cabinet Member for Finance, after considering the support already awarded and the fact that the applicant had not been displaced for their main residence, made the decision not to award a Discretionary Council Tax discount giving the following reasons:
 - '*..the property owner was using the property for the business purpose of generating a rental income. The owner could reasonably be expected to provide for void periods and it was therefore not appropriate for the Council to award Discretionary Council Tax discount.*'
- 2.4 In line with section 7.1 and 7.2 of the Council's Section 13A Policy the owner is now appealing this decision.



2.5 The reasons for the appeal have been outlined in an email, dated 18 December 2021, and are as follows:

- 1) Letting out a property is not classified as a business. Letting a property for holiday lets is classified as a business. Letting a property on a long let is not classified as a business;
- 2) One would not expect it to take virtually a year to find a replacement tenant;
- 3) If the property had not been flooded and the existing tenancy had expired and a replacement tenant could not be replaced in an appropriate time frame then the owners would have had the option to take up personal residency in the property;
- 4) Part of the reason why this particular property was so badly affected by flooding was due to poor maintenance of the river/drains, partly the responsibility of the Council;
- 5) The cost to carry out these flood mitigation works to this Grade II Listed property to extend the habitable life of the property are substantial. By carrying out these works enables the Council to continue to collect a Council Tax revenue; and,
- 6) The reasons given for not extending the nil Council Tax are discriminatory, in so far as; had an owner-occupier used the property, the reasons given for not applying the extending nil Council Tax would not apply.

2.6 The Council's response to the points raised above are as follows:

- 1) In response to this, legal opinion has been obtained: 'Business' is not a legally distinct entity. The owner's argument would appear to be based on the property assessment and whether it has been assessed under Business Rates or Council Tax. Either way, the owner is receiving a payment for his property; and should ensure sufficient provision is in place for contingencies. Many holiday lets within Cotswold District are assessed under Council Tax, although clearly run for financial gain'.
- 2) The Council is not responsible for any lapse in time for a property to become tenanted. An owner of any property should ensure there are sufficient contingency funds available for void periods or to address emergencies.
- 3) This option is still available to the owner.
- 4) The County Council has delegated responsibility to the District Council to carry out enforcement only. Cotswold District Council has no duty or responsibility in respect of the river Eye's maintenance and/or drainage.
- 5) As the property owner of a Grade II Listed Building, it is their responsibility to ensure the habitable life of Lavandula. The property would still attract a Council Tax charge whether it was occupied or unoccupied.
- 6) There is nothing to suggest the decision would have been any different had the property been occupied by an owner-occupier. The Council would have accepted an application to consider a Discretionary discount, and would have made its decision based on the facts of that application.



3. CONCLUSIONS

- 3.1** Although the Council can sympathise with the owner, it has to ensure that, when applying such additional discounts, it is reasonable to do so having regard to the interests of other local Council Tax payers who have to meet the cost of any discount awarded. As the owner was not displaced from his main residence, and that the owner should make provisions for void periods as well as any loss in income it is considered that by applying any additional discount would not be in the interests of other local Council Tax payers within the District.

4. FINANCIAL IMPLICATIONS

- 4.1** The full cost resulting from the granting of a local discretionary discount is met by the billing authority and there is no statutory right to pass on the cost to other major precepting authorities.
- 4.2** The costs associated with this appeal would be as follows:

Date(s)	No of Days	Amount per day (£)	Total (£)
24 June 2021 to 31 December 2021	109	8.49	925.41

5. LEGAL IMPLICATIONS

- 5.1** Under Section 13A of the Local Government Finance Act 1992 (as amended by Section 76 of the Local Government Act 2003), the Council is permitted to award a Discretionary Council Tax discount.

6. RISK ASSESSMENT

- 6.1** If the owner remains dissatisfied with the decision an appeal may be made to the independent Valuation Tribunal. The Council has implemented a robust Section 13 Discretionary Policy, which has been followed when determining the initial discretionary application and when considering this appeal.
- 6.2** Paragraph 2.2 of the Policy states:



- The Council will only consider discretionary discounts in respect of the main home occupied by the Council Taxpayer (annexes or second homes will not be eligible for relief)

7. EQUALITIES IMPACT

- 7.1 There are no unacceptable adverse effects on the protected characteristics covered by the Equalities Act that have been identified

8. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

- 8.1 None associated with this report

9. ALTERNATIVE OPTIONS

- 9.1 Cabinet may decide not to permit any additional Council Tax discount or to apply an alternative percentage of discounts up to 31 December 2021. Examples of the cost of alternative discount levels are set out below:

Period of Award	Percentage Discount	Percentage Discount Award (£)
24 June 2021 to 31 December 2021	80%	740.32
	50%	462.70

10. BACKGROUND PAPERS

- 11.1 The following documents have been identified by the author of the report in accordance with section 100D.5(a) of the Local Government Act 1972 and are listed in accordance with section 100 D.1(a) for inspection by members of the public:

Agenda Item 01. 2 December 2021. Discretionary Council Tax Discount

These documents will be available for inspection at the Council Offices at Trinity Road, Cirencester, GL7 1PX during normal office hours for a period of up to 4 years from the date of the meeting. Please contact democratic services via democratic@cotswold.gov.uk

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