

Body:	CABINET
Date:	22 March 2017
Subject:	Eastbourne Town Centre Business Improvement District
Report Of:	Director of Service Delivery
Ward(s)	Devonshire, Meads and Upperton.
Purpose	To approve the business improvement district proposal, confirm conformity with relevant council plans and policies and authorise the conduct of a ballot of business ratepayers and associated decisions.
Decision Type:	Key decision
Recommendations:	<ol style="list-style-type: none"> 1. Approve the BID proposal and confirm conformity with relevant council plans and policies. 2. Grant the director of service delivery delegated authority, in consultation with the lead cabinet member for community, to approve formal BID proposal (including business plan and operating agreement) when received subject to it being in line with the draft submitted and to then instruct the council's returning officer (as 'ballot holder) to proceed with the ballot and require the lead officer for revenues, benefits and service support to supply up to date rating list information in suitable format to the ballot contractor. 3. Grant the chief finance officer delegated authority – <ol style="list-style-type: none"> (i) to determine the statement of baseline services and baseline agreement and to review the agreement annually; and (ii) if the ballot is successful, to operate a BID revenue account and pass over monies to the BID company. 4. Confirm that the expected costs of the ballot (c.£3,500) will be met by the council. 5. Grant the director of service delivery delegated authority – <ol style="list-style-type: none"> (i) to vote in favour of the BID in respect of business hereditaments held by the council within the BID area; and (ii) if the ballot is successful, to administer, bill, collect and enforce levies under the BID scheme . 6. To note that the council's returning officer is permitted to delegate his responsibilities to others and that he has engaged the services of Electoral Reform Services Ltd to undertake the ballot on his behalf.

7. To agree that the initial 'one-off' software costs required to collect the levy (c.£20,000) will be met by the council.
8. To note that the council's reasonable costs of collecting the levy and the associated financial management costs will be recoverable from the BID levy monies as outlined in paragraph 8.4.

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1.0 Business improvement districts - Overview

- 1.1 Business improvement districts (BIDs) are business led partnerships which are created through a ballot process to deliver additional services to local businesses. They can be a powerful tool for directly involving local businesses in local activities and allow the business community and local authorities to work together to improve the local trading environment. There are more than 240 successful BIDs currently operating in different towns and cities around the UK.
- 1.2 A BID is a defined area in which a levy is charged on all business rate payers in addition to the business rates bill. This levy is used to develop projects which will benefit businesses in the local area. There is no limit on what projects or services can be provided through a BID. The only requirement is that it should be something that is in addition to services provided by local authorities. Improvements may include, but are not limited to, extra safety/security, cleansing and environmental measures.
- 1.3 The BID proposer is required to develop a proposal and submit this to the local authority, along with a business plan. The proposal should set out the services to be provided and the size and scope of the BID. It will also set out who is liable for the levy, the amount of levy to be collected and how it is calculated.
- 1.4 Businesses that are subject to the levy, as set out in the proposals, vote in a ballot. This determines whether the scheme goes ahead. A successful vote is one that has a simple majority both in votes cast and in rateable value of votes cast. Each business entitled to vote in a BID ballot is allowed one vote in respect of each property occupied or (if unoccupied) owned by them in the geographical area of the BID. Once the BID is in operation the levy is charged on all businesses within the BID area (regardless of whether or how that business voted in the ballot).
- 1.5 The local authority will manage the ballot process. However, if the local authority is of the opinion that the BID arrangements are likely to conflict to a significant extent with an existing policy, place a financial burden on rate

payers or the burden from the levy is unjust, it can decide to veto the proposals.

- 1.6 The BID proposal must set out who is liable for the levy, the amount of levy to be collected and how it is calculated. The proposal should also provide details of any relief from the BID levy that may apply and who is eligible. The amount and type of relief is dependent on local circumstances but could typically include charity relief. Usually BIDs charge a levy rate of between 1% and 4% of rateable value. However, this is dependent on local circumstances and there is also an increasing number of BIDs that charge using a banded system. (Businesses are grouped together according to their rateable value. The levy charged will be a percentage of this rateable value.)
- 1.7 The maximum period that a BID levy can be charged is for 5 years. Once the term is completed the BID will automatically cease. If the BID company wants to continue its activities it must hold a new ballot.
- 1.8 A BID is managed by a BID body. This is often a private company but can be a partnership with the local authority. Most BID bodies are not-for-profit companies. The BID body is responsible for developing and implementing the proposal which sets out how the BID will operate. They will provide the local authority with this proposal along with the business plan (including the estimated cash flow, and predicted revenue to be generated by the BID) along with the financial management arrangements for the BID body. The local authority will manage billing and the collection of the levy and will hold the levy in a ring-fenced revenue account on behalf of the BID body.

2.0 The Eastbourne BID proposal

- 2.1 A BID steering group has been established with representation from a wide range of businesses in the town centre. Since 2015 they have been developing a BID proposal with a view to a ballot being held this coming May and for the BID levy to apply for 2017/18 and future years. Assistance was provided by the Department for Communities and Local Government from their loan scheme to help with start-up costs.
- 2.2 The proposal is for a levy of 1.5% on each business in the defined area with an annual rateable value of £6,000 or more. This is expected to raise £300,000 a year.

A copy of the business plan is attached – appendix 1.

The plan, as well as describing the BID proposals, includes a map of the BID area and spending plans.

- 2.3 The stated priorities and goals of the proposed BID are:
1. Bringing more customers to Eastbourne
 2. Attracting more businesses and jobs to Eastbourne
 3. Creating a lively and attractive alternative to on-line shopping
 4. Promoting Eastbourne as a place that residents and visitors will want to come back to time and again
 5. Delivering all of these ambitions, whilst at the same time reducing

your business costs

- 2.4 The BID promoters have promised that in the next 5 years they will deliver various initiatives around four themes. The themes are:
1. Dressing our town – for example, invest in winter and Christmas lighting to brighten up the town between October and March
 2. Footfall, Marketing and Promotion – for example, employ street ambassadors to meet and greet visitors to the town during peak periods
 3. Safe and Secure – for example, establish a business led night time economy working group to take advantage of this great opportunity
 4. Stronger Together – for example, lobby for better parking controls and restrictions.

- 2.5 The BID will be managed entirely by business people from within the BID area and will oversee the delivery of projects detailed in this business plan. Anyone from the BID area can stand to join the BID steering group at the AGM in 2018. After the first year of operation, a not for profit company, limited by guarantee, will be set up. In the meantime, the steering group will manage the BID.

3.0 Moving ahead to the Ballot

- 3.1 Alison Brewer, chair of 'Your Eastbourne BID Steering Group' has now submitted the necessary '84 day' notice required under the regulations. The regulations require that the BID proposer serves notice on both the billing authority (i.e. the council) and the Secretary of State, giving a minimum 84 days' notice of their intention to seek a ballot.

- 3.2 The ballot is intended to be held in the period 4 May and ending 5pm 31 May 2017. The 'ballot holder' is the council's returning officer. The conduct of BID ballots is relatively complex and we are not currently resourced to undertake this in-house. A further factor is that the pre-ballot preparation and ballot period overlap with the county council elections this May. For these reasons, and also to ensure independent scrutiny and secrecy of the ballot process, Electoral Reform Services will be engaged to undertake all aspects of the ballot process.

- 3.3 The local authority is required to ensure a voter list has been created in readiness for a ballot, and this must originate from the rating list to define the eligible hereditaments. The regulations set out that the voter must be an eligible ratepayer who will be liable to pay the BID levy and that the address to which the ballot paper must be sent can be the address of the hereditament within the BID area or their principal place of business.

- 3.4 To ensure that the final voter list is as accurate as possible, the ballot holder should ensure it corresponds with the rating list update from the Valuation Office Agency closest to the date of notice of ballot. Once the notice of ballot has been issued to the voters, this list is then fixed and no changes to the rating list can be taken into account during the ballot period. The regulations allow for proxy applications and the replacement of lost papers.

- 3.5 The ballot is run as a secret ballot meaning that the BID proposer will not be notified of which way votes have been cast at any stage of the ballot, or after the ballot has ended. However the ballot holder may report to the BID proposer during the ballot which ballot papers have been received. The ballot must be won on two counts – both a majority by number of votes; and a majority by rateable value of those that turnout to vote with no turnout threshold required. The count of the ballot papers is the responsibility of the ballot holder and is required to be carried out as soon as practicable after the ballot has ended. In practice, it is usually undertaken the morning after the ballot has ended with the announcement straight after the count on the same day.
- 3.6 There are two sets of documents prepared for the ballot– firstly the documents created and issued in accordance with the regulations; and secondly the campaign and canvassing documents produced by the BID proposer and not dictated by the regulations nor requiring the involvement of the local authority.

4.0 Timetable

- 4.1 A summary of the key dates is given below:

Notice to Secretary of State	No later than 23 January 2017 (given on 17 January)
Appoint ERS as ballot operator	March 2017
Publication of notice of ballot	18 April 2017
Ballot papers issued	30 April 2017
Ballot closes	5pm 31 May 2017
BID company is established	June to September 2017
BID revenue account established	June to September 2017
BID levy billed and collection starts	June to September 2017

5.0 Consultation

- 5.1 The BID proposers invited some 800 businesses from the proposed BID area to take part in an initial online survey in 2015, designed to assess support and determine priorities for town centre initiatives. Of those who responded, 68% were wholeheartedly in favour and 29% stated they were not yet sure. Since then, some 250 one-to-one consultation meetings have been held. Further individual consultations will continue in the weeks and months leading up to the ballot. Consultation has also included talks and presentations with interested local businesses and organisations such as the Chamber of Commerce, the Federation of Small Business and the local town centre crime reduction partnership. An initial meeting with Arndale centre shop managers attracted more than 30 representatives, with a positive reaction. Also, the Enterprise Centre has already offered its full support.
- 5.2 The BID proposers will continue with campaign events and presentations in the run up to and through the ballot period.

6.0 Veto of BID proposals

- 6.1 The local authority should satisfy itself that the BID proposal does not

conflict with any existing local authority policy nor propose a disproportionate burden on particular businesses by way of an unfair levy charge on a certain 'class' of levy payers, for example by an inappropriate manipulation of the BID boundary. An unfair charge may be a disproportionately higher rate for one sector/group of businesses that isn't reflected in the scope of the BID proposals or perhaps a disproportionately low rate for one sector/group of businesses that in effect means their services are being heavily subsidised by others. An inappropriate manipulation would involve examples such as capturing a high rateable value property, which in geographical terms appears outside the scope of the BID.

- 6.2 Review of the BID proposals does not indicate that there are any reasons to believe that the levy proposals and charges are unreasonable or would impose disproportionate charges on any ratepayers.
- 6.3 The BID proposals are broadly in line with planning policy, although they are light in detail. Any more specific proposals will need to be in accordance with the Town Centre plan. This has been communicated to the BID team.
- 6.4 There is nothing in the proposals that would clash with the council' corporate plan.
- 6.5 The BID proposals are consistent with these aspirations and will help to ensure that the town centre continues to be a place that businesses will want to invest and develop in.

7.0 Statement of existing baseline services and baseline agreement

- 7.1 It is a requirement of the BID regulations that the BID proposals include a statement of the existing baseline services provided by the local authority or any other public authority in the proposed BID area. The statement will form part of the BID proposals which demonstrate to businesses voting for the BID that the proposed BID services are additional to the baseline services provided by the public authorities.
- 7.2 It is best practice for a baseline agreement to be approved at the start of a BID's term which sets out baseline services the local authority is going to provide (that reflects the statement of existing baseline services) and services to be provided by the BID. It is unrealistic for local authorities to commit to specific service levels for the full five year term of the BID. The BID proposer and local authority need to agree a process for reviewing the baseline agreement and best practice suggests the baseline agreement includes an annual commitment for review and if necessary update service levels, to reflect the services each will provide the following year.
- 7.3 Where a change in the baseline services provided by the local authority results in the BID having to alter the BID arrangements, it may need to hold an alteration ballot before it can do so. Changes can be made to the arrangements without a ballot, but only where the original arrangements contain provision to this effect and only where the change would not alter the geographical boundary of the BID, increase the levy or cause anyone to pay the levy who had not previously been liable.

7.4 The baseline statement is currently being prepared drawing together information being provided by public bodies including East Sussex County Council and Sussex Police as well as the borough council. As this work is ongoing it is recommended that final approval of the statement is delegated to the chief finance officer.

8.0 Financial implications: BID levy collection and account administration

8.1 The local authority is required to manage the collection and enforcement of BID levy charges. In practice the BID body and the local authority establish a levy collection agreement known as an 'operating agreement'. The principle of this agreement is to define the principles and processes for collecting the levy; enforcing the payment of the levy; reporting on collection and bad debt; monitoring provisions between then BID and the local authority; and providing regular detailed and summary information on the service to the BID as the client. Best practice suggests that a draft arrangement between the authority and BID should be available for scrutiny by businesses during the ballot period. The terms of the operating agreement are being drafted in liaison with the BID promoter and it is recommended that formal approval is delegated to the director of service delivery.

8.2 The local authority is permitted to charge a reasonable fee for this service. There have been wide variations on charging policies across the country with approximately one third of local authorities providing the service at no charge to the BID, whilst others at the other end of the spectrum charging over £100/hereditament (Source: British BIDs Nationwide BID Survey). As a consequence levy payers have increasingly challenged these charges on the basis that there appears to be no correlation between the levy collection rate and its relative collection charge. The Industry Criteria and Guidance Notes (published by British BIDs annually on behalf of the British Retail Consortium, the British Council of Shopping Centres, the Federation of Small Businesses and the Inter Bank Rating Forum) recommend an industry standard of a maximum charge of £35/hereditament or 3% of annual levy income, whichever is the lower.

8.3 There are one-off software acquisition costs relating to the calculations required for billing the additional levy and the mechanisms relating to collecting the funds. These could be in the region of £20,000. Provision has been made in the council's 2017/18 revenue budget. In addition the council is obliged to meet the costs of the ballot (c.3,500), other than in the unlikely event that the proportion of 'yes' votes is less than 20%, in which case the ballot promoter could be requested to pay.

8.4 It is proposed that the council recover their reasonable costs of collecting the levy and account management costs and to limit this to the annual cost of the software licence (c.£1,500) plus a sum of no more than 3% of the levy income (based on an estimated annual income of £300,000 this would amount to no more than £9,000). Any costs incurred over and above these sums would be met by the council.

9.0 Other Implications

9.1 Staffing

There will be initial implications on service delivery teams of the council, but there are resources to mitigate this. The corporate management team will aim to smooth the way for introduction of this new initiative.

9.2 Legal

The statutory framework for establishing and operating a BID is Part 4 of the Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004. The Council should apply the Regulations with due regard to DCLG's Technical Guide for Local Authorities, which focuses on the core roles and responsibilities the Council is required to undertake in relation to a ratepayer-based BID development, management and termination.

Lawyer consulted 27 February 2017. Legal ref: 006105-EBC-OD

10.0 Conclusion

The council, being satisfied that the BID proposal is in conformity with borough policies and does not impose an unfair charge on any business ratepayers, is obliged to move forward with the conduct of the ballot.

Ian Fitzpatrick, Director of Service Delivery

Appendix 1 - Your Eastbourne - Business Improvement District (BID) - Business Plan - 2017 – 2022

Background Papers:

The background papers used in compiling this report were as follows:

Business Improvement Districts: Technical Guide for Local Authorities (Department for Communities and Local Government).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415990/BIDs_Technical_Guidance.pdf

Information and guidance on Business Improvement Districts: Overview (Department for Communities and Local Government) <https://www.gov.uk/guidance/business-improvement-districts>

To inspect or obtain copies of background papers please refer to the contact officer listed above or use the links provided..