

**CABINET
18 DECEMBER 2018**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: ROYSTON FIRST BUSINESS IMPROVEMENT DISTRICT (BID) RENEWAL

REPORT OF COMMUNITIES MANAGER

LEADER OF COUNCIL: COUNCILLOR LYNDA NEEDHAM

COUNCIL PRIORITY: ATTRACTIVE & THRIVING, PROSPER & PROTECT

1. EXECUTIVE SUMMARY

1.1 To obtain Cabinet's endorsement of proposals to progress to renewal ballot for the Business Improvement District (BID) for Royston First.

2. RECOMMENDATIONS

That Cabinet:

2.1 considers the Royston First BID renewal proposals appended at A.

2.2 instructs the Returning Officer to hold the BID renewal ballot for Royston.

2.3 instructs the Service Director – Customers to vote in favour of acceptance re the Council's voting right in the Royston First BID renewal.

3. REASONS FOR RECOMMENDATIONS

3.1 The Council is under a legal duty to comply with the BID arrangements under section 44 of the Local Government Act 2003 ('the Act'). This includes compliance with the Act and The Business Improvement Districts (England) Regulations 2004 (as amended) ('the Regulations') in respect of receipt of any BID renewal.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 Given the legal requirements to consider BID proposals under the Regulations, none is considered appropriate.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation has been undertaken by the BID Manager, the BID Advisory Council, the BID renewal working party and businesses across the town centre and Royston's Industrial Estates.

6. FORWARD PLAN

- 6.1 This report contains recommendations on a key decision which was added to the Council's Forward Plan on 25th October 2018.

7. BACKGROUND

- 7.1 The concept of Business Improvement Districts (BIDs) was introduced through Part IV of the Act and is further governed by The Regulations 2004. The legislation provides for BID proposals to be made to a relevant Billing authority and, subject to meeting certain Regulation requirements (see below¹), for this to be put to a ballot of relevant non-domestic ratepayers to be liable for the BID levy described in the BID proposals on the establishment or renewal of a BID, within a defined business area.

- 7.2 The BID, once established or renewed, 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, which is to include a 'business plan', consultation (with those who are liable to the proposed BID levy), and the financial management arrangements for the BID body and arrangements for periodically providing the relevant billing authority with information on the finances of the BID (the BID Operating Agreement).

- 7.3 In the past the process to consider BID proposals and the instruction to hold renewal ballots has been through Cabinet.

- 7.4 For the purposes of BID proposals (including renewals) 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.

- 7.5 The BID Proposer is obliged to draw up the BID proposal, the Billing Authority is obliged to consider the proposal 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 relevant business ratepayers within the BID proposal area are entitled vote.

1. Regulations 4, 5 & Schedule 1 Proposal sent to the relevant Billing Authority (consultation, business plan and financial management arrangements, and notice in writing requesting the Billing Authority to instruct the Ballot Holder to hold the BID ballot, evidence of sufficiency of funds

- 7.6 In this proposal for the Royston First BID renewal, the current BID Company is the BID Proposer, the Council is the Billing Authority and the Council's Returning Officer in respect of elections is the Ballot Holder.
- 7.7 The Authority's support in helping to sustain and continue BIDs within its towns is seen as very positive and whilst it increases costs to businesses marginally, the benefits to the local business community of being able to direct money / resources are clear -it has contributed to increased footfall in the town centre, the provision of town centre events, increased security in the town centre and across the Industrial Estates and generated increased trading, opportunities all of which have been widely appreciated. Royston is unique in the BIDs 'industry' in that it is the only BID that includes both the town centre and its adjacent industrial complexes. It also has a considerable reputation for developing tangible assets for the benefit of the wider community (Royston Picture Palace) rather than focus purely on business sustainability and profit.
- 7.8 The Council, as the Billing Authority, needs to be satisfied that the projects detailed in the BID proposals are not in conflict with its own adopted objectives or existing strategies, rather than to carry out a detailed analysis of the whole 'business plan' document. An earlier sample of the proposals document appended at A was received by the Council on 11th October 2018 and forwarded onto the relevant Service Directors & managers for initial comment. Comments received have been incorporated in to the body of this report and Cabinet will be updated with any further comments at the meeting, where applicable. The responses re any potential conflict are as follows:
- Proposals re the Authority's Parking Strategy and Local Plan which are currently under review
 - Obligations relating to the provision & delivery of NHDC baseline services
- 7.9 Officers from all relevant service areas have reviewed and provided comment with regard to the alignment of aspirations to existing strategies and for future proposals.
- 7.10 Where a Billing Authority is of the view that the BID renewal proposals conflict with a policy formally adopted by and contained in a document published by the Authority, it shall, as soon as reasonably practicable after receiving the proposals, notify the BID proposer or BID body, as the case may be, in writing explaining the nature of that conflict.² There is also a potential ability for the Billing Authority to veto any proposal but only under specific statutory circumstances set out in the Act and Regulations.
- 7.11 There is general agreement that the proposals & business plan appended at A are in accord with existing and known planned works for the Royston community.

8. RELEVANT CONSIDERATIONS

- 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 that complies with the Regulations has to be considered by the Billing Authority to ensure that it is not in direct conflict with any of the Council's own adopted policies.

² Regulation 4(4) of the Regulations

The BID Proposals are to be self-funding, i.e. paid for from the levy as collected, and may include paying for enhancements (the 'additionality' element) to services already provided by the Council. Government Guidance³ suggests that the most successful BIDs were those who have established close and positive engagement with the local authority and the Government appears to encourage this through the use of Service Level Agreements between the Council and the BID Organisations (although at this stage it is not mandatory). Such Agreements, if formalised would also recognise and monitor the 'additionality' the BID funding brings over the BID five-year term.

- The Billing Authority is required to instruct the Returning Officer to conduct the ballot, with one vote assigned per relevant business rate payer unit, subject to any exemptions that the BID companies agree, within the defined area of their BIDs. A map denoting the BID area is included within the proposal document appended at A to this report.
- The Billing Authority has the right of Veto under s51 of the Act and Regulation 12 after the ballot if it conflicts with Policy adopted by the Authority; or would bring significant disproportionate financial burden.
- If the BID proposals are approved by the relevant business rates payers (see below and legal implications), the Billing Authority has to bill, collect, enforce and account for the BID Levy. Under the Regulations, the Council can charge for elements of this service but has opted not to do so for the existing BIDs; the same principles will apply to this renewal. (see financial implications below).
- The only entities exempt from the BID Levy are public libraries, religious organisations, public toilets, magistrates' courts, individual single parking spaces, communication masts, advertising hoardings and Police/fire/ambulance stations. For both the Royston BID renewal, NHDC is of course entitled to vote and would continue to pay additional charges for its own car parks; for property which the Council leases out within the BID boundary, it is for lessees to pay the additional charge.
- Charitable organisations will not be exempt from the BID Levy, unless they can demonstrate that their presence in each town is by way of 'head office' or direct delivery, i.e. the giving of information or physical support, rather than as a 'trading' or commercial entity – such as a charity shop.

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'

³ DCLG Business Improvement Districts Guidance And Best Practice March 2015

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. In the case of Royston, the same caveats are applied to both the town centre and their adjacent industrial units.

The BID ballot is statutory and binding and will apply to all eligible businesses inside the BID areas regardless of whether or not they intend to vote and how they might vote. The ballot is a postal ballot and this time the whole process has been outsourced to an external company.

8.3 The Council's Revenues Team has reviewed the proposed BID areas contained within the business plans and has been able to identify the commercial properties which lie within each of the respective the BID areas, and their rateable value. A review of the contact for each business has also been undertaken to ascertain the appropriate person to whom the ballot paper will be addressed, and the vote cast on behalf of their company, as many businesses have changed hands or seen staff changes during the past five years.

8.4 The BID renewal prospectus & proposals is appended at A

8.4.1 **Summary of Vision & Objectives**

The following statement has been provided by the BID renewal working party:

By working in conjunction with our partners and stakeholders, the Royston First BID exists to grow our local economy, improve facilities for the community, enhance safety and security, boost visitor numbers and raise the overall profile and appeal of Royston as a significant trading and manufacturing destination. Our aims and objectives will be achieved over the next five years through the following additional activities:

BUSINESS AS USUAL

- Parking, one hour free parking via scratch cards & our free-after-three parking promotion
- Town trails and events programmes
- Royston Information Centre and visitor guides including 'Discover Royston'
- Christmas lights and window dressing competitions
- Royston town website, Royston 'Focus' and the infomercial video clips in the cinema
- Operation Artemis, providing additional policing for both town and industrial estate
- Selective deep-cleansing in parts of the town
- On-going support for the Library, the Market and the Cinema

NEW MEDIA/ COMMUNICATIONS PROJECTS

- Employ new communications/ business development team to improve business liaison / Networking / marketing
- Working with major players, such as the local pubs/ hotels to more effectively promote themselves and the town
- Make more of events based on attractions at local venues. Adopt a more joined-up approach to business benefits

- Oversee targeted social media campaigns to promote aspects of the commercial scene to a local audience

PROJECTS FOR THE INDUSTRIAL ESTATE

- Regularly showcase some of the industrial estate's creative companies, linked to a jobs fair
- Assuming the Royston Gateway is built, broker a deal to get a multi-storey car park built
- Investigate and deliver a park and ride system for industrial estate workers – potentially from a new multi-storey car park
- Initiate a maintenance programme for the industrial estate, including a workers' lunchtime leisure area
- Co-ordinated signage project across the industrial estate
- Free-to-use community bicycles available across the estate
- Negotiate and deliver a walk-through to link the estate with the adjacent Tesco store

TOWN CENTRE ACTIVITIES

- Night-time illumination/ animation of major/ historical building facades or substantial trees in park
- Improved signage for the town centre
- Expand on the Royston Trail to provide more interactive information about the town's history and culture
- Use the town's parks much more often to stage major events
- Encourage more local commuters to stay in Royston and explore the town
- Replace the existing Christmas lights in order to comply with new Hertfordshire CC regulations
- Produce a detailed plan (with funding pre-allocated) as a contingency against a large store becoming vacant

TOWN-WIDE PROJECTS

- If we are anchoring our regional activities with an incubation unit, training courses will be offered
- Run a local beer, wine and cheese or food festival
- Reinstate the shuttle but, this time to run between the Gateway, the adjacent industrial estate, Tesco and the town centre
- Resurrect the use of ANPR across the town

REGIONAL ASPIRATIONS

- Generate strong links to the farming communities in the Royston catchment
- Working with partners and Local Authorities to broaden the regional influence of the town

8.5 The BID proposals in their current format have been agreed by the representative renewal working party for Royston First and therefore the intention is that they will ultimately form the document on which votes will be sought. The local Tesco Extra superstore has, for the first time recently agreed and endorsed the draft proposals.

8.6 The BID Proposal must define the percentage of rateable value to be used to calculate the BID Levy.

- The Royston First proposed BID levy for the next 5 year period is to be set at 1.5% plus inflation, which cumulatively equates to an annual amount of £170,000
- This is a 0.25% reduction from the current five-year BID term when the levy was 1.75%
- The threshold at which the new levy will apply has been adjusted to match that of the Authority's business rates relief, bringing it into line with only the properties with rateable values of £15k and over.

Timetable for BID renewal:

8.7 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.

The full proposed Ballot timetable put forward by UK Engage is appended to the report as Appendix B - UK Engage Proposed Royston First BID Renewal Timetable.

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 Cabinet to consider progress to Ballot

18th December 2018

Publication of Notice of Ballot

by 4th January 2019

(At least 42 days before day of ballot)

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

Ballot packs issued to hereditaments entitled to vote

by 24th January 2019

(At least 28 days before day of ballot)

Day of ballot

6th March 2019

Any last minute sealed votes not returned directly to the external company by Friday 1st March 2019 can be handed in at the Council Offices, North Hertfordshire District Council, Gernon Road, Letchworth Garden City, Herts SG6 3JF up until 5.00pm on Wednesday 6th March 2019. These will be verified and sent onto UK Engage for inclusion.

Declaration & Results Announced

8th March 2019

9. LEGAL IMPLICATIONS

- 9.1. The Royston First BID arrangements are not to come into force unless the proposals for the arrangements are approved by a ballot of the non-domestic ratepayers in the proposed BID area subject to the levy, having followed the provisions in the Regulations, as per section 49, and section 54 of the Act. The BID approvals are then not regarded as approved by a ballot unless (1) the majority of persons voting in the ballot have voted in favour of the BID proposals; and (2) the aggregate of the rateable values of each hereditament in respect of which a person voting in the ballot has voted in favour of the BID proposals exceed those in the same positing voting against the proposal; as per section 50 of the Act.
- 9.2. The Billing Authority is required by law to conduct the renewal 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).
- 9.3. Regulations 4, 5 and Schedule 1 set out what a BID proposal must include. The Regulations state that a valid BID proposal, including renewal, 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 a 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.
- 9.4 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)

- 9.5 The Council, as Billing Authority, may in prescribed circumstances, veto the proposals within such period from the date of the ballot, and must give notice to those entitled to vote in the ballot, detailing reasons and right of the appeal (and send a copy of the notice to the Secretary of State), as per the requirements of section 51 of the Act. The Billing Authority can only do so, having considered a number of factors (including although not limited to level of support in the ballot), if the BID arrangements are likely to:
- (a) to conflict to a material extent with any 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); or*
 - (b) to be a significantly disproportionate financial burden on any person or class of persons (as compared to the other non-domestic ratepayers in the geographical area of the BID) and–*
 - (i) that burden is caused by the manipulation of the geographical area of the BID or by the structure of the BID levy; and*
 - (ii) that burden is inequitable.*
- 9.6 The Council is entitled to vote in the ballot relating to the attached BIDs renewals proposal. Cabinet at its July 2013 meeting nominated the former Head of Revenues Benefits and IT, now the Service Director for Customers, Howard Crompton, to vote on behalf of the Council in the proposed Letchworth, Hitchin and Royston BID renewal ballots. It is however, recommended that this instruction is renewed following the Council's recent restructure, for clarification purposes as per 2.3.
- 9.7 Otherwise, the legal requirements are contained within the body of the report.

10. FINANCIAL IMPLICATIONS

- 10.1 The Council's additional financial responsibilities fall into five categories;
- The cost of running / outsourcing 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 events & car parking etc
- 10.2 In the past the Authority agreed to cover the cost of resources required to undertake each of the renewal processes. The cost of running the Royston First BID renewal process in-house is £1,700 while the price quoted by the external company to run the ballot on behalf of NHDC is £1,300, a saving of £400. However, regulations do permit the Council to make a charge for undertaking the process. In the past this cost has been absorbed by the Authority as part of our contribution to the development of BIDs in the area, a gesture that has been universally welcomed by our local businesses. Additionally, if the ballot vote indicates a rejection of the renewal and the turnout is less than 20%, the Council can seek to recover its costs from the BID organisation. The BID Advisory Council has been made aware of this small risk, and 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 being carried out for the three existing BID areas.

Evidence from our 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. BID Levies are apportioned in cases where occupation changes part way through the financial year. If this didn't happen then the NNDR system and the BID system would show different information, which would cause problems when it comes time to ballot as the data bases would not match. 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 cost is £30 if NHDC were to progress to Court and obtain a liability order for non-payment. The debt is then passed to the enforcement agency and further costs are incurred in line with the Taking Control of Goods (Fees) Regs 2014. However the fees incurred are added onto the debt, so NHDC does not incur any costs. If cases are unsuccessful, the case is returned to the Council for consideration of further recovery.

- 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. This currently equates to £2,870pa re the Royston First BID.
- 10.5 The BID Business Plan makes reference to the respective BID activities / proposals all of which, if progressed during the new BID term, will be in addition to the existing services provided by NHDC, not a replacement. The Council also needs to satisfy itself that the BID activities as proposed do not *rely* in any part on additional services or contributions from NHDC (other than the BID levy) over and above resources already committed.

11. RISK IMPLICATIONS

- 11.1 Should the recommendations be approved, 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 collected passes to the BID company.
- 11.2 Each year, Officers review the risks relating to the Council's involvement in all three BIDs, via the Risk Register. Currently, Officers have assessed the BIDs as being low risk in respect of both impact and likelihood.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.

- 12.2 The areas 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. The BID initiatives seek to indirectly support the aim to foster good relations between those who share a protected characteristic and those that do not.

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 made aware of the intention for all three BIDs of to seek renewal of their existing BID arrangements and have made relevant arrangements to resource review of the business plans, and for outsource the running of the postal ballot itself, as not to conflict with other work commitments.

15. APPENDICES

- 15.1 Appendix A – Royston First BID Renewal Proposals & Business Plan 2019 – 2024
Appendix B – UK Engage Proposed Royston First BID Renewal Timetable

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 The Business Improvement Districts (England) Regulations 2004 & DCLG Business Improvement Districts Guidance And Best Practice March 2015