

## Lancaster City Council | Report Cover Sheet

<b>Meeting</b>	Cabinet	<b>Date</b>	27 October 2020		
<b>Title</b>	Lancaster Business Improvement District (BID) Renewal - Draft Proposal				
<b>Report of</b>	Director for Economic Growth and Regeneration				
<b>Purpose of Report</b>					
To provide context and information for the endorsement of proposals for a Lancaster Business Improvement District (BID) Renewal Ballot (closing on 11 <sup>th</sup> February 2021) as required by statutory provisions. The report updates Members on the pre- and post- ballot issues and resource implications in relation to the city council's role in the BID renewal process.					
<b>Key Decision (Y/N)</b>	Y	<b>Date of Notice</b>	8 October 2020	<b>Exempt (Y/N)</b>	N

### Report Summary

Members will be aware a 2<sup>nd</sup> term for Lancaster Business Improvement District (Lancaster BID) was voted in by local businesses at the end of November 2015 and has been running since 1<sup>st</sup> April 2016. The renewed period agreed was for 5 years up to 31<sup>st</sup> March 2021 and Members will be aware of the contribution that Lancaster BID has made to events and initiatives over the period.

Following successful implementation and progression over its current term Lancaster BID is seeking renewal of the arrangements. This requires a Renewal Ballot, conducted under the same statutory provisions (The Business Improvement Districts (England) Regulations 2004) as the original ballot and 2<sup>nd</sup> term renewal ballot. The Renewal Ballot for the 3<sup>rd</sup> term is scheduled to be held from 14<sup>th</sup> January 2021 with the final day for return of ballot papers set for 11<sup>th</sup> February.

The BID Regulations instruct the BID proposer to notify the billing authority (the City Council), of its Renewal Proposals. The billing authority must be content that Renewal Proposals meet the information content and policy tests detailed in the 2004 Regulations before it can give its formal authority and issue instructions for a ballot to proceed. Lancaster BID has reviewed its activities, delivery structure and scope, consulting with current and prospective levy payers in detail over the current term and undertaking particularly diligent work throughout the Covid restrictions. The result of this work is the draft Lancaster BID Renewal Proposal (**Appendix 1**). A final formatted version of this document will be issued to all eligible levy paying voters and can be regarded as Lancaster BID's "manifesto" against which businesses that will have to pay the levy consider their vote.

Ordinarily this approval process would have been conducted earlier in the year but due to the impact of Covid 19 and related BID constraints this has been necessarily delayed. However, endorsement of the draft Renewal Proposals via this report and delegation of required key decisions, will allow the city council to manage its

statutory obligations under the ballot process and ensure legal requirements for progression of the ballot are met in good time.

### Recommendations of Councillor Tim Hamilton-Cox

- (1) **The draft Renewal Proposals for Lancaster Business Improvement District (BID) Renewal Ballot are agreed as being in compliance with the statutory requirements and are not in conflict with the council's corporate policy framework.**
- (2) **Approval of Lancaster BID final Renewal Proposals and the issue of an instruction to proceed to ballot is delegated to the Chief Executive.**
- (3) **The current Operating Agreement and Baseline Agreement are revised to reflect any changes/amendments required between the parties and current council service provision respectively, with approval and post-ballot sign-off of the final documents delegated to the Chief Executive.**

### Relationship to Policy Framework

In working towards implementation of Business Improvement Districts the council will be achieving and/or reviewing and improving upon a number of its corporate objectives/outcomes as defined in the Corporate Plan. The draft BID Renewal Proposals will actively support Sustainable Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.

### Conclusion of Impact Assessment(s) where applicable

Climate	Wellbeing & Social Value
Digital	Health & Safety
Equality	Community Safety

**Health & Safety:** The BID has sponsored events and has directly delivered events, and this is anticipated to continue in the future. All major public events planned are discussed through the local Events Safety Advisory Group (ESAG).

**Equality:** It is assumed from nationwide BID activity, and through its continuing application within the UK, that activities properly undertaken within the BID legislation are compatible with the Human Rights Act.

**Community Safety:** If renewed Lancaster BID will continue to support projects which will have a positive impact on community safety/business security matters.

**Climate:** None

**Wellbeing and Social Value:** The additionality of BID Proposals should be of benefit to the council's corporate objectives, businesses and the community.

**Digital:** None

### Details of Consultation

Lancaster BID has undertaken extensive consultation with prospective levy payers to develop its ongoing approach to its service delivery and this has been reflected in the draft proposals.

## **Legal Implications**

The Business Improvement Districts (England) Regulations 2004 prescribe the minimum requirements which must be met in order for a BID Renewal process to progress in a compliant legal manner. Consideration and approval of a final BID Renewal Proposal is a city council duty and the route for the council to discharge its responsibilities is outlined in the report.

The council, as billing authority, has the power to veto a final BID Renewal proposal where it conflicts with any locally adopted policies and/or plans. As noted in the report, use of the veto will be unnecessary if the final BID Renewal proposal follows the form and content of the draft Renewal Proposal. However, the compliance check is based on draft proposals and Final Proposals will need to be approved as set out in the report.

Ballot management will be undertaken via Electoral Reform Services who will meet all the necessary prescribed statutory ballot regulations. Instructions will need to be issued by the council to initiate the ballot on approval of the final BID Renewal proposal. If the ballot is to be undertaken in January (with a closing date of February) as stated in the Draft Renewal Proposal key actions are as follows:

- Lancaster BID as the Renewal Proposer is required to notify, in writing, the Secretary of State and the relevant Billing Authority of their intention of asking the Billing Authority to put the BID Renewal Proposal to the ballot. This notice is required 12 weeks prior to the BID Proposer submitting final proposals to the billing authority for approval for balloting. This has been completed.
- On receipt and approval of a final Renewal Proposal the Chief Executive will instruct the ballot holder (Electoral Reform Services on behalf of the council) to hold a ballot – a standard letter has been drafted. Confirmation is scheduled for 12<sup>th</sup> November.
- ERS must publish notice of the ballot - no later than 42 days before the day of the ballot (the closing day). This has been set for 10<sup>th</sup> December.
- The “day of the ballot” (the statutory description of the last day for return of ballots) must be at least 28 days after the date ballot papers are sent to voters and no later than 90 days after publication of the notice of the ballot. This has been set for 11<sup>th</sup> February 2021.
- The ballot holder sends ballot papers to voters with a statement on the arrangements for ballot - no later than 42 days before the day of the ballot (the closing day). This has been set for 24<sup>th</sup> December.

Implementation of the levy proposal by Lancaster BID (as the BID proposer) is underpinned by formal legal agreement with the council as billing authority. This Operating Agreement (OA) sets out the various procedures for the collection, payment, monitoring and enforcement of the BID levy. The current OA between the council and Lancaster BID is regarded as having provided a sound basis for the operational relationship to date and will be updated to reflect the new term if the BID renewal term is voted in. A feature of the OA is the 'baseline' – a statement/measure of the existing services provided by the city council to the BID area. Production of a baseline and its formal incorporation within the OA (as a “Baseline Agreement”) is useful to assist potential levy payers identify added value of services proposed. For example, if the council is involved in delivering services solely for the improvement or benefit of the BID area (funded using the BID levy or other contributions to the BID body) it provides a benchmark to ensure true additionality for BID

resources. While it is regarded as best practice that these operational matters are agreed in principle prior to a ballot (mainly for clarity and as an additional 'selling point' over the BID election period) - the agreements are formally agreed and signed post-ballot.

Should there be a successful Renewal Ballot the levy will continue as a statutory debt subject to the usual principles of rate collection, reminder notices and enforcement action for non-payment. The first point of contact for businesses with billing questions will be the council, rather than the BID delivery body. Experience of over the first and second BID term in Lancaster shows that the levy itself is not a major cause of non-payment but enforcement action may still be required in certain cases. Revenues shared service experience of BID collection/enforcement matters will be valuable in this regard. The timetable for reminders and enforcement will follow that of the existing NNDR system.

### **Financial Implications**

There are a number of costs in relation to BID renewal development that should have no bottom line impact on the Council:

1. The costs to Electoral Reform Services for undertaking the ballot are to be paid through the current Lancaster BID budget.
2. Administrative costs of identifying hereditaments within the extended BID boundary and producing a listing of all those rateable properties within the relevant boundaries is able to be absorbed within current budgets.
3. Updating the NNDR system to support the collection of additional BID levies: although the BID area has been extended there will only be around 366 billable hereditaments compared to previous 353. The current software model is therefore able to accommodate this at no additional cost.
4. BID legislation allows for the council's administrative costs to be recovered through the BID levy and the councils charging has been made clear to Lancaster BID and will be kept under review. Officers have ensured its administrative charges are appropriate. Charges are also clear to those who are eligible to vote and are included within the renewal proposal. This is currently budgeted for in the region of just over £11K per annum.
5. Potential costs of supporting the BID body operation post ballot - the Lancaster BID has not required or generated any discrete council management input into the post ballot 'operational' side.

The main bottom line impact of a successful renewal will be the cost to the council for the levy on its own properties for which it holds NNDR liabilities within the increased BID area. At a 1.5% levy the council is estimated to incur a charge of around £15K. The existing charge is included in the council's revenue budget and will need to be carried forward from 2021/22 financial year onwards as part of the annual budget process.

There is no guarantee that a BID Renewal Ballot will be successful. If there is a 'no' vote any remaining funds from the first BID term will be returned to the council who will distribute it back to levy payers under procedure detailed in the 2004 BID regulations.

### **Other Resource or Risk Implications**

#### **Human Resources:**

Internal council human resources will be used to support Lancaster BID as outlined in the report. The main operational issues will primarily involve NNDR officers in managing the levy billing arrangements if the BID Renewal proposals are successful. Legal Services officers will be involved in reviewing and dealing with formal agreements between the council as billing authority and the new BID body. Officers from Economic Growth and Regeneration Service will continue to provide the contact point for the council's input into the Lancaster BID project programme if it is renewed through ballot.

**Information Services:**

Following a successful ballot some updates to the billing software used by the council to generate and administer the BID levy bills will be required. The implications are outlined in the report.

**Property:**

The city council will continue to be liable for the BID levy on rateable property which it occupies/holds should a renewal ballot be successful. The continuing improvement to the environment of the area through a successful BID ballot could benefit the businesses within the city centre and may also improve the take up of the council's empty commercial property, reducing its general business rate liabilities in the long run.

Lancaster BID currently leases accommodation within the council owned offices at CityLab, Dalton Square, if the BID renewal ballot was successful then it is hoped that BID will continue to occupy this space under a new lease.

**Section 151 Officer's Comments**

The s151 Officer has been consulted and has no further comments

**Monitoring Officer's Comments**

The Monitoring Officer has been consulted and has no further comments

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**Links to Background Papers**

**Lancaster Business Improvement District report July 2010 (minute ref: 40)**

<https://committeeadmin.lancaster.gov.uk/ieListDocuments.aspx?CId=297&MID=5901>

**1.0 Introduction**

- 1.1 A summary of the legal basis, characteristics and potential of BIDs was initially considered by Cabinet at its July 2012 meeting (minute ref: 40). BIDs were introduced to the UK in 2002 as a funding generating mechanism to support improvements in defined commercial areas. BIDs are based on the principle of charging an additional levy (typically 1% to 2% of rateable value) on business ratepayers in a defined area following a positive majority vote by those ratepayers – being defined as a simple “yes” majority of both the voting

balance of Rateable Value and the voting hereditaments. BIDs are time-limited, running for up to 5 years before requiring a renewal vote. Local partnerships are developed to undertake work on:

- Deciding the BID area and what improvements they want to make;
- How the implementing partnership will manage it and what it will cost;
- How long it will last

1.2 BID Regulations leave most of the structural arrangements to local discretion. This includes the pre- and post- Renewal Ballot details of who proposes / manages a BID and which projects / proposals are brought forward to meet local needs and aspirations. Experience over the first and second BID terms is that it is essential to clarify the 'additionality'. That is, a positive voting outcome will be hard to achieve if a proposal is perceived to replace what is already being delivered or is revealed to be covering for statutory service shortfalls. Best practice also advises that any BID proposal, and the levy resource ownership and implementation, remains independent of the statutory service providers. However, the council in acting as local billing authority retains and discharges certain critical administrative functions and financial responsibilities.

1.3 Before it issues instructions for a Renewal Ballot the billing authority must content itself that:

- The Renewal Proposal covers the issues laid down in BID Regulation 4 and its associated Schedule 1 - the required information compliance
- The Renewal Proposal does not conflict with the billing authority's formal policy framework.

1.4 If the proposals are judged to conflict, the billing authority must notify the BID proposer in writing, explaining the nature of the conflict. This would then raise the potential for drawn out action under the statutory veto and appeal procedure which would create problems for the ballot timetable. It is therefore appropriate to review draft proposals to agree their broad compliance and for the council to highlight any issues which need to be addressed prior to submission and endorsement of a final version.

## **2.0 Lancaster BID Renewal Proposal**

2.1 The draft Renewal Proposal (**Appendix 1**) builds on the work undertaken over the current 5 year term. The content follows best practice guidelines from British BIDs, the industry body which reviews and reports on national BID activities. It covers the following key areas:

- Reference to achievements against the original BID Business Plan with evidence of delivery and performance against the planned services.
- An analysis of the impact on the BID area and for those businesses

within it.

- A clear outline of any differences between existing and proposed services and/or the previous BID area together with reasons as to why such changes have been made.

2.2 Notable features and distinctions from the previous term's proposals are as follows:

- The renewal term proposed is 5 years, the maximum allowed under statute and will run from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2026.
- Total levy revenue generated is £1.15M reflective of a general reduction in RVs assessed at last valuation. .
- The BID area is extended - the majority of the Town Centre east of the inner ring road up to the canal bank, and the Castle and Priory environs to the west and Lancaster rail station are included.
- Lancaster BID will continue to operate as a company limited by guarantee and accountable body for BID levy funds.
- The ballot period is scheduled for between 31<sup>st</sup> December 2020 and close at 5pm on 11<sup>th</sup> February 2021.

The BID levy (1.5%), how it is calculated, collected and who is eligible to pay remain the same as the previous term.

2.3 The consultation process undertaken to date by Lancaster BID to evidence and secure the support from local businesses for the planned expenditure has been extensive. It has included detailed independent review and evaluation of past performance, questionnaire surveys, general meetings and events aimed at different sectors and different geographical sub-areas of the city.

2.4 **Appendix 2** highlights the officer view of the draft Renewal Proposal's compliance with BID Regulations 4 and Schedule 1 and details some potential further information requirements or clarifications which may be required in the full proposal. It also highlights the policy fit – defined as the city council's published corporate policy framework. In summary, officers consider that the draft document meets the statutory information requirements and does not conflict with the council's policy framework.

### 3.0 Options and Options Analysis (including risk assessment)

<b>Option 1: Do nothing (Put off decision until the production of Final Renewal Proposals)</b>
<b>Advantages:</b> No advantages.
<b>Disadvantages:</b> Creates uncertainty for Lancaster BID.

Creates difficulties for Lancaster BID in developing its pre-ballot canvassing strategy and marketing/publishing activities around the BID Renewal Proposals.

**Risks:** Due to the impact of Covid-19 this is Cabinet is the last date proposals can formally be endorsed for February ballot to be comfortably enacted under statutory notifications. If there are issues with Renewal Proposal compliance at this stage a ballot could be delayed with knock on implications for Lancaster BID in terms of canvassing and for the council in terms of dealing with operational matters in the new year arising from a late 'Yes' ballot

**Option 2: Endorse the draft BID Renewal Proposals with endorsement of final BID Renewal Proposals delegated to the Chief Executive.**

**Advantages:**

Timely notice that the proposals are technically sound and the final document is likely to be compatible with BID Regulations and council policy.  
Allows for minor and/or non-material technical amendments via officer scrutiny of final Renewal Proposals document.  
Allows Lancaster BID to continue to develop its pre-election canvassing strategy and marketing/publishing activities around the BID Renewal Proposals with confidence.

**Disadvantages:**

No disadvantages identified.

**Risks:**

No guarantee that BID Renewal Ballot will be successful.

**Option 3: Request material amendments to the draft Renewal Proposal for consideration/ endorsement at a future Cabinet meeting.**

**Advantages:**

This would only be if it was considered (based on the draft), a Final Renewal Proposal would be vetoed because matters contained conflict with council policy and extensive material changes are required.  
Allows for revised proposals to come forward which are compatible with council policy and regulatory requirements

**Disadvantages:**

Reputational implications for council if proposals are not endorsed without good reason. Potential delays Lancaster BID's commitment to pre-ballot canvassing strategy and marketing/publishing activities around the BID Renewal Proposals.

**Risks:**

If there are issues with compatibility with the council's policy framework the onus would be on Lancaster BID to address any issues and prepare a technically/policy compatible Final Renewal Proposal. Risks are as Option 1 in that this Cabinet is, realistically, the last date proposals can formally be endorsed by Cabinet for a ballot to be enacted under the current statutory notification timetable.



#### **4.0 Officer Preferred Option (and comments)**

- 4.1 On submission of a Final Renewal Proposal the local authority is obliged to endorse the BID proposal and approve it to go forward to a ballot if it meets the defined regulatory and policy tests. The draft proposals provide a good indication of whether it is likely the council needs to use its veto powers.
- 4.2 The draft proposals do not conflict with any published council policies and a successful BID will continue to actively support the council's corporate objectives particularly in the areas of Economic Growth, Clean Green & Safe Places and Community Leadership. The work of Lancaster BID in canvassing opinion and consultation appear to show a good level of support for the way the BID proposals have been shaped.
- 4.3 The amount of prior discussion between the BID proposer and the local authority before submitting the BID draft proposals to the authority has been sufficient and it is expected consultation will continue up to the submission of final proposals. The costs incurred and due in developing BID proposals, canvassing and balloting have been allowed for within the BID's current budget.
- 4.4 There are no advantages in holding over on endorsement pending Final Proposals (Option 1) and officers consider there are no material alterations required (Option 3). **The preferred Option is therefore Option 2, to endorse the draft Renewal Proposals.** It follows that an appropriate level of delegated authority is required to ensure the outstanding matters are addressed and so that final proposals can be approved to move forward to ballot. As these issues are mainly technical and operational it is recommended this be undertaken through delegated decision by the Chief Executive.
- 4.5 Members should note the city council will continue to be liable for the levy on rateable property it occupies/holds should a ballot be successful (refer to Financial Implications). As a potential levy payer the council is eligible to vote in a ballot. There are no statutory rules on how individual local authorities treat this. Cabinet has previously escalated the voting decision to Full Council (who have previously considered a report prior to the voting period), and officers have anticipated the continuation of this arrangement