

## **Appendix 1 – Resolution for the implementation of the ‘Open for Business’ and ‘New Developments’ Business Rate Schemes**

### **RESOLVED**

1. Section 47 (discretionary relief) of the Local Government Finance Act 1988 (the Act) will apply as regards the hereditaments described below in accordance with the rules described in relation to those hereditaments.

It is reasonable for the Council to make this decision having regard to the interests of persons liable to pay council tax set by the Council.

2. Relief is not available under this resolution in respect of any hereditament which is occupied by -

- the Welsh Ministers, a Minister of the Crown or government department,
- any public authority (including any local authority),
- the holder of any public office, or
- the Crown.

For the avoidance of doubt, in respect of any chargeable day, rate relief under this resolution is not available in addition to any other relief or business rates-related support for the same day. Business rates-related support includes grant under the Welsh Government’s “Enterprise Zone Business Rates Scheme”.

### **First category of hereditament (New Development)**

3. Paragraph 7 of this resolution applies to a hereditament in respect of chargeable days described in paragraph 4 if the following conditions are fulfilled in respect of any such day (and subject to paragraphs 2, 3 and 4) -

(a) on the day none of the hereditament is occupied;

(b) on the day the ratepayer is the owner of the whole of the hereditament;

(c) the hereditament is shown for the day in the Council’s local non-domestic rating list in force for the relevant chargeable financial year;

(d) the hereditament is wholly or mainly comprised of qualifying new structures where the completion date for the structures is on or after 1 October 2013 but before 1 October 2016;

(e) the hereditament is unoccupied on the completion date;

(f) any rate relief granted in consequence of this paragraph would not be incompatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union;

(g) the owner of the hereditament has submitted an application to the Council requesting that paragraphs 1 to 7 of this resolution together with the annex apply to the hereditament, together with such information as is necessary for the Council to establish that the conditions above are fulfilled;

(h) where the Council has requested further information to establish that the condition in paragraph (f) continues to be met, the owner of the hereditament has supplied that information to the satisfaction of that Council;

(i) the application to the billing authority relates to the chargeable days (as described in paragraph 4) during the period no longer than 18 months beginning with the completion date for the hereditament.

4. The chargeable days are those days after the expiry of the following period, namely –

- in the case where the hereditament is one described in regulation 4(a) of the Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008, three months;

- in the case where the hereditament is one described in regulation 4(b) of those Regulations, six months.

If this resolution is applied to a hereditament which is subsequently occupied (and therefore rates are payable in the normal way) and then subsequently unoccupied, this resolution will not re-apply until the expiration of any further applicable period under those Regulations.

5. Where the owner disposes of the hereditament, the discretionary relief available in respect of the hereditament under this resolution will continue to apply provided that, within 28 days after the date of the disposal, the new owner notifies the Council in writing of the disposal and provides it with information to establish that the condition in paragraph 3(f) continues to be met.

6. For the purposes of paragraph 3 of this resolution –

“completion day” means, in relation to structures, the day on which the building or part of the building of which the new structures form part is ready for occupation for the purpose for which it was constructed unless a completion notice has been served in respect of the such a building or part of a building, in which case the completion date is the date specified in that notice;

“qualifying new structures” means those structures which fall within the criteria described in the annex to this resolution.

7. The chargeable amount is 0.

**Second category of hereditament (Open for Business)**

8. Paragraph 10 of this resolution applies to a hereditament in respect of chargeable days during the period beginning on 1 October 2013 and ending on 31 March 2016 if the following conditions are fulfilled in respect of any such day (subject to paragraph 2)-

(a) on the day the hereditament is occupied;

(b) on the day the occupier is the occupier of the whole of the hereditament;

(c) the hereditament is shown for the day in the Council's local non-domestic rating list in force for the relevant chargeable financial year;

(d) on the day the rateable value of the hereditament is no greater than £45,000;

(e) prior to the occupier occupying the hereditament the hereditament was not occupied for a continuous period of 12 months or longer;

(f) either –

(i) when last previously occupied, the hereditament was in use wholly or mainly for retail purposes, or

(ii) where the hereditament has never previously been occupied, it is in use wholly or mainly for retail purposes;

(g) the first day of occupation by the occupier is during the period beginning on 1 October 2013 and ending on 31 March 2015.

(h) the application to the billing authority relates to the chargeable days during the period no longer than 12 months beginning with the first day of occupation by the occupier;

(i) any rate relief granted in consequence of this paragraph would not be incompatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union;

(j) the occupier of the hereditament has submitted an application to the Council requesting that paragraphs 1 and 2 and 8 to 10 of this resolution apply to the hereditament, together with such information as is necessary for the Council to establish that the conditions above are fulfilled; but where, by virtue of an arrangement between the occupier and another person ("L"), L agrees to pay the rates, an application may only be made jointly by the

occupier and L, and in such cases L must undertake to apply the relief for the benefit of the occupier;

(k) the application under paragraph (i) is submitted to the Council no later than (a) 6-months after the first day of occupation or (b) if earlier, 30 June 2015;

(l) where the Council has requested further information to establish that the condition in paragraph (i) and the undertaking mentioned in paragraph (j) continue to be met, the occupier of the hereditament has supplied that information to the satisfaction of that Council.

9. For the purposes of paragraph 8 of this resolution –

(a) a hereditament is used for retail purposes if a trade or business is carried on there which consists wholly or mainly of the provision of goods or services for the personal use of members of the public who visit the hereditament;

(b) "goods" includes -

(i) meals or refreshments for consumption on or off the hereditament on which they are sold or prepared; and

(ii) intoxicating liquor for consumption on or off the hereditament on which it is sold;

(c) "personal use" means unconnected with a trade or business;

(d) "services" excludes provision of sleeping accommodation.

10. The chargeable amount is one half of the amount which would have been payable if it was calculated in accordance with the formula -

$$(A \times B) \text{ divided by } C$$

and for these purposes A, B and C have the meanings given in section 44(2), (4) and (6) of the Act.

## Annex

### Criteria for qualifying new structures.

#### Meanings

“structures” means:

- a) foundations and/or
- b) permanent walls and/ or
- c) permanent roofs

“mainly” means more than half.

#### General

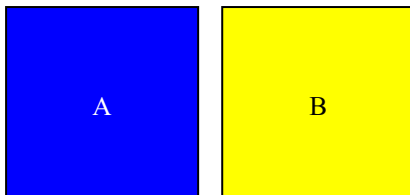
This resolution is not intended to capture properties that have been refurbished: it is intended to capture those that have been the subject of substantial structural construction, so for example those properties that are built on existing foundations or built around a retained façade are likely to benefit from the relief.

#### Splits, mergers, and changes to existing hereditaments

Where a hereditament is created as a result of a split or merger of other properties, or where the existing hereditament is altered for example with an extension, the same test will apply i.e. the hereditament must be wholly or mainly comprised of new structures completed within the necessary timeframes to benefit from the discretionary relief under the resolution. There will be some instances where this is not clear cut (such as where a hereditament is formed from the merger of a hereditament that comprises mainly or wholly of new structures with a hereditament that comprises structures that are not new) – the relief will only be available where the new hereditament wholly or mainly comprises qualifying new structures.

#### Examples of qualifying properties

##### Example 1 – A new build property and an existing property

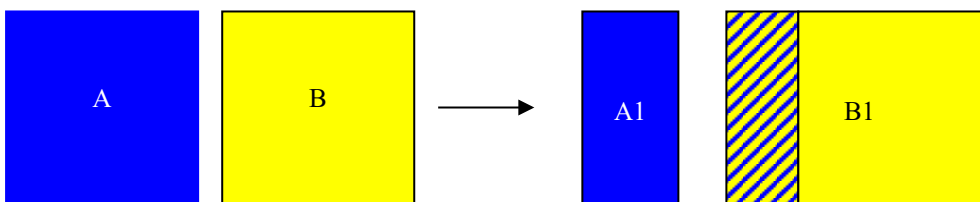


1. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
2. All of Property A's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1

April 2014. The structures would be considered 'new' until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to then.

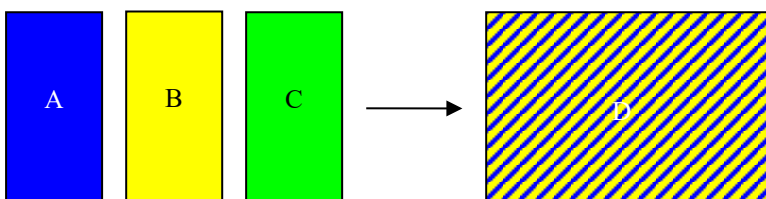
3. None of Property B's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed in the late 1990s and as such, the hereditament would not be eligible for this relief.

**Example 2 – A new build property splits and merges with an existing property**



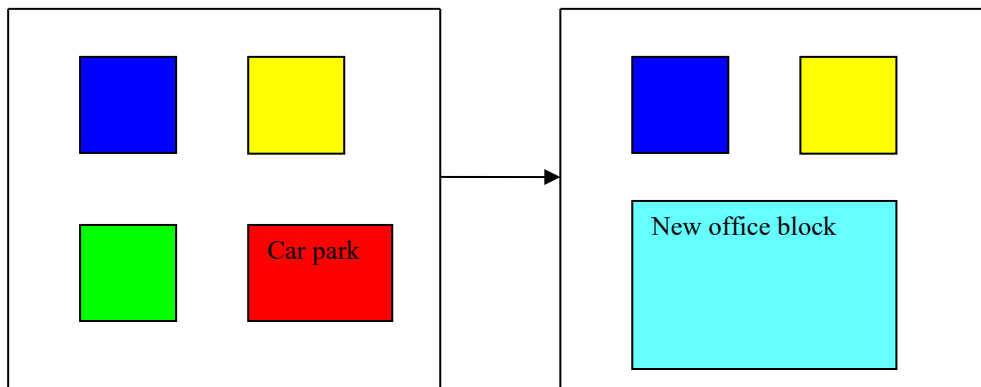
4. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
5. Part of property A splits and merges with property B. Two new hereditaments are formed on 1 October 2014 – A1 and B1.
6. All of Property A1's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered 'new' until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.
7. Some of Property B1's structures comprise qualifying new structures – as some of the foundations, permanent walls and permanent roof were completed on 1 April 2014. However as more than half of the hereditament's structures were completed in the late 1990s, the hereditament would not be eligible for this relief.

**Example 3 – three new build properties (with different completion dates) merge**



8. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built from scratch, completed on 1 May 2014. Property C is an office block built from scratch, completed on 1 June 2014.
9. The properties subsequently merge to form a new hereditament on 1 July 2014 – property D. The structures of properties A, B and C equally make up Property D's structure.
10. Until 30 September 2015 property D comprises *wholly* of qualifying new structures as the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. Between 1 October 2015 and 31 October 2015 property D comprises *mainly* of qualifying new structures as two thirds of the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. From 1 November 2015 property D *does not* comprise wholly or mainly of qualifying new structures as only one third of the structure was completed more than 18 months previously. On that basis Property D would be eligible for relief for any period for which empty property rates are payable up to 31 October 2015.

**Example 4 – a single hereditament comprising a large site with 3 separate small single storey properties and a car park is redeveloped. One of the small properties is demolished and a new large office block is built on the site of the small property and the car park. The site continues to be a single hereditament.**



11. The foundations, permanent walls and permanent roof of the new office block were completed on 1 April 2014 and comprise more than the aggregate amount of foundations, permanent walls and permanent roofs of the two remaining small properties. On that basis the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.