

TITLE OF REPORT: HITCHIN BUSINESS IMPROVEMENT DISTRICT (BID) RENEWAL

REPORT OF THE HEAD OF POLICY AND COMMUNITY SERVICES

1. SUMMARY

- 1.1 To obtain Hitchin Area Committee's endorsement in principle of proposals to progress to renewal ballot for a new Hitchin Business Improvement District.

2. RECOMMENDATIONS

- 2.1 That Members, having reviewed and commented on the attached proposals at *Appendix A* for the Hitchin BID renewal, support the principles contained therein and confirm such to Cabinet for their meeting on 10 December 2013.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that NHDC as the billing authority can express its support in principle toward a ballot for the renewal of the Hitchin BID.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative is simply not to progress to a renewal ballot, and formally cease the work which has been carried out in the existing five year BID.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Consultation has been undertaken by the Hitchin BID steering group, with the Town Centre Partnership and its member bodies, business representatives and town centre retailers. Details of consultations undertaken form part of the business plan attached as *Appendix A* to this report. The proposal to move toward a renewal of the existing Hitchin BID was presented in outline to Cabinet on 24 September 2013; the comments of the Hitchin Area Committee will accompany the final business plan report back to Cabinet on 10 December 2013.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan published on 17 June 2013.

7. BACKGROUND

- 7.1 The concept of Business Improvement Districts (BIDS) was introduced through Part IV of the Local Government Act 2003 and is further governed by SI 2004/2443: The Business Improvement Districts (England) Regulations 2004.
- 7.2 The legislation allows for businesses within a defined BID area to vote to set up a BID Organisation or BID Company, which has the power to levy an additional charge on Business Rate Payers within that BID area for the purpose of funding projects within the BID area. The purpose of the funding has to be set out in the BID Proposal or 'business plan', which has to be approved through the local authority's Cabinet and then supported by businesses through the ballot process.
- 7.3 For the purposes of BID proposals members are asked to note that there are three relevant organisations/people that are required to fulfil certain roles and responsibilities in relation to the BID application. These organisations/people are
1. The BID Proposer
 2. The Billing Authority
 3. The Ballot Holder
- 7.4 The BID Proposer is obliged to draw up the BID proposal, the Billing Authority are obliged to consider the proposals and determine whether the BID proposal is in conflict with any of its policies and the Ballot Holder is obliged to run a ballot process in which all of the business ratepayers within the BID proposal area are entitled vote.
- 7.5 In this proposal for a Hitchin BID renewal, the Town Centre Partnership (and subsequently, the BID company) are the BID proposer, the Council are the Billing Authority and the Council's Returning Officer in respect of elections is the Ballot Holder.
- 7.6 Council as Billing Authority, needs to be satisfied that the projects detailed in the BID Proposals are not in conflict with its own stated objectives or existing strategies, rather than to carry out a detailed analysis of the whole 'business plan' document. At this stage, officers would advise members that the draft business plan attached to this report does still contain a number of elements which due to the succinctness of terminology used, may still be 'at odds with' or in part contrary to existing strategies. A number of these are identified later in this report, but given the timescales to move toward ballot, it was considered best to continue that dialogue and resolve, whilst working in parallel to secure the area committee's views. This does however mean that the text within the draft business plan remains subject to change and further clarification before submission to Cabinet in December.
- 7.7 Projects proposed can be almost anything which would benefit the community, and especially the local business community on whom the extra charge is to be levied. The district's two existing BIDS in Hitchin and Royston have provided additional security measures, additional recycling opportunities, and street warden/community safety services within their town centres; these projects form part of the renewal submission document.
- 7.8 The movement toward the development of Business Improvement Districts is seen as a very positive one, and whilst it increases costs to businesses marginally, the benefits to the local business community of being able to direct money it has contributed to increase footfall, provide events or increase security/trading opportunities are widely appreciated. North Hertfordshire is the first district within the county to have Business Improvement Districts in place (the current two, Hitchin/Royston) and has already received considerable positive recognition of this by stakeholders, including through

the Local Enterprise Partnership and more recently, at the Hertfordshire Assembly. The outcome of the third BID, Letchworth, will be available shortly; officers will update at this meeting.

8. ISSUES

8.1 The Council is required to demonstrate a significant degree of involvement in this particular process, and across a range of its services, with the following responsibilities:

- Each BID Proposal has to be approved by the Council to ensure that it is not in direct conflict with any of the Council's own priorities/objectives/strategic plans. The proposals contained in *Appendix A*, the Hitchin BID Business Plan, have been subject to a preliminary examination by officers from relevant services and found not to be directly in conflict, although it should be noted that there are some areas which will still need to be clarified in readiness for the final business plan submission to NHDC Cabinet on December 10, 2013 for final agreement.
- The BID Proposals are to be self funding, i.e. paid for from the levy as collected, but may include paying for enhancements to services already provided by the Council. This requires specific Service Level Agreements to be formalised between the Council and the BID Organisation to establish the exact level of service to be provided by the Council so that the 'additionality' the BID funding brings is recognised and can be captured; this is to inform performance monitoring and as in this case, where the BID returns for a renewal ballot at the end of its five year life.
- The Council is required to conduct the ballot, with one vote assigned per business rate payer unit, subject to any exemptions that the BID Company agree, within the defined area of the BID. The map denoting the BID area is included within the proposals document as *Appendix A* to this report.
- The Council has to bill, collect, enforce and account for the BID Levy. Under relevant regulations, the Council can charge for elements of this service but opted not to do so for the existing Hitchin and Royston BIDs; the same principles will apply to this renewal.
- As Ratepayers, the Council is of course entitled to vote and if the BID Proposal is approved, would be liable for the BID Levy on its own properties within the boundary proposed. The only specific exclusions to charging are a public library, religious organisations, public toilets, magistrates courts, individual single parking spaces, communication masts, advertising hoardings and Police/Fire/Ambulance stations. This therefore means that for the Hitchin BID in renewal, NHDC would technically continue to pay additional charges for its own car parks, which it manages.

The body liable for the BID levy is that which is in rateable occupation of the premises, therefore not necessarily the owner. The council is therefore not liable on any property which it leases out – it is for lessees to pay the additional charge.

8.2 The BID ballot can only succeed if it can meet two tests which are;

- A simple majority of those who vote must register a 'Yes' **AND**
- The aggregate rateable value of those that vote 'Yes' must be greater than that of those that vote 'No'

These are not exclusive, since **both** tests must be achieved. The system is intended to ensure that there is a degree of parity in a town centre populated by larger multi nationals and smaller, specialist shops. As with all local and national ballots, the BID ballot is statutory and binding and will apply to all businesses inside the BID area regardless of whether or not they intend to vote and how they might vote. The ballot is a postal ballot.

- 8.3 The Council's Revenues Team has reviewed the revised BID map contained within the business plan and has been able to identify the commercial properties which lie within the BID area, and their rateable value. There remains a need to make a final review of the contact for each business (and for businesses which have changed location, or ownership) to ascertain the appropriate person to whom the ballot paper will be addressed, and the vote cast on behalf of their company – especially as some will have changed hands during the intervening five years. This will also often be a different person to the contact details already held regarding the *payment* of business rates
- 8.4 The Hitchin BID renewal Proposals can be found at *Appendix 1*. These could still be subject to minor amendments before they are finally issued to voters
- 8.5 The Proposals fall into four main headings, which are;

Theme 1	-	'business as usual'	(budget £199.5k)
		Retaining the additional services which the existing BID has championed – town rangers, radio link, supercleansing and taxi marshalling.	
Theme 2	-	'our town'	(budget £204k)
		Surrounding changes to the fabric of the town – revisions parking policies, the redevelopment of Churchgate, car parking signage etc;	
Theme 3	-	'Marketing, promotion and events'	(budget £262k)
		Encouraging more footfall by scheduling events, independents' days, family activities etc as well as increasing internet presence;	
Theme 4	-	'Business support and development'	(budget £281k)
		Providing one to one support to business, both established and new entrepreneurs, building business skills and opportunities for joint purchasing schemes;	

These current budget allocations are estimates, and may be subject to slight change as final rateable value figures for individual hereditaments are estimated.

GENERAL

- 8.6 The BID proposals in their current format have been agreed by the BID steering group, and therefore the intention is that this ultimately forms the document on which votes will be sought; however, there is a necessary caveat for Members in that this draft business plan has as yet to be reviewed in detail by officers, so there are a number of areas which without further clarification could be seen to be contrary to existing policy or strategy for the district.

These would include, but not be solely limited to, traffic calming around the Market Place, electronic car parking signage, revision of local car parking policy, temporary car parking with discounted charges and redevelopment of the Churchgate/riverside waterfront areas. Similarly, there is a proposal contained within the document that were this BID renewal to be successful, and similarly that of Royston, there would be an contribution made by all three BID areas toward the employment of a 'regeneration expert/economic development officer' across those towns, with a suggestion that NHDC also contribute; this is an example where greater clarity would be required regarding the job description, time apportioned, and the additional benefits to NHDC and its partners, before this could progress further.

Discussion between relevant officers and the BID company will therefore need to continue to take place up until such time as the draft plan is submitted to the Council's Cabinet in December to ensure officers can be confident that it aligns with existing strategic plans.

As with the previous BID proposals, the views of the Area Committee are being sought, and their comments will accompany the final plan back to Cabinet at its 10 December 2013 meeting.

- 8.7 NHDC as a Licensing Authority is keen to promote local and business-led initiatives. The appropriate licence applications would clearly apply where necessary, each application being dealt with on its own merits. If a BID is implemented and this in turn results in an increasing number of licensable activities and late night licensed trading, the BID and its scheme may fulfil the purpose of the levy, by raising contributions towards late night services, without the need for local authority intervention. The authority will also need to be satisfied that for any application, the aims meet a satisfactory crime and disorder focus.
- 8.8 Each BID Proposal must define the percentage of rateable value to be used to calculate the BID Levy. Hitchin's existing BID levy is currently set at 2% plus inflation, but it is understood that the rate of levy will be reduced to 1.85% on renewal.
- 8.9 The Regulations underpinning the development of Business Improvements (statutory instrument – Business Improvement Districts 2004 – No 244) lay down a very specific timetable for progressing to ballot, and for Hitchin applying these timescales provides the following deadlines/dates, a number of which are for NHDC to resource;

By Monday 11 November (at least 84 days before the Day of Ballot)

Notice given in writing, by the BID proposer to the billing authority (NHDC) and the Secretary of State of the intention to request a ballot.

NHDC are now in receipt of formal letter of intent from both BID companies

Business plan for consideration by relevant Area Committee -

Hitchin BID renewal to Hitchin AC 12th November

Cabinet approval 10th December

Publication of Notice of Ballot 23rd December

(at least 42 days before day of ballot)

This will be posted on NHDC's website and mailed to all eligible voters. Eligible voters will also be sent a request to confirm their voter details and an application form to appoint a proxy if they wish.

Prepare list of those entitled to vote and proxies (NHDC)

Write to all entitled to vote giving details of arrangements for ballot and BID (NHDC)

Ballot packs issued to hereditaments entitled to vote 6th January

Last date for proxy appointment 24th January
First date to request replacement paper 30th January

Last date for returning spoiled paper for replacement 31st January

Day of ballot **3rd February**

Completed votes can be handed in at the Council Offices, North Hertfordshire District Council, Gernon Road, Letchworth Garden City, Herts SG6 3JF up until 5.00pm

Sealed envelopes opened/declaration etc **4th February**

The Declaration of the result of the Ballot will be made Immediately following the Count (NHDC)

- 8.10 It has been determined by the BID board that Charitable organisations and by definition, charity shops, within the Hitchin BID area will not be exempt from payment of their proportion of the levy.

9. LEGAL IMPLICATIONS

- 9.1 The Council is required by law to conduct the Ballot and to administer the BID billing, collection, enforcement and accounting if the ballot is successful, in accordance with Part IV of the Local Government Act 2003 (The Act). This is further governed by the Business Improvement Districts (England) Regulations 2004 (The Regulations).

- 9.2 The Regulations state that a valid BID proposal must contain the following information:-

- a statement of the works or services to be provided, the name of who will provide them (the name of the BID body) and the type of body the provider is (whether a local authority, a company under the control of the authority, a limited company or a partnership);
- a statement of the existing baseline services (if any) provided by the relevant billing authority or other public authority;
- a description of the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;
- a statement of whether all non-domestic ratepayers in the geographical area or specified class of them are to be liable to the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy;
- a statement of the specified class of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;

- a statement of whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way;
- a statement of the duration of the BID arrangements; and
- a statement of the commencement date of the BID arrangements.

9.3 The Act and Regulations also require a Billing Authority, in this case the Council, determine whether BID proposals

conflict with a policy formally adopted by and contained in a document published by the authority (whether or not the authority is under a statutory duty to prepare such document)

As outlined at Paragraph 8.6 above, officers cannot yet reassure Councillors that all of the proposals contained in the draft business plan are in accord with policies formally adopted by the Council, but will do so before the draft plan is returned to Cabinet in December.

9.4 The Council is entitled to vote in the ballot relating to the attached Hitchin BID renewal proposal. Cabinet at its meeting on July 30 2013 nominated the Head of Revenues Benefits and IT, Howard Crompton, to vote on behalf of the Council in the proposed Letchworth BID, Hitchin and Royston BID renewal ballots.

10. FINANCIAL IMPLICATIONS

10.1 The Council's additional financial responsibilities will fall into five categories;

- The cost of running the ballot;
- The annual cost of maintaining administrative software;
- Administration costs;
- The cost of the council's own BID levy on its town centre premises and land holdings;
- Any additional costs incurred by agreed additional works of the authority in regard to car parking, events etc.

10.2 NHDC Cabinet at its meeting in July 2013 agreed to resource the estimated £4,000 cost of the Hitchin renewal ballot; however, regulations do permit the Council to charge were the ballot to vote for rejection, *where the turn out is less than 20%*. In this instance, the Council can seek to recover its costs from the BID organisation. The BID Board have been made aware of this small risk, and we understand that sufficient budget will be set aside as a contingency were this to be the case.

10.3 The annual administrative costs per property are de-minimus as this is largely an automated process, which is already being carried out for the two existing BID areas. Evidence from these existing BIDs also indicate very high collection rates with only a few accounts requiring any enforcement proceedings. Under the BID arrangements, only one bill will be issued per property each year and the BID Levy is payable in one instalment. There is no provision for apportioned BID Levies in cases where occupation changes part way through the financial year. The Council bears no liability for bad debts. Only BID Levies collected are passed over to the BID Organisation. The Council does retain any Court Costs awarded by the Magistrates in applying for any Liability Orders; the costs are currently around £100 if NHDC were to progress to Court and obtain a liability order for non-payment. Further costs could be incurred were the issues to progress to the use of Bailiffs etc.

- 10.4 As the Council itself pays business rates, it will also have a liability to pay the BID Levy for those properties in which it is in rateable occupation, as it does now. However, there will be a minor reduction from the existing liability due to the levy dropping from 2% to 1.85%.
- 10.5 The BID Business Plan makes clear that the BID activities will be entirely additional to the existing services provided by NHDC, not a replacement. The Council will also need to satisfy itself that the BID activities do not rely in any part on additional services or contributions from NHDC (other than the BID levy).

11. RISK IMPLICATIONS

- 11.1 As the Council bears no additional financial responsibility for any debts, and the final decision to progress to ballot is that of the BID organisation, the main risk remaining for the authority is that it may be perceived this is an additional sum levied by and *retained* by the Council, especially so in times of austerity. It must therefore be explicit in promotional material that whilst the Council is responsible for collection, it is not responsible for spend and that all of the money passes to the BID company.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The area over which the BID company seeks to levy this additional rate is determined by them in consultation with local businesses, and does include all sizes and types of businesses, from multi-nationals to sole traders. The exclusion of certain premises, including those used for faith purposes, removes any additional burden which could be incurred by them, especially as it is questionable what additional benefits they could secure by additional footfall or use of the town in the evening.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 Relevant service areas have been aware of the intention of Royston and Hitchin to seek renewal of their existing BID arrangements for a period of months, and have made relevant arrangements to resource review of the business plan, and for running the postal ballot itself, against other work commitments.

15. APPENDICES

- 15.1 **Appendix A** - Draft Business plan for the Hitchin BID renewal.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 The Business Improvement Districts (England) Regulations 2004.