

# **CABINET**

## **Morecambe Business Improvement District (BID) - Draft Proposal Document**

**19 January 2016**

### **Report of Chief Officer Regeneration & Planning**

<b>PURPOSE OF REPORT</b>				
To provide context and information for the endorsement of proposals for a Morecambe Business Improvement District ballot in May 2016 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 potential Morecambe BID.				
<b>Key Decision</b>	<b>X</b>	<b>Non-Key Decision</b>		<b>Referral from Cabinet Member</b>
<b>Date of notice of forthcoming key decision</b>		18 <sup>th</sup> December 2015		
<b>This report is public</b>				

#### **RECOMMENDATIONS OF COUNCILLOR JANICE HANSON**

- (1) The draft Renewal Proposals for Morecambe Business Improvement District (BID) are agreed as being in compliance with statutory requirements.
- (2) Approval of Morecambe BID Final Proposals and the issue of an instruction to proceed to ballot is delegated to the Chief Executive.
- (3) An Operating Agreement and Baseline Agreement are drafted to reflect the formal relationship between the BID Body and council as Billing Authority and the current council service provision respectively, with approval and post-ballot sign-off of the final documents delegated to the Chief Executive.
- (4) That subject to a successful BID outcome, the General Fund Revenue Budget be updated accordingly from 2016/17 onwards.

## **1.0 Introduction**

1.1 Cabinet considered a report on Morecambe Business Improvement District (BID) at its meeting on 2 September 2014. Members considered Lancaster District Chamber of Trade and Commerce (Lancaster Chamber) efforts to build on the momentum generated by the Portas Pilot initiative and to take the lead on a Morecambe BID feasibility stage. Members resolved to (Minute ref: 36):

- Support the intention of Lancaster District Chamber to lead on BID feasibility and BID Proposal development for Morecambe
- Approve reinstatement of a £40K budget to be allocated to the Lancaster District Chamber via a funding agreement administered through the Regeneration & Planning service.
- An appropriate Cabinet member is nominated to sit on the Morecambe BID Steering Group (Councillor Janice Hanson took up the position).

1.2 Following the decision Lancaster Chamber formed a Steering Group which has been working on:

- 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 Morecambe BID Renewal Proposal (Appendix 1). It is a final version of this document that will be issued and voted upon by those businesses that have to pay the levy.

1.3 This report outlines options and recommendations for endorsing the current draft and future final proposal for the Morecambe 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 meet statutory requirements. The 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.

1.4 Endorsement of the draft 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.

- 2.2 BID Regulations leave most of the structural arrangements to local discretion. This includes the pre- and post- ballot details of who proposes/manages a BID and which projects/proposals are brought forward to meet local needs and aspirations. Best practice advises that any BID proposal and the ultimate levy resource ownership and implementation remains independent of the statutory service providers. However, the city council as local billing authority retains and discharges certain key administrative functions and financial responsibilities.
- 2.3 Before it issues instructions for a ballot the billing authority must 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 final 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 the draft proposals at an early stage to agree 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 Morecambe BID Draft Proposal**

- 3.1 The Draft Proposal (Appendix 1) builds on the work undertaken over the last 14 months by Lancaster Chamber and the Steering Group. Its content follows best practice guidelines from British BIDs (a leading national organisation that reviews and reports on national BID activities).
- 3.2 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. Officers consider that the draft document meets the statutory information requirements and does not conflict with the council's policy framework. Members should be aware of the following key points.

#### Operational / Administrative Considerations

- 3.3 Key operational matters proposed are as follows:
- The term proposed is 5 years, the maximum allowed under statute and will run from 1<sup>st</sup> October 2016 to 30<sup>th</sup> September 2021.
  - Total annual revenue is estimated at approximately £130K pa.
  - The BID area is relatively extensive - the majority of the Town Centre, Frontierland site to the south, Morecambe Town Hall to the north and the eastern town centre approaches are included.
  - The BID levy will be fixed at 1.5% of Rateable Value (RV) and applied

to premises with an RV of £3.5K and upwards with 50% levy relief for charities with property in the proposed BID zone.

- Morecambe BID proposes to incorporate as a company limited by guarantee to act as the accountable body for BID levy funds.
- The ballot period is scheduled for between 28<sup>th</sup> April 2016 and 26<sup>th</sup> May 2016.

3.4 The proposal for an initial 6 month billing run from October 2016 to March 2017 is unusual and falls outside the city council's standard billing period. However, this has been agreed with Revenues Services officers as the best compromise to allow progress and momentum for Morecambe BID following the May 2016 ballot, while being manageable from the point of view of Revenues Services staffing and workload in what will be a very busy period next year with proposed general revaluation of Business Rates (refer to Financial Implications).

3.5 Although the BID has extensive geographical coverage, the amount of funds generated will be relatively low in national BID terms. The area also hosts a number of large RV hereditaments which, if a BID is enacted, would ordinarily be liable for a significant proportion of the estimated levy total.

3.6 Members will be aware that for the BID to be enacted two threshold tests have to be met in a BID ballot:

- More than 50% of votes cast (turnout) must be in favour and:
- A 'Yes' vote must represent more than 50% of the RV of the votes cast.

Considering the voting 'weight' of particularly important hereditaments Morecambe BID may discuss / negotiate capping their contribution. But at the time of writing these discussions have still to be resolved.

3.7 The budget figures in the draft Plan are therefore subject to change prior to delivery of a Final Proposal. Members concerns will be around whether the impact of any cap would affect the BID's ability to: provide tangible and measurable improvements; sustain a viable programme of projects; and provide for the necessary costs of administration. Officers are confident that the Steering Group are well aware of the need to focus on issues of a practical and realistic nature for a BID of this scale to succeed and will be able to develop the budget and scope of work to reflect the outcome of any negotiations.

#### City Council Policy Considerations

3.8 The practical areas of work and objectives for the BID in summary are as follows:

- *An attractive town* – improving cleanliness and maintenance and tackling grot spots
- *A safer town night and day* – liaison with local police and lobbying for continued CCTV coverage.
- *Lively Nights* – promoting the evening economy and encouraging people to stay and spend their money
- *Shouting Out* - marketing and promotional activities

- *Getting people in and about* – initiatives on parking, wayfinding and footfall.

3.9 The Steering Group has consulted with city council officers on key areas particularly around CCTV, wayfinding and street cleanliness. It is expected that a successful BID will be able to work positively with the council to add value and complement the councils' services.

#### 4.0 Details of Consultation

4.1 The consultation undertaken by Morecambe BID Steering Group to evidence and secure the support from local businesses for the planned expenditure has involved questionnaire surveys, general meetings and workshop events aimed at different business sectors and geographical sub-areas of the town.

4.2 Membership of the Steering Group itself includes representation from large, medium and small businesses in the area. 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.

#### 5.0 Options Analysis (including risk assessment)

	<b>Option 1: : Do nothing</b> (Put off decision until the production of Final Proposals)	<b>Option 2:</b> Endorse the draft BID Proposals with endorsement of final BID Proposals delegated to the Chief Executive.	<b>Option 3:</b> Request / wait for material amendments to the draft 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 Morecambe BID to develop its pre-election canvassing strategy and marketing/publishing activities around the BID Proposals with confidence.	Appropriate if Members consider (based on the draft), a Final 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 Morecambe BID.	No disadvantages identified.	Reputational implications for council if proposals are not

	Creates difficulties for Morecambe BID in developing its pre-ballot canvassing strategy and marketing/publishing activities around the BID Proposals.		endorsed without good reason. Potentially delays Morecambe BID's commitment to pre-ballot canvassing strategy and marketing/publishing activities around the BID Proposals.
Risks	If there are issues with Final Proposal compliance at a future date a ballot could be delayed with knock on implications for Morecambe BID in terms of canvassing and for the council in terms of dealing with operational matters in the next Financial Year arising from a delayed 'Yes' vote.	No guarantee that the BID ballot will be successful.	The onus would be on Morecambe BID to address any issues and prepare a technically/policy compatible Final Proposal for consideration at a future cabinet meeting. Other risks are as Option 1

## 6.0 Officer Preferred Option and Comments

- 6.1 On submission of a Final Proposal the local authority is obliged to endorse a BID proposal and approve 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. The draft proposals do not conflict materially with published council policies and a successful BID should support the council's corporate objectives. The work of Morecambe BID in canvassing opinion and consultation among local business shows a good level of support for the way the BID proposals have been shaped.
- 6.2 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 covered through the council's approved feasibility funding award to the Lancaster Chamber. The decision for Morecambe BID to incorporate and take on formal accountable body status is a common route undertaken at the start of the majority of national BIDs. Incorporation should allow Morecambe BID to achieve significant admin savings, better value for money and greater local control.
- 6.3 There are no advantages in holding over on endorsement pending Final Proposals (Option 1). While officers are aware that BID budget changes may be introduced in the Final Proposal as a result of ongoing levy payer cap negotiations this will not have any material impact on the council's view on policy fit or the ability to introduce a programme of initiatives (Option 3).

- 6.4 **The preferred Option is therefore Option 2**, to endorse the draft 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.
- 6.5 The council's administrative costs can be recovered through the BID levy and is based on 40% of one full time equivalent post at the lowest grade plus accommodation and technical support recharges. The charge will be similar to the fee charged to Lancaster BID as the number of hereditaments involved is not materially different and officers have ensured that the charge is appropriate, commensurate with the task and clear to those who will vote (refer to financial implications).
- 6.6 Implementation of BIDs is usually underpinned by formal legal agreements between the billing authority and BID delivery body. An Operating Agreement (OA), the formal contract between the BID body and the local authority, will 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 the existing Lancaster BID (refer to Background Papers) is regarded as having provided a sound basis for that operational relationship and will be redrafted to reflect a relationship with the proposed stand-alone Morecambe BID incorporated entity.
- 6.7 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. These operational matters will be agreed in principle prior to a ballot (mainly for clarity and as an additional 'selling point' over the BID ballot period) - the agreements being formally signed off post-ballot.
- 6.8 Members should note the city council will be liable for the levy on rateable property it occupies/holds in the BID area 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 have previously escalated BID voting decisions to Full Council (who will consider a report prior to the voting period) and officers expect this arrangement will continue.

## **7.0 Conclusion**

- 7.1 The draft Proposal for Morecambe 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 enacting a BID will follow in May 2016. 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 should a ballot be successful.

### **List of Appendices**

**Appendix 1** - Draft Morecambe BID Proposals

**Appendix 2** - Draft Morecambe BID 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 Proposals will actively support Sustainable Economic Growth, Clean Green & Safe Places and Community Leadership outcomes, success, measures and actions.

Support for a BID in Morecambe 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 will sponsor and directly deliver events. All major public events planned will be 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 voted in the draft Proposal is clear that it will support projects which impact positively 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 levy billing.

**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 legally compliant way. Consideration and approval of a final BID 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 proposal where it conflicts with locally adopted policies and/or plans. As noted in the report, use of the veto will be unnecessary if the final BID proposal follows the form and content of the draft 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 (ERS) 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 in May 2016 (with a closing date of 26<sup>th</sup> May) key actions are as follows:

- Morecambe 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 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-April 2016 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.

A successful BID ballot will require formal legal agreements to be developed between the city council and the BID Delivery Body (an incorporated Morecambe BID entity) 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 existing Lancaster BID accountable body and any alterations, other than to names/dates, are unlikely to be material. However, any matters raised during drafting considered to be outside officer delegated authority will be referred to Members as appropriate.

Should there be a successful ballot the levy will become 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**

A £40K feasibility grant was allocated by the council to get the Morecambe BID to ballot stage and this is being used in line with its intended purpose.

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

1. The costs to Electoral Reform Services for undertaking the ballot have been allowed for under the current Morecambe BID feasibility funding.
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 is judged to be absorbable within current budgets.
3. Updating the NNDR system to support the collection of additional BID levies; in the Morecambe BID area there will be an estimated 333 billable hereditaments. The current software needs to be updated to accommodate this increase at an additional

one off cost of £9K. It is intended that this is reimbursed from the subsequent levy in year 1.

4. Costs associated with collection of and administering the BID levy; the likely time and resource implications of supporting BID have been estimated by council officers so that charges are clear to those who vote and can be included within the proposal. This is currently estimated to be in the region of £10.5K per annum for Lancaster BID and will be similar for Morecambe BID. The charges will be detailed in a letter to Morecambe BID and will need to be kept under regular review, however, to ensure that actual costs being incurred are properly and fairly recovered. It should also be noted for budgeting purposes that based on the current charging methodology that the levy for Morecambe will be around half that of a full year billing run for the initial 6 month period and also the final half year billing run up to 30 September 2021.
5. Potential costs of supporting the BID body operation post ballot; from the BID proposal it is not anticipated the council will incur additional costs in operational support to the Morecambe BID. However, any direct involvement requested and agreed would need to be financed via an administrative fee from the levy.

The proposal for an initial 6 month billing run from October 2016 to March 2017 is unusual and falls outside the city council's standard billing period. However, this has been agreed with Revenues Services officers as the best compromise to allow progress and momentum for Morecambe BID following the May 2016 ballot, while being manageable from the point of view of Revenues Services staffing and workload in what will be a very busy period next year with proposed general revaluation of Business Rates

The other 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 £5.3K per annum (and £2.6K for the half year periods) on its property with an RV of £357,600 and will therefore need to be treated as a base budget adjustment from 2016/17 onwards for the duration of the proposed BID period.

## **OTHER RESOURCE IMPLICATIONS**

### **Human Resources:**

Internal council human resources will be used to support Morecambe BID as outlined in the report. The main operational issues will primarily involve NNDR officers in managing the levy billing arrangements if the BID proposals is successful, with some administrative support by Accountancy officers. Legal Services officers will be involved in reviewing and dealing with formal agreements between the council as billing authority and the new incorporated BID body. Regeneration and Planning officers will continue to provide the contact point for the council's input into the Morecambe 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 commercial property.

### **Open Spaces:**

The BID area includes areas defined as 'open space' and the central Promenade area. 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 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**

General form of BID legal agreements for information:

- 1<sup>st</sup> Lancaster BID Term Operating Agreement
- 1<sup>st</sup> Lancaster BID Term Baseline Agreement
- 1<sup>st</sup> Lancaster BID Term Baseline Assessment

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