

CABINET

Lancaster Business Improvement District (BID) Draft Proposal 24th July 2012

Report of Head of Regeneration & Planning Service

PURPOSE OF REPORT			
To provide information to enable a decision on endorsing the draft proposals for the Lancaster Business Improvement District, to enable progression to a ballot with the aim of formally establishing the BID. The report updates Members on potential pre- and post- ballot issues and resource implications in relation to the role of the city council in the BID development/implementation.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	12 July 2012		
This report is public			

RECOMMENDATIONS OF COUNCILLOR JANICE HANSON

- 1) The draft proposals for the Lancaster Business Improvement District (BID) are endorsed as being in compliance with statutory regulatory requirements.
- 2) Approval of Final BID Proposals and the issuing of instructions to proceed to ballot are delegated to the Chief Executive.
- 3) The content of the draft Operating Agreement (Appendix 3a) and subsidiary draft Baseline Agreement (Appendix 3b) is noted and final approval of the formal BID implementation framework is delegated to the Chief Executive.
- 4) The contents of the initial baseline statement (Appendix 4) are noted and approved for use in pre- ballot consultation and marketing alongside final BID Proposals.

1.0 Introduction

- 1.1 Cabinet considered a report on Business Improvement Districts (BIDs) in July 2011 which outlined the BID concept and highlighted potential implications for the council moving forward. Members were made aware of the ongoing work

by Lancaster District Chamber of Trade and Commerce (Lancaster Chamber) and officers following the council's allocation in 2010 of £80K resources to develop the BID concept in the District. Members resolved (minute reference 27):

- To support the intention of Lancaster District Chamber to lead on BID Proposal development in Lancaster city centre.
- To approve the allocation of £40K for Lancaster town centre BID development to the Lancaster Chamber via a formal funding agreement administered through the Regeneration & Policy service.
- To nominate the Regeneration Portfolio holder to sit on the Lancaster BID Steering Group.

1.2 Following the decision the Lancaster Chamber formed a broad Steering Group focusing on the following activities:

- Deciding the BID area and what improvements they want to make
- How the partnership will manage it and what it will cost
- How long it will last
- Consulting widely with business interests

The result of this work is the draft BID Proposal (or BID Delivery Plan) in Appendix 1. It is the final version of this document that is voted upon by those businesses that have to pay the levy. The Business Improvement Districts (England) Regulations 2004 instructs the BID proposer to notify the billing authority, the City Council, of its proposals and the billing authority must be content that the proposals address certain technical and policy issues outlined in the Regulations before it can give its necessary authority and instructions for a ballot to proceed.

1.3 This report outlines options and recommendations for endorsing the current draft and future final proposal for the Lancaster BID. Endorsement of the draft proposals by Members, and delegation of other necessary decisions, is required to allow efficient management of the balloting process and legal requirements. This report therefore provides feedback from officers in relation to the proposal's compliance with BID Regulations and with the city council's policy framework upon which the proposal may impact.

2.0 Proposal Details

2.1 The basic operational characteristics of BIDs were previously considered by Members in the July 2011 Cabinet report and are again summarised in the appended Draft Lancaster BID Proposal. In summary the Steering Group's proposal outlines the following:

- The two core themes: "Promoting Our City" and "Improving Our City"- along with a proposal for a Special Projects fund.
- The BID area - the majority of the Town Centre encompassed by the 'ring road' with some extensions, and including St George's Quay.
- The BID levy (1.5%), how it is calculated, collected and who is eligible to pay
- How the budget will pay for BID services.

- The BID governance, Board structure and representation.
- A ballot period initially scheduled between 19th November 2012 and close at 5pm on Thursday 13th December 2012.

The BID is scheduled to run for three years from 1 April 2013 until 31 March 2016.

2.2 Before it issues instructions for a ballot the billing authority should content itself that the final proposal:

- Covers the issues laid down in BID Regulation 4 and its associated Schedule 1 – the required information compliance.
- The proposal does not conflict with the billing authority's formally published policies. If the proposals do conflict the authority must notify the BID proposer or the BID body in writing, explaining the nature of the conflict

2.3 It is therefore appropriate to review the draft proposals at an early stage to agree their broad compliance and highlight any issues which need to be addressed prior to submission of the final proposal which will be a professionally desk top designed and formatted document. It will also be useful to agree an appropriate level of delegation to allow the ballot notification process and other issues to proceed without the need to align decisions with the Cabinet meeting cycle.

2.4 Appendix 2 highlights the officer view of the draft 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. Appendix 2 also highlights the policy fit – defined as the city council's published corporate policy framework.

3.0 Details of Consultation

3.1 The consultation process undertaken to date by the Lancaster BID Steering Group and the work to evidence and secure the support from local businesses has been extensive. It has included questionnaire surveys, general meetings and specific focus group events aimed at retail, commerce, night-time and tourism sectors.

3.2 Membership of the Steering Group itself includes representation from the local authority and large, medium and small businesses in the area. The Steering Group has been liaising directly with the lead officer from the Regeneration and Policy section who has acted as a conduit for consultation with the most relevant local authority officers.

3.3 Earlier drafts of the proposal document were discussed in detail between Steering Group and relevant officers. While not actively 'in conflict' with council policy proposals did impact on services' work areas where it was not clear whether the activities were fully compatible or supportive. In summary the areas which council/police wished to discuss in particular were as follows:

- The "Street Ambassador" proposals looked to assist in and around the PCSO work area needed to be reviewed in this context. PCSOs

are part of the council's established Community Safety Partnership approach with Police and others

- A number of physical interventions are proposed – officers were keen that any proposed intervention in the fabric of the town centre would be considered against Square Routes and Environmental Services plans.
- There was a clear wish from the Steering Group to enhance the events offer. The introduction of the Lancaster Events Forum and Safety Group means the council has an imperative to consider events proposals in the context of its work with these groups.
- Officers were keen that the proposals contributed to better co-ordination of local services and working in partnership with stakeholders.

3.4 Following discussion the BID Proposal was amended with the role of the Ambassadors / PCSOs clarified in the main body of the plan, reference included to working with the Events Forum. Also included is a paragraph about the BID manager potentially taking on a greater role in co-ordination of local services. Assurances were also received on the ongoing co-ordination of activity in implementation and delivery particularly around Square Routes and Environmental Services Plans.

3.5 It is considered that the Steering Group has consulted and engaged on a satisfactory level and will continue to do so through the pre- and post ballot stages and in development of the formal delivery arrangements.

4.0 Options and Options Analysis (including risk assessment)

4.1 The following options can be considered:

	Advantages	Disadvantages	Risks
Option 1: Do nothing	No advantages.	Loss of credibility with business community. No contribution to council's Corporate objectives.	Council may be in breach of statutory duties to support BID proposer as defined in BID legislation.
Option 2: Endorse the draft BID proposals reserving formal approval decision on Final Proposals to an appropriate delegated authority.	Gives early indication that the council believes the BID proposal will benefit the business community. Clear message to the business community that the direction of proposals to date is sound and final document is likely to be compatible with BID regulations and council policy. Allows for scrutiny of final proposals to ensure clarifications and changes are compatible with BID Regulations and policy framework. Allows the Steering Group to develop its pre-election	Reputational implications for council and other statutory services of "committing" to a baseline service provision over BID lifetime, even though this is not a legal commitment. Allocated resource for BID proposer/partnership to move to 'BID readiness' will need to be supplemented by council officer resources. Relatively long lead in period to ballot to ensure best possible chance of success.	Council officer resources required pre and post ballot. No guarantee that BID ballot will ultimately be successful.

	canvassing strategy and marketing/publishing activities around the BID proposals with confidence.		
Option 3: Reject the draft proposals	Avoids wasted effort and expense for the Steering Group if Members are of a mind that based on the content of the draft, a final proposal would be vetoed. Allows for revised proposals to come forward more compatible with council policy and regulatory requirements	Reputational implications for council if proposals are not endorsed without good reason. Ballot date will probably be put back. Assuming an approval is secured at some stage, it may cause the council operational difficulties in trying to develop its systems in time for 2013/14 billing year assuming a vote in favour.	Risks for the council will mainly be around timing of the ballot and the ability to implement systems the later in the year a ballot takes place. The onus would be on the Steering Group to 'turn around' any issues in preparing a revised proposal.

5.0 Officer Preferred Option (and comments)

- 5.1 On submission of a final proposal unless it fails the regulatory and policy tests outline in paragraph 2.2 above the local authority is effectively obliged to endorse the BID proposal and approve it to go forward to a ballot. The draft proposals provide a good indication of whether it is likely the council will need to use its veto powers.
- 5.2 The draft proposals do not conflict to a material extent with any published policies and a successful BID should actively support the council's corporate objectives particularly in the areas of Economic Growth, Clean Green & Safe Places and Community Leadership. The informal work of the Steering Group in canvassing opinion and consultation appear to show a good level of support for the way the BID proposals have been shaped, particularly around the development of broad objectives with some specific highlighted actions.
- 5.3 The proposals clarify the structure of the proposed BID levy and how the financial burden of the BID is to be distributed among ratepayers. An approach which targets hereditaments over £10K may appear to place a burden on higher payers, but the vast majority of the rateable value in the town centre area is attributable to these hereditaments in any case. While there are numerous hereditaments below £10K the actual total RV, and therefore potential levy take, from these properties is not significant.
- 5.4 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 budgeted for within the council's grant award to the Lancaster Chamber.
- 5.5 The draft proposals do not fully meet the core documentation requirements and there are outstanding matters to be resolved in the final proposal document. But these are either minor issues of content or technical matters around levy collection, distribution and operations which need to be arranged between the

council and the final BID body (likely to be either the Lancaster Chamber or North West Chamber) who will receive and use the BID levy monies

- 5.6 The preferred Option is therefore **Option 2**, to endorse the draft proposals and associated draft baseline document. It follows that an appropriate level of delegated authority is required to ensure outstanding matters are addressed and final proposals can be approved to move forward to ballot. As these issues are mainly technical and operational it is appropriate for this to be undertaken through an officer report by the Chief Executive in consultation with Management Team.

6.0 Update on BID Resource and Legal Matters

- 6.1 Assisting with the BID Proposal and post ballot BID body arrangements will require financial input from the council over and above the cash resources already committed. The resource issues are becoming clearer, and are mainly generated post ballot following a successful BID vote. BID legislation allows for the council's administrative costs to be recovered through the BID levy. This will be discussed and negotiated with the BID proposer so that any charges are appropriate, commensurate with the task, and clear to those who will vote. There are also recoverable costs, such as new billing software, which need to be made 'up front' by the council. These issues are discussed further Financial Implications sections
- 6.2 Implementation of BIDs is usually underpinned by formal legal agreements between the billing authority and BID delivery body (likely in this case to be either the Lancaster Chamber or North West Chamber). An Operating Agreement (OA), the formal contract between the BID body and the local authority, should be entered into setting out the various procedures for the collection, payment, monitoring and enforcement of the BID levy. A sound legal framework / agreement structure is in use by Preston City Council forming the basis of the Preston BID managed through the shared Revenues/NNDR service and North West Lancashire Chamber of Trade (North West Chamber). A draft form of OA, which formed the basis of the Preston BID arrangements, is attached in Appendix 3a.
- 6.3 A feature of the OA is clarification of 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 under the OA (as a "Baseline Agreement") helps the pre- and post ballot process in the following ways:
- Assists potential levy payers (the voters) identify added value of services proposed in the BID Proposal. Experience from other BID initiatives shows the most important issue is that of defining and clarifying 'additionality'. A vote will fail if the BID Proposal is perceived to replace what is already being delivered or it is revealed to be covering for statutory service shortfalls.
 - If the council is involved in delivering Complementary Services (those services provided by the council 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.
- 6.4 Appendix 3b is a standard form of Baseline Agreement and Appendix 4 details

an initial baseline statement for each discrete council service delivered in the BID area (or a proportional estimate if the services are provided over a wider geographical area than encompassed by the BID). Again, the documents are based on templates used in the successful Preston BID. Members are requested to note the content of the draft OA and subsidiary draft Baseline Agreement. As final arrangements between the BID Body and city council are essentially operational matters, final approval of the formal implementation framework can be delegated to the Chief Executive.

- 6.5 Members should note that while it is regarded as best practice that operational matters are formalised prior to a ballot (mainly for clarity and as an additional 'selling point' over the BID election period) - and the draft agreements have been written in anticipation of this – it is not essential. It is more often the case that such agreements are agreed and signed off post-ballot. Members are also asked to note the content of the Appendix 4 baseline statement and approve its use in pre- ballot consultation and marketing alongside final BID Proposals.
- 6.6 There is no automatic exemption from the BID levy for local authorities. The city council will be liable for the levy on the rateable property it occupies/holds should a ballot be successful and this is outlined under Financial Implications. As a potential levy payer the council is also eligible to vote in a ballot – there are no hard and fast rules on how local authorities treat this aspect of the process and Members will be advised in due course.

7.0 Conclusion

- 7.1 The draft proposals for a Lancaster BID are generally in compliance with the statutory regulations. Members are asked to endorse the proposals to enable the Final Proposal and approval process to be undertaken in the autumn. Progression to a ballot with the aim of formally establishing the BID should follow towards the end of 2012. The report has also updated Members on potential pre- and post- ballot issues and resource implications in relation to the role of the city council in the BID development/implementation should a ballot endorse the establishment of a BID.

List of Appendices

Appendix 1 - Draft Lancaster BID Proposals

Appendix 2 - Draft Lancaster BID Proposal – Assessment of Regulatory Compliance

Appendix 3a - Draft Operating Agreement

Appendix 3b - Draft Baseline Agreement

Appendix 4 - Initial City Council Baseline Statement

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 2011-14. The draft BID proposals will actively support Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.

Support for development of a BID in Lancaster is a Priority Action in the Lancaster Cultural Heritage Strategy.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Diversity: None

Human Rights: 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 Human Rights.

Community Safety: If successful the draft BID Proposal is clear that it will support projects which will impact on community safety/business security matters.

Sustainability: None

Personnel: Council officer resource will need to be applied during BID Proposal and post ballot stages as outlined in the report. In the main the implications will be on the NNDR service in administering and dealing with billing of the levy.

Rural Proofing: None

LEGAL IMPLICATIONS

The Business Improvement Districts (England) Regulations 2004 prescribe the basic requirements which must be met in order for a BID to meet its statutory duty. Consideration and approval of a submitted final BID proposal is a city council duty and the route for approval to be achieved is highlighted in the report.

The council, as billing authority, has the power to veto the final BID proposal where it conflicts with any locally adopted plans. As noted in the report, use of the veto will be unnecessary if the final BID proposal follows the format and content of the draft proposal. The report partly meets the compliance requirements of conducting a check to ensure that BID plans do not conflict with any policies, and to ensure that the BID proposal and process adheres to all of the rules set out in the Regulations. However, the 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 ballot regulations. Instructions will need to be issued by the council to initiate the ballot on approval of the final BID proposal. If the ballot is to be undertaken on the 13th December closing date as stated in the Draft Proposal key actions are as follows:

- The Steering Group as BID Proposer is statutorily 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 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 done.

- On receipt and approval of a final proposal the city council instructs the ballot holder (Electoral Reform Services on behalf of the council) to hold a ballot – a standard letter has been drafted.
- ERS must publish notice of the ballot - no later than 42 days before the day of the ballot (the closing day). This will be 31st October at the latest.
- The day of the ballot 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.
- 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. Again this will be 31st October at the latest.

A successful BID will require formal legal agreements to be developed between the city council and BID delivery body (likely to be either the Lancaster Chamber or North West Chamber) as noted in the report – the key documents being the Operating Agreement and Baseline Agreement. Should the council become involved as a delivery partner, Complementary Services agreements may be appropriate – that is, contractual agreements for those services provided by the council solely for the improvement or benefit of the BID area, funded using the BID levy or other contributions to the BID body. However, it is not clear at this stage whether the council will be directly involved in delivering additional BID services.

As the shared Revenues service already operates a legally compliant and successful BID operation under similar agreements for the Preston BID review and formalising of operational agreements should be relatively straightforward. However, Legal Services officers will undertake detailed review in conjunction with the final BID Body and refer any matters considered to be outside officer delegated authority to Members as appropriate.

Should there be a successful ballot the levy will be 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 BIDs nationally shows the levy 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

£40K was allocated to the Lancaster Chamber of Commerce to get the Lancaster BID to ballot stage. This is being used in line with the council's grant agreement. It includes all costs to be paid to Electoral Reform Services for undertaking the ballot.

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

1. Administrative costs of identifying BID boundaries and producing a listing of all those rateable properties within the relevant boundaries; this is judged to be absorbable within current budgets.
2. Updating the NNDR system to support the collection of BID levies; there are now an estimated 333 billable hereditaments proposed which requires an add-on module at around £9K cost following a successful ballot. This figure should be revised in the current year capital programme in 2012/13 from the £15K originally envisaged. The

intention is that this is reimbursed from the subsequent levy. There would also be an ongoing revenue cost of £1.8K maintenance reimbursed from the levy.

From the BID proposals it is not anticipated the council will incur additional costs in supporting the BID operationally post ballot. However, it will also be important for Council officers to monitor any time spent on supporting the BID levy issue and collection process

Experience of Preston BID under the shared Revenues service indicates that initially an upfront payment of full levy resource is helpful in providing cashflow to the BID body. Using the projected sums involved (£218K annual levy) at the projected bank rate, this would represent a cost of around £2K per annum in lost interest to the Council, if it was not recovered from the levy.

The main bottom line impact in cash terms will be additional cost to the council for the levy on its properties for which it holds rates liabilities within the BID area. At a 1.5% levy on property within the council will incur an additional charge of around £9K. This should be revised from the previous estimate included in the revenue budget from 2013/14 onwards.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Internal council human resources will be utilised to deliver BID support as outlined in the report. The main operational issues will primarily involve NNDR officers in managing the levy billing arrangements if the BID proposals are successful. Legal Services officers will be involved in reviewing and dealing with formal agreements between the council as billing authority and the BID body. Regeneration and Planning officers will continue to provide the contact point for the council's input into the BID programme if it is successfully voted in.

Information Services:

Following a successful ballot updates to the billing software used by the council to generate and administer rates bills will be required. The implications are outlined in the report and costs will need to be reimbursed through the BID levy. There will be additional resource costs in the form of IS staff time, to work with Capita on the implementation of the software and a period of testing prior to the first year's billing for the BID. However, IS will draw on the Preston BID experience under the shared Revenue service.

Property:

The city council will be liable for the BID levy on rateable property which it occupies/holds should a ballot be successful. The BID area may encompass city council property leased to commercial tenants. Some of these will pay increased business rates as a result of a successful BID. The improvement to the environment of the area should be a benefit to these businesses and therefore the increase in rates payable should not have a detrimental affect on the rental income to the council. A successful BID may also improve the take up of the council's empty commercial property, reducing its general business rate liabilities.

Open Spaces:

The BID area may encompass areas defined as 'open space'. The potential improvement to the environment of any open space as intended by the BID Proposals should be a benefit to the council's corporate objectives, businesses and the community.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no comments to add.

MONITORING OFFICER'S COMMENTS

The Monitoring officer has been consulted and has no comments to add.

BACKGROUND PAPERS

[Cabinet Report on Business Improvement Districts July 2011](#)

[Local authority Guide to BIDS published by Association of London Government](#)

Contact Officer: Paul Rogers

Telephone: 01524 582334

E-mail: progers@lancaster.gov.uk

Ref: