

Body:	CABINET
Date:	13 September 2017
Subject:	Eastbourne Town Centre Business Improvement District
Report of:	Director of Service Delivery
Ward(s)	Devonshire, Meads and Upperton.
Purpose	To approve the amended Business Improvement District Business Plan.
Decision type:	Key decision
Recommendations:	<p>(1) That the amended Business Improvement District Business Plan set out in Appendix 1 be approved and the council's Returning Officer (as 'ballot holder') be instructed 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.</p> <p>(2) That the Chief Finance Officer be given delegated authority –</p> <ul 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 relevant monies to the BID company. <p>(4) To confirm that the expected costs of the ballot (c.£3,500) will be met by the council.</p> <p>(5) That the Director of Service Delivery be given delegated authority –</p> <ul style="list-style-type: none"> (i) approve the BID operating agreement; (ii) to vote in favour of the BID in respect of business hereditaments held by the council within the BID area; and (iii) if the ballot is successful, to administer, bill, collect and enforce levies under the BID scheme . <p>(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.</p> <p>(7) To agree that the initial 'one-off' software costs required to collect the BID levy (c.£20,000) will be met by the council.</p> <p>(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 of the report to Cabinet on 22 March 2017.</p>

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1.0 Business improvement districts

- 1.1 Cabinet approved the Business Improvement District ("BID") Business Plan at their meeting on 22 March 2017. At this meeting authority was given for the ballot to proceed and for delegations in respect of approval of certain documents (including the BID proposal, including business plan and operating agreement, the statement of baseline services, for the conduct of the ballot and setting up of a revenue account). Given the changes that have taken place in the interim, it is appropriate that the original recommendations (revised as necessary) are re-stated in full so as to provide a record of the decisions in a single minute. Reference should be made to the March report for explanation and detail behind these recommendations.
- 1.2 The BID company has amended the Plan to include a 15% discount on the BID levy for serviced tenancies that pay a separate charge (unrelated to the BID levy) to the Arndale Centre for security and marketing. There are approximately 72 units that the discount will apply to. Instead of paying a BID levy of 1.5%, the levy for such businesses would be 1.275%.
- 1.3 The amended Business Plan is at appendix 1. In addition the Baseline Agreement and draft Operating Agreement are at appendices 2 and 3 (please note that this is an early version of the Operating Agreement which will be updated in consultation with the BID proposer prior to the ballot).
- 1.4 The Council has power to veto the BID proposals approved by ballot where it is of the opinion that the BID Plan is likely –
(a) to conflict to a material extent with any existing formally adopted local authority policy (as to which, see paragraph 4.1 below); or
(b) to be a significantly disproportionate financial burden on any business or class of businesses (as compared to other non-domestic ratepayers in the BID area) and:
(i) that burden is caused by the manipulation of the geographical area of the BID or by the structure of the BID levy; and
(ii) that burden is inequitable.
- 1.5 The Council had satisfied itself that it was not necessary to exercise that power of veto in relation to the original BID proposal, and it should re-apply the above test in relation to the amended proposal.

2.0 Timetable

- 2.1 The BID proposer has indicated a wish to ballot in the period 4 October to 1

November 2017. Officers are currently in liaison with ERS as to whether this timetable is achievable. It is possible that a week's delay may be required, if so the following timetable will be amended and show the ballot closing on 8 November.

2.2 A summary of the proposed key dates is given below:

Notice to Secretary of State	Given on 22 June 2017
Appoint ERS as ballot operator	March 2017
ERS to receive mailing list, wording for all documents	6 September 2017
Publication of notice of ballot	20 September 2017
Ballot papers issued	4 October 2017
Ballot closes	5pm 1 November 2017
BID company is established	November/December 2017
BID revenue account established	November/December 2017
BID levy billed and collection starts	January to March 2018

3.0 Consultation

3.1 The BID proposers had carried out intensive consultation on the original Business Plan. Some 800 businesses from the proposed BID area took 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.

3.2 Following the changes made to the Business Plan the BID proposer has written to all businesses in the BID area to draw their attention to the revised Plan and asking them to respond to a survey with one simple question – "Do you support our plans for the BID?" (appendix 4).

3.3 Members should note that, whilst the covering letter to businesses did not refer explicitly to the proposal to grant a 15% discount to serviced tenancies in the new shopping centre, it is set out in the full business plan on which the consultation was based.

3.4 To date 84 businesses have responded; 82% supporting the BID proposal and 18% in opposition.

4.0 Council Policies

4.1 Council policies support the extension of the Arndale Centre (Corporate Plan 2017 refresh). In addition there are references in the various Local Plan documents to encouraging or supporting small businesses.

There is reference to promoting small businesses in the Employment Land Local Plan (ELLP). The ELLP contains an objective: *ELLP2 - Encourage Small and Start-up Businesses - To deliver a variety of new employment opportunities by providing a range of flexible employment spaces that can be used by existing businesses and new start-up businesses.*

In addition, ELLP Policy EL1 states that *Job growth and economic prosperity in Eastbourne will be supported in order to enable the achievement of a sustainable economy and make Eastbourne a town where people want to live and work. This will be achieved by (a number of measures, including): Promoting development which provides units for new start-up businesses and small enterprises.*

The ELLP goes on to say: *The majority of economic activity in Eastbourne is undertaken by small businesses within a broad range of sectors. In order to encourage such businesses and encourage local 'home grown' employment growth, it is important to provide new units suitable for small and start-up businesses. This could be in the form of good quality managed workspace and 'hybrid units' that cater for a range of innovative business activities, and have proved highly successful and driven economic and business growth in other parts of East Sussex (para 3.11).*

In reference to shopping units, the Core Strategy Policy D4: Shopping aims to protect larger units in the Town Centre – particularly in the primary shopping frontages – from subdivision or change of use. This was recommended by the Shopping Assessment 2010 in order to retain units that are most likely to be attractive to multiple retailers.

However, the Town Centre Local Plan (TCLP) makes a number of references to small and independent retailers, identifying areas such as Little Chelsea as a particular location where these are prevalent. TCLP Policy TC5 identifies that within secondary shopping areas, *comprehensive redevelopment or the amalgamation of individual shops within the secondary retail frontages will be resisted unless it can be demonstrated that this contributes to the overall vitality and viability of the Town Centre.* In justification, the TCLP states that: *The secondary retail areas support a diverse range of independent and specialist retailers which make a significant contribution to the overall variety of the Town Centre. It is important to protect these smaller retailers and the contribution they make in enlivening the retail mix and character of the Town Centre particularly the areas around South Street and Grove Road (Little Chelsea) and the area around Cornfield Road and Cornfield Terrace.*

4.2 It is not considered that the BID proposals conflict with published council policies.

5.0 Levy discounts

5.1 British BIDs, in their annual review of BIDs nationwide commented "*...some BIDs give a discount to levy payers who are located in a shopping centre or mall, on the grounds that they are often also paying their landlord a service charge for marketing, security or cleaning. Of the relevant sample of 162 BIDs who have a shopping centre in their area, 129 (80%) do not give a*

discount to tenants in a shopping centre.” The following table was included in their report:

% discount applied	No. of BIDs	% of BIDs
Less than 20%	4	15.38%
25%	11	42.31%
50%	8	30.77%
Greater than 50%	3	11.54%
	26	

- 5.2 Examples of levy reductions for shopping centre tenants include:
- Hastings, where the levy is reduced from 1.5% to 1.25% for serviced tenancies.
 - Swansea, where tenants of the Quadrant shopping centre paying a service charge for security, cleansing and marketing receive a 10% discount.
 - Cheltenham, where tenants within managed shopping and entertainment centres have their levy reduced from 1.25% to 1%.
 - Canterbury, where businesses part of the Whitefriars Shopping Centre pay 1% levy (instead of 1.5%) in recognition of the substantial service charge those businesses already pay.
- 5.3 An alternative approach by some BIDs has been to either exclude or exempt shopping centres and negotiate voluntary contributions.
- In Birmingham, the BID does not charge a levy in 3 shopping centres and occupiers are exempt from the BID ballot and levy. All 3 centres make a considerable voluntary contribution to the annual retail BID budget which reflects the number of business within their centres. The contributions are committed for the entire BID term of five years.
 - Brighton exempts businesses in Churchill Square and instead receives voluntary contributions.

6.0 Financial implications: BID levy collection and account administration

- 6.1 The amended Business Plan will slightly reduce the reasonable costs that the council are able to recover, these being no more than 3% of the levy.

7.0 Legal implications

- 7.1 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.

Under s. 51(2) of the 2003 Act, the Council may, in the circumstances prescribed by regulation 12 of the 2004 Regulations, veto the BID proposals within 14 days of the ballot where those proposals were approved by a majority of the non-domestic ratepayers entitled to vote. The prescribed circumstances are as set out in paragraph 1.4 of this report.

It should be noted that the function of vetoing the BID proposals in those circumstances is a discretionary power and not a duty.

Lawyer consulted 3 August 2017. Legal ref: 006145-EBC-OD

8.0 Conclusion

- 8.1 The Council, having considered all the documentation supplied and being satisfied that the amended BID Business Plan does not conflict with borough policies, is satisfied that the Returning Officer can move forward with the conduct of the ballot.

Ian Fitzpatrick, Director of Service Delivery

Appendix 1

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

Appendix 2 – Statement of Baseline Services

Appendix 3 – draft Operating Agreement

Appendix 4

Consultation letter to businesses, July 2017

Background Papers:

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

Report to Cabinet on 22 March 2016.

<http://democracy.eastbourne.gov.uk/ieListMeetings.aspx?CommitteeId=125>

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>

British BIDs survey 2016. <http://www.britishbids.info/wp-content/uploads/BB-Nationwide-BID-Survey-2016-1.pdf>

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