

**LETCHWORTH AREA COMMITTEE
11 SEPTEMBER 2013**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

6

TITLE OF REPORT: LETCHWORTH GARDEN CITY BUSINESS IMPROVEMENT DISTRICT (BID)

REPORT OF THE HEAD OF POLICY AND COMMUNITY SERVICES

PORTFOLIO HOLDER: COUNCILLOR TOM BRINDLEY

1. SUMMARY

- 1.1 To obtain Letchworth Area Committee's endorsement of proposals to progress to ballot for a new Letchworth Garden City Business Improvement District, and support the allocation of officer time to progressing a new, third BID for the district.

2. RECOMMENDATIONS

- 2.1 That members, having reviewed and commented on the attached proposals at Appendix A for the Letchworth Garden City BID, support the principles contained therein.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that NHDC as the billing authority can express its support, both in principle and in the allocation of officer time, toward the launch of a Letchworth Garden City BID.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None, as the proposal is either to progress toward a BID or not.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Consultation has been undertaken by the Letchworth Garden City 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 1* to this report. The draft business plan was presented to Cabinet on 30th July 2013; the comments of the Letchworth Area Committee will accompany the final business plan report back to Cabinet on 24th September 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 on the 5th November 2012

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 3 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 Letchworth Garden City BID, 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. The original draft document for the Letchworth BID did contain some recommendations, such as changes to car parking provision, services and charging which did not align with the Council's car parking strategy. When the original report and draft business plan were considered by Cabinet on 30th July 2013, a number of areas where changes were requested were noted, namely;
- That the section on 'Access and Parking' be amended to reflect better the Council's position on parking operation/strategy
 - That the document should refer to 'Letchworth Garden City' rather than simply 'Letchworth' throughout
 - That the pie charts reflecting consultation outcomes within the document be more clearly titled, their source reflected

In the intervening period, all of these changes have now been incorporated into the business plan now attached to this report, and have been agreed by the Portfolio Holder for Enterprise (who also has responsibility for the car parking elements too).

- 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. Examples include additional litter picking or graffiti busting, provision of taxi marshals or the provision of community facilities etc; the district's two existing BIDS in Hitchin and Royston for example have provided additional security measures, additional recycling opportunities, and street warden services within their town centres.
- 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 (there are currently 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.
- 7.9 In the Priorities for the District 2013/14, assisting with the investigation of a BID for Letchworth Garden City was one of the projects identified under the priority "Working with Local Communities". The timescale for progression toward a Letchworth BID ballot has been shortened significantly following discussion with local retailers, in the hope that this will provide some certainty with regard to future support to the town centre businesses post-Christmas 2013, albeit it should be noted that any successful BID will not come into being until the start of the new financial year 2014.

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 Letchworth Garden City BID Business Plan, have been examined by officers from relevant services and found not to be directly in conflict, and the intention is that the final business plan will be returned to NHDC Cabinet in September 2013 for note, alongside any draft proposals for the renewal ballots for Hitchin and Royston BIDs.
 - 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 would require 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 or were the BID to return 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 1** to this report.

- The Council has to bill, collect, enforce and account for the BID Levy. Under relevant regulations, the Council can charge for this service but opted not to do so for the existing Hitchin and Royston BIDs. Officers therefore sought Cabinet agreement not to charge for this service for Letchworth for sake of consistency, and this investment was agreed on 30th July 2013.
- 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 the 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 Letchworth BID, NHDC would technically face additional charges for
 - District council offices,
 - Town Lodge and the Print Room building,
 - Car parks within the area identified on the map,
 - Mrs Howard Hall, Brotherhood Hall and Howard Gardens Community Centre
 - Letchworth Town Hall

However, as business rates are devolved to the Council's lessees, it is for those tenants to pay the additional BID levy; this would therefore marginally increase operating costs for the groups situated at Mrs Howard Hall and Howard Gardens Community Centre.

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 Now that the map of the Letchworth Garden City BID is available, the Council's Revenues Team has been able to identify the commercial properties which lie within the BID area, and their rateable value. What will require significant resource attributed to it is the review of and contact with each business to ascertain the appropriate person to whom the ballot paper will be addressed, and the vote cast on behalf of their company. This will often be a different person to the contact details already held regarding the *payment* of business rates

8.4 The Letchworth Garden City BID Proposals can be found at **Appendix 1**. These could still be subject to very minor amendments before they are finally issued to voters, but any changes will be marginal and will not involve changes to the substance of the proposed projects.

8.5 The Proposals fall into four main headings, which are;

Events and promotional activities

A varied programme of events and promotional activities held throughout the town centre on a weekly basis.

Sum set aside; £270,000 across the five year lifetime of the BID

These are intended to increase visits to the town, increase general footfall around the town centre and promote opportunities for retailers, not only through direct sales, but by the use of voucher and seasonal sales schemes.

By increasing the footfall and number of visits to the town, this could be argued to have a marginal positive effect for the Council in terms of slightly increased parking revenue, but please see para 8.6 below, which refers to car parking proposals which may impact income benefit here. The proposal also makes reference to retaining current grant-making channels, and of course at the moment some funding does come direct from NHDC by way of a reducing (and ultimately ceasing) Town Centre Partnership grant, and additional events funding made at the discretion of the Letchworth Area Committee; that may therefore change subject to grant availability.

These proposals may also affect workloads for council services involved in or otherwise impacted by the planning and management of events (ie. licensing, food hygiene, waste management etc); however, as the proposals have been downscaled to smaller weekly events, and town centre partnerships already have the ability to schedule and request support for ad hoc events, it is considered to have minimal impact, but would need to remain subject to review.

8.6 ***Access and parking***

Reviewing those aspects of parking which are most important to visitors and businesses and then addressing outstanding problems in order to increase footfall and dwell time in the town centre.

Sum set aside; £130,000 across the five year lifetime of the BID

This recognises that Letchworth, as many towns, has a range of car park providers, be that retailers such as Morrisons, the Letchworth Garden City Heritage Foundation or the Council and thus proposes increasing discussion and joint working on parking issues, including signage. The move toward periods of 'free' parking provision has been suggested, similar to schemes implemented in both Royston and Hitchin, but of course the BID company would be required to replace any loss of income to NHDC during such periods, and fund the provision of increased signage to car parks following discussion.

8.7 ***Marketing***

Promoting our core offer to our primary and secondary catchments via all media formats with an increasing focus on digital media.

Sum set aside; £205,000 across the five year lifetime of the BID

This intends to use new phone Apps, a dedicated website, and social media including twitter to promote the town centre and its events to the widest possible audience. This will not directly impact the Council.

8.8 ***Developing our offer***

Developing the core offer of the businesses in the town centre

Sum set aside; £135,000 across the five year lifetime of the BID

This will examine and promote new ways of doing trade in the town centre, including encouraging the provision or 'pop up' or 'meanwhile use' units, bringing formerly empty shops back into even temporary use, and providing support to prospective tenants in regard to lease renewals. Whilst there are already 'pop up' projects underway in Letchworth, this funding will enable the range of options to expand further.

GENERAL

- 8.9 The BID proposals in their current format have been agreed by the BID steering group, and therefore the intention is that this forms the final document on which votes will be sought, subject to only the most minor amendment if necessary. As with the previous BID proposals in Hitchin and Royston, the views of the Area Committee are also sought, and their comments will accompany the final plan back to Cabinet at its 24th September meeting.
- 8.10 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.
- 8.11 Each BID Proposal must define the percentage of rateable value to be used to calculate the BID Levy. For Letchworth, a 1.5% Levy is stipulated with inflationary increases year-on-year, recognising that the national economy is not at its most buoyant at present; by comparison, Hitchin and Royston existing BIDs are currently set at 2% plus inflation, but the rate of levy for those too will be subject to review as these BIDs move toward renewal.
- 8.12 Each BID Proposal defines the BID area, and whilst there has been discussion with partner organisations, and indeed the Council itself, about extending the BID area to include at least some elements of the industrial area, the proposals being offered to increase retail footfall in particular were seen to be of little additional benefit to businesses on the industrial park; the boundary has therefore remained tight, circling only the main retail section of the town centre
- 8.13 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 Letchworth applying these timescales provides the following deadlines/dates, a number of which are for NHDC to resource;

By Monday 5 August 2013 (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.

By Monday 16 September 2013 (at least 42 days before day of ballot)

Publication of the Notice 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)

Monday 30 September 2013

Ballot packs Issued by post to all hereditaments entitled to vote (NHDC)

Friday 18 October 2013 by 5pm (10 days before day of ballot)

Last date for the appointment of a proxy.

Thursday 25 October 2013 (4 days before day of ballot)

First day to request a replacement lost or spoilt Ballot Paper

Friday 25 October 2013 by 5pm (3 days before day of ballot)

Last date for returning a spoilt Ballot Paper to exchange for a new one

Monday 28 October 2013 -The Day of the Ballot (28 days after ballot issue)

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

Tuesday 29 October 2013 at 11.00 am

Sealed envelopes opened and the ballots counted. (NHDC)

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

- 8.14 It has been determined by the BID board that Charitable organisations and by definition, charity shops, within the Letchworth BID area will not be exempt from payment of their proportion of the levy.
- 8.15 A BID has a maximum life of five years and can be extended following a further (renewal) ballot.

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)

Officers have reviewed the BID proposals and found them to be essentially in accord with council policy/strategic plans, albeit there are still some minor wording changes which have been requested which remain to be confirmed.

9.4 Contracts must be let in accordance with the Contract Procurement Rules. The addition of a Business Improvement District for Letchworth Garden City to those already in place will require the purchase of additional software. Waiver of the provisions in respect of contracts for values of less than £50,000 will need to be approved by the Strategic Director of Finance, Policy and Governance in conjunction with the Corporate Legal Services Manager.

9.5 The Council is entitled to vote in the ballot relating to the attached Letchworth Garden City BID proposal. Cabinet at its July 2013 meeting nominated the Head of Revenues Benefits and IT, Howard Crompton, to vote on behalf of the Council in the proposed Letchworth BID ballot.

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 It is estimated that the cost of the **ballot** will be in the region of £2085; this covers the administration of the ballot from notice of ballot through to declaration, but does not include any officer time assigned to the ballot.
- 10.3 The Council agreed with previous ballots for Hitchin and Royston to bear the cost of the ballot, and officers support that approach with Letchworth too; 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. It was agreed this would be the approach were the original Hitchin or Royston BID ballots to have failed, and it is therefore wise to again remain consistent and apply such a charge were Letchworth ballot to fail to this degree. The BID Board have been made aware of this small risk, and we understand that sufficient budget has already been set aside as a contingency were this to be the case.
- 10.4 There are also additional costs which will be incurred for the revenues and benefits team, arising from services required to set up the Letchworth BID database; we are in receipt of a quotation from the existing software provider, Northgate, to the sum of £4,800.
- 10.5 Thus the increased costs to the authority, and the potential sources of such funding, being proposed are;

Purpose	Cost	Source
Letchworth GC BID Ballot	£2085	*Strategic Priorities Fund
Software to run Letchworth BID database	£4800	*Strategic Priorities Fund
Letchworth GC BID levy liability	£5336 (annual)	Corporate Business Planning Investment proposal 2014/15

** officers propose that a single bid for funding to progress any new Letchworth BID ballot and the proposed renewal of Hitchin (estimated £4,000) and Royston (estimated £3,000) be submitted for consideration by the Senior Management Team*

- 10.6 The request to progress to ballot has come a little earlier than was originally anticipated, in order that a successful ballot can provide a greater degree of certainty for businesses prior to the Christmas trading period and subsequent reduction in turnover in January/February. .

- 10.7 The annual administrative costs per property are de-minimus as this is largely an automated process, which is already being carried out for two other BID areas. Evidence from existing BIDs indicates 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.
- 10.8 This funding paid by way of levy would initially be in addition to the support already provided of £20,620 paid annually to the Town Centre Partnership, albeit that will gradually reduce to nil over the next three years.
- 10.9 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. Based on the latest information we have on the potential BID area, we calculate that this would apply to 12 separately rated hereditaments within the Letchworth BID area outlined on the attached map. Based on existing rateable values, a 1.5% BID Levy as proposed would result in an annual liability of £5,336. This BID levy will have to be funded by an investment bid through the corporate budget setting process, and officers gained Cabinet support to this investment in July 2013.
- 10.10 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.
- 10.11 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).
- 10.12 It should be noted that BID proposals with regard to any changes to parking may adversely impact on this revenue stream, although such proposals have been reduced to very the minimum possible in this, version 5, of the Letchworth BID business plan, and any proposals to improve the retail “offer” and run more events within the town centre may more than offset this by increasing the attractiveness of the town as a shopping destination. Additionally, measures to encourage businesses may have a positive impact for NHDC in terms of Business Rates growth, albeit marginal. It must also be borne in mind that any proposal agreed which impacts the authority’s income must replace such loss of income from the BID levy as collected.

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 is therefore being made 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 There will be a need to prioritise work on the establishment of the BID area, its benefits/costs and administration, as well as running the postal ballot itself, against other work commitments. This will be especially important given that we now understand both Hitchin and Royston intend to re-ballot in late 2013/early 2014, and relevant services will need to include this work within their service plans accordingly.

15. APPENDICES

- 15.1 **Appendix 1** - Draft Business plan for the Letchworth GC BID district including map of the BID area

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 The Business Improvement Districts (England) Regulations 2004.