

CABINET

Lancaster Business Improvement District (BID) Renewal - Draft Proposal

4 August 2015

Report of Chief Officer Regeneration & Planning

PURPOSE OF REPORT			
To provide context and information for the endorsement of proposals for a Lancaster Business Improvement District Renewal Ballot in November 2015 as required by statute. The report updates Members on potential pre- and post- ballot issues and resource implications in relation to the city council's role in the BID renewal process.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
			Referral from Cabinet Member
Date of notice of forthcoming key decision	29 June 2015		
This report is public			

RECOMMENDATIONS OF COUNCILLOR JANICE HANSON

- (1) The draft Renewal Proposals for Lancaster Business Improvement District (BID) Renewal Ballot are agreed as being in compliance with statutory requirements.
- (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 proposed changes to the accountable body and the current council service provision respectively, with approval and post-ballot sign-off of the final documents delegated to the Chief Executive.

1.0 Introduction

- 1.1 Members will be aware a Lancaster Business Improvement District (Lancaster BID) was voted in by local businesses at the end of November 2012 and has been running since April 2013. The initial period agreed was for 3 years to run until 31st March 2016 and Members will be aware of the contribution that Lancaster BID has made to events and initiatives during its existence.

- 1.2 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. The Renewal Ballot is scheduled to be held over November 2015.
- 1.3 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. The result of this work is the draft Lancaster BID Renewal Proposal (Appendix 1). It is the final formatted version of this document that is issued and voted upon by those businesses that have to pay the levy.
- 1.4 Endorsement of the draft Renewal Proposals and delegation of key decisions, will allow the City Council to manage the ballot process and ensure statutory requirements are met in good time.

2.0 Background

- 2.1 A summary of the legal basis, characteristics and potential of BIDs was considered by Cabinet in July 2012 (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. 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
- 2.2 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 BID term is that it is essential to clarify 'additionality' - 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 ultimate levy resource ownership and implementation remains independent of the statutory service providers. However, the council as local billing authority retains and discharges certain key administrative functions and financial responsibilities.
- 2.3 Before it issues instructions for a Renewal Ballot the billing authority must content itself that:

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

2.4 If the proposals do conflict the 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 at an early stage 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.

3.0 Lancaster BID Renewal Proposal

3.1 The Renewal Proposal (Appendix 1) builds on the work undertaken over the first 3 year term. Its content follows best practice guidelines from British BIDs, a respected organisation that reviews and reports on national BID activities, and 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.

3.2 Key changes and alterations to operational matters are being proposed:

- The term proposed is 5 years, the maximum allowed under statute and will run from 1st April 2016 to 31st March 2021.
- Total term revenue increases to approximately £1.3M from £620K.
- 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 are now included.
- Lancaster BID proposes to incorporate as a company limited by guarantee and will take over as the accountable body for BID levy funds from North West Chamber of Commerce.
- The ballot period is scheduled for between 28th October 2015 and close at 5pm on 25th November 2015.

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

3.3 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.

3.4 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. Appendix 2 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.

4.0 Options and Options Analysis (including risk assessment)

4.1 The following options can be considered:

	Option 1: : Do nothing (Put off decision until the production of Final Renewal Proposals)	Option 2: Endorse the draft BID Renewal Proposals with endorsement of final BID Renewal Proposals delegated to the Chief Executive.	Option 3: Request material amendments to the draft Renewal Proposal for consideration/ endorsement at a future Cabinet meeting.
Advantages	No advantages.	Early notice that the proposals are technically sound and 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 document. Allows Lancaster BID to develop its pre-election canvassing strategy and marketing/publishing activities around the BID Renewal Proposals with confidence.	Appropriate if Members consider (based on the draft), a Final Renewal Proposal would be vetoed and that material changes are required. Allows for revised proposals to come forward which are compatible with council policy and regulatory requirements
Disadvantages	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.	No disadvantages identified.	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	<p>September Cabinet is the last date proposals can formally be endorsed for a November ballot to be enacted under statutory notifications.</p> <p>If there are issues with Final 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</p>	No guarantee that BID Renewal Ballot will be successful.	<p>The onus would be on Lancaster BID to address any issues and prepare a technically/policy compatible Final Renewal Proposal.</p> <p>Risks are as Option 1 in that September Cabinet is the last date proposals can formally be endorsed for a November ballot to be enacted under statutory notifications.</p>
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5.0 Officer Preferred Option (and comments)

- 5.1 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 regulatory and policy tests mentioned in paragraph 2.3 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 with any published council 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 Lancaster BID in canvassing opinion and consultation appear to show a good level of support for the way the BID proposals have been shaped.
- 5.3 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.
- 5.4 The decision to incorporate and take on formal accountable body status is a natural progression for Lancaster BID, one which the majority of national BIDs have taken at the outset or at renewal. The current unincorporated body Lancaster BID, while not formally accountable for BID funds, already acts as employer to the paid BID staff. The current Lancaster BID Management Committee believes incorporation will allow it to achieve significant administrative savings, better value for money and greater local control.
- 5.5 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 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 recommended this be undertaken through a report and decision by the Chief Executive.

- 5.6 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, commensurate with the task, and clear to those who will vote (refer to Financial Implications).
- 5.7 Implementation of BIDs is usually underpinned by formal legal agreements between the billing authority and BID delivery body (refer to Background Papers). 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. The current OA between the council and North West Chamber of Trade (Appendix 3a) is regarded as having provided a sound basis for the operational relationship to date and will be redrafted to reflect the new relationship with the proposed stand-alone Lancaster BID body.
- 5.8 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 under 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.
- 5.9 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.
- 5.10 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 part of the process. Members previously escalated the voting decision to Full Council (who considered a report just prior to the voting period) and officers have anticipated that this arrangement will continue.
- 5.11 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.

6.0 Conclusion

- 6.1 The draft Renewal Proposal for Lancaster BID complies with statutory regulations. Members are asked to endorse the proposals to enable the Final Proposal and approval process to be undertaken by the Chief Executive. Progression to a ballot with the aim of renewing the BID will follow in November 2015. 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 continuation should a ballot renewal be successful.

List of Appendices

Appendix 1 - Draft Lancaster BID Renewal Proposals

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

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 2015 -18. The draft BID Renewal Proposals will actively support Sustainable Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.

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

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

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 & 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 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.

HR: 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 continuing administration and dealing with billing of the levy.

Sustainability: None

Rural Proofing: None

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 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 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 for November (with a closing date of 25th November) 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 already been actioned.
- 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.
- ERS must publish notice of the ballot - no later than 42 days before the day of the ballot (the closing day). This will be mid - 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 (the closing day). Again this will be mid- October at the latest.

A successful BID Renewal ballot will require the redrafting of current contractual agreements to reflect the change in BID accountable body (from North West Chamber to the incorporated Lancaster BID) as noted in the report – the key documents being the Operating Agreement and Baseline Agreement. The agreements have provided a sound basis for the efficient management of the current relationship between the billing authority and BID accountable body and any alterations, other than to names/dates, are unlikely to be material. However, any matters raised during redrafting considered to be outside officer delegated authority will be referred to Members as appropriate.

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 the first 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 around identifying hereditaments within the extended BID boundary and producing a listing of all those rateable properties within the relevant boundaries; this is judged to be absorbable within current budgets.
3. Updating the NNDR system to support the collection of additional BID levies; with the extension of the BID area there will be an estimated 366 billable hereditaments but the current software model is able to accommodate this increase at no additional

cost.

4. Costs associated with collection of and administering the BID levy; any time spent in support of this will need to continue to be monitored by Council officers and agreed with the BID proposer so that any charges are clear to those who vote and can be included within the renewal proposal. This is currently budgeted for in the region of just over £10K per annum and is detailed in a letter to Lancaster BID and kept under regular review.
5. Potential costs of supporting the BID body operation post ballot; the Lancaster BID has not required any discrete Council management input into the post ballot 'operational' side up to now. However, any direct involvement requested and agreed would need to be financed via an administrative fee from the levy.

The main bottom line impact of a successful renewal will be the additional 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 will incur a charge of around £12K. The current £8.8K charge included in the 2015/16 revenue budget will therefore need to be revised from 2016/17 onwards as part of the annual budget process.

OTHER RESOURCE 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. Regeneration and Planning officers 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 updates to the billing software used by the council to generate and administer 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 on a new lease.

Open Spaces:

The BID area includes city centre 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 Deputy Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments

BACKGROUND PAPERS

1st Lancaster BID Term Operating Agreement
1st Lancaster BID Term Baseline Agreement
1st Lancaster BID Term Baseline Assessment

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