

Report to: Cabinet

Date: 5 June 2019

Title: Eastbourne Town Centre Business Improvement District

Report of: Director of Service Delivery

Cabinet member: Councillor Alan Shuttleworth

Ward(s): Devonshire, Upperton and Meads

Purpose of report: 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

Officer recommendation(s):

(1) That the Business Improvement District (BID) Plan set out in Appendix 1 be approved

(2) To approve the BID ballot date and the Council's Returning Officer (as 'ballot holder') to proceed with the ballot and require the Functional Lead for Growth and Prosperity to supply up to date rating list information to the ballot contractor

(3) That the Chief Finance Officer be given delegated authority to:-

- i. determine the statement of baseline services and baseline agreement annually
- ii. operate a BID revenue account and pass over monies to the BID company

(4) To confirm that the expected costs of the ballot (c. £3,400) will be met by the Council

(5) To agree that the initial 'one off' software costs required to collect the levy (c. £22,500) will be met by the Council

(6) To agree that the Council will pay the estimated annual BID levy cost (c. £5,600) for Council owned properties within the BID boundary

(7) That the Director of Service Delivery be given delegated authority to:-

- i. approve the operating agreement**
- ii. to vote in favour of the BID area in respect of the Council owned properties that fall within the BID area**
- iii. to administer, bill and collect the levies under the BID scheme**
- iv. review the costs associated with the Council's administration and collection of the BID levy at the end of year 1, should the ballot be successful**

(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 specified in para 8.4 of the report

(9) To note that the Council's Returning Officer is permitted to delegate his responsibilities to others and that he has engaged the services of the Electoral Reform Services Ltd to undertake the ballot on his behalf

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1 Introduction

- 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 (Appendix 1). 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 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.
- 1.5 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.
- 1.6 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).
- 1.7 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.
- 1.8 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. The levy charged will be a percentage of this rateable value.
- 1.9 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.
- 1.10 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 Proposal

- 2.1 The 'Your Eastbourne' 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 (business plan) with a view to a ballot being held this coming July and for the BID levy to apply for 2019/20 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.
- 2.3 The BID company has negotiated a 15% discount on the BID levy for serviced tenancies that pay a separate charge (unrelated to the BID levy) to the Beacon for security and marketing. There are approximately 74 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%.
- 2.4 A copy of the BID proposal is attached in Appendix 1. The plan describes the proposals, forecasted income and expenditure and spending plans.
- 2.5 The stated priorities, goals and benefits of the proposed BID are:
1. Bringing more customers, increased footfall and consumer spend into 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. Ring-fenced dedicated monies for use only in BID area
 6. Five year investment programme
 7. Ownership by BID community
 8. The National BID Survey 2018 found 43% of BIDs reported new investment income as a direct result of their BID activity
 9. Delivering all of these ambitions, whilst at the same time reducing business costs
- 2.6 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.

3 BID ballot

- 3.1 The BID co-ordinator has 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 notice of intention to seek a ballot.
- 3.2 The ballot will be held in the period 04 July 2019 to 31 July 2019. The 'ballot holder' is the Council's Returning Officer. The conduct of BID ballots is relatively complex. For these reasons, and also to ensure independent scrutiny and secrecy of the ballot process, Electoral Reform Services (ERS) will be engaged to undertake all aspects of the ballot process.
- 3.3 The Council 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 and may use the list to identify businesses that haven't voted in order to encourage them to vote. 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.

4 BID outcome

- 4.1 If the ballot is successful, the Eastbourne BID Limited will be formed which will be a subsidiary of the not for profit EDEAL enterprise agency. It will have separate management accounts and bank accounts which will be independently audited annually.
- 4.2 The levy will be ring-fenced for the purposes of the operation and delivery of the BID.
- 4.3 EDEAL will be responsible for the governance of the BID, whilst operational

matters will be overseen by 'Your Eastbourne BID Advisory Panel'. The Advisory Panel and its members have already been appointed for year 1 and will be responsible for formulating strategy, projects and priorities for the BID whilst ensuring accountability. Anyone from the BID area eligible to pay the BID levy can stand to join the Advisory Panel at the AGM each year

- 4.4 Should the BID ballot be successful it is envisaged that the purchase, configuration and implementation of the BID software together with the necessary processes and procedures will take approximately 8 weeks. Billing and collection of the levy will therefore commence in October 2019.

5 Timetable

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

Notice to Secretary of State	25 March 2019
Appoint ERS as ballot operator	March 2019
Publication of notice of ballot	18 June 2019
Ballot papers issued	01 July 2019
Ballot closes	31 July 2019
BID company is established	August to October 2019
BID revenue account established	August to October 2019
BID levy billed and collection starts	October 2019

6 Consultation

- 6.1 The Eastbourne BID has been in development for a number of years and has run a series of consultations and survey to businesses in the area.
- 6.2 The first survey was undertaken in 2017 and received 90 responses, 77% of whom supported the BID.
- 6.3 In October 2018 the BID proposer conducted a survey of consumers which had 285 respondents. 48% stated that they would not travel thirty minutes to shop in Eastbourne Town Centre.
- 6.4 Over the past two years the BID proposers invited 634 businesses from the proposed BID area to take part in an online survey in March 2019, designed to assess support and determine priorities for town centre initiatives.
- Of those who have responded so far, 31% were wholeheartedly in favour, 60% stated they were not sure and 4% were not in favour.
- 6.5 The BID team have followed this up with numerous meetings and 1-2-1 sessions with ratepayers. Each of the BID steering group members are meeting with businesses personally to consult and gain support through regular meetings
- 6.6 From the 1-2-1's conducted so far, 191 businesses stated they will support the BID, 22 are not in favour and 28 are undecided.
- 6.7 Those businesses that are supportive of the BID wish to proceed with the ballot

without further delays.

- 6.8 Concerns have been raised about the creation of a two-tier town centre with the improvements made and wish to see the BID focus on attracting footfall and investment to areas surrounding the existing improvements. Some concerns have been raised with regards to Brexit and the growth in online shopping and the changing face of the high street impacting on the retail sector and resulting in large retail chains such as BHS and Debenhams closing. It is the position of the BID steering group that the BID cannot be delayed any further as it is a critical time in the town's development.
- 6.9 The BID team continue to consult with businesses on a 1-2-1 basis and will continue these sessions both with existing contacts and new.
- 6.10 Consultation has also included talks and presentations with interested local organisations and businesses such as the Chamber of Commerce, the Beacon Centre and The Federation of Small Business. Businesses will be invited to a launch event in June 2019 to gain support for the BID before the ballot.
- 6.11 Consultations will continue with the business community and Council officers are being updated as the plans develop with regular monthly meetings.
- 6.12 The Council's Regeneration team is happy with the principles of the BID and are in agreement that it is a good opportunity for the town centre, as well as fitting with the Council's recent application to the Future High Streets Fund.

7 Relevant Council Policies

- 7.1 The Employment Land Local Plan (ELLP) contains several objectives relevant to businesses. 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, ELLP4: Support existing businesses – To support existing businesses in staying in the town by allowing them to relocate to premises in the town that better meet their needs and help them to flourish.
- 7.2 There is also the Town Centre Local Plan (TCLP) that makes references to small and independent retailers, identifying areas such as Little Chelsea as a particular location where these are prevalent. 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 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.
- 7.3 The Government announced in the October 2018 budget, a business rates

Retail Discount scheme for retail properties that have a rateable value of below £51,000 which runs from 2019-20 to 2020-21. Under the scheme, eligible ratepayers will receive a one third discount off their annual Business rate bill. In February 2019 the Council approved a new Business Rate Retail Discount policy in order that the Council can provide support to retail businesses, many of which are within the Town Centre BID boundary.

- 7.4 It is considered that the BID proposals fit with published Council policies, particularly those contained within the ELLP and TCLP, which focus on supporting economic growth and prosperity within the town centre.

8 Financial appraisal

- 8.1 The local authority is required to manage the administration, 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 the 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 Under the BID regulations the Council is permitted to charge a reasonable fee for this service and the recommended industry standard is no more than 3%. It is proposed that the Council recover its reasonable costs of administering and collecting the levy. It is recommended a sum of no more than 3% of the levy income based on an estimated annual income of £300,000 would amount to approximately £9000 per annum. Any costs incurred over and above this sum would have to be met by the Council
- 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. The estimated cost is in the region of £22,500. In addition the Council is obliged to meet the costs of the ballot (c.£3,400), 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. Provision has been made in the Council's 2019/20 revenue budget.
- 8.4 The Council will be required to pay the annual BID levy fee for 7 properties situated within the BID boundary. The combined Rateable Value of the properties is £370,500 and the estimated annual BID levy cost is c. £5,600.

9 Legal implications

- 9.1 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.

- 9.2 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.
- 9.3 The Council may veto the BID where it is of the opinion that the BID plan is likely:-
- a. to conflict to a material extent with any existing formally adopted Council policy
 - 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

Lawyer consulted 23.04.19

Legal ref: 008246-EBC-OD

10 Risk management implications

- 10.1 There is a risk that the additional levy costs in addition to annual business rates charges in a challenging national retail environment could mean that there is insufficient support for the establishment of the Eastbourne BID.
- 10.2 There will be initial implications on service delivery teams within the Council as a result of the implementation and ongoing administration and collection of the BID levy which won't have been scoped into the Joint Transformation Programme (phase 2) in 2017. Should the ballot be successful, it is recommended that the annual fee payable to the Council is used to support the cost of annual software licence fees and additional officer time. It is recommended that at the end of year 1 of the BID scheme, a financial and resource appraisal is undertaken.

11 Equality analysis

- 11.1 The Council has satisfied itself that the BID Business Plan 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.
- 11.2 A review of the amended BID Business Plan indicates there is no reason to believe that the levy proposals and charges are unreasonable or would impose disproportionate charges on any ratepayers.

12 Appendices

- Appendix 1 – Your Eastbourne BID business plan
- Appendix 2 – Consultation letter

Background papers

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

Business Improvement Districts: Information and Guidance (Ministry of Housing, Communities and Local Government).

<https://www.gov.uk/guidance/business-improvement-districts#overview>

Business Improvement Districts: Guidance and Best Practice to deliver a successful BID (Ministry of Housing, Communities and Local Government).

<https://www.gov.uk/government/publications/business-improvement-districts-guidance-and-best-practice>