

Andover Town Centre Business Improvement District

Report of the Democracy and Governance Portfolio Holder

Recommended:

1. That the Head of Finance and Revenues be given delegated authority to instruct the Chief Executive (as Ballot Holder) to hold the BID Ballot on receipt of the formal request, as set out in 3.2 of the report.
2. That the Council will not seek reimbursement of the cost of holding the Ballot from the Proposer as set out in 3.5 of the report.
3. That the statement of existing baseline services contained in Annex 2 to the report be noted.
4. That Cabinet agree that the draft BID Proposals neither conflict with an existing policy nor proposes a disproportionate burden on particular businesses by an unfair levy charge on a certain class of business, as set out in paragraph 3.13 of the report and that delegated authority be given to the Chief Executive to make a final determination on this when the BID Proposals are published.
5. That delegated authority be given to the Head of Finance and Revenues in consultation with the Portfolio Holder for Finance and Resources and the Head of Legal and Democratic Services, to agree the terms of the Operating Agreement in the event that the BID Proposals proceed as set out in 4.3 of the report.
6. That the BID Proposer be charged £35 per hereditament or 3% of the annual levy income, whichever is lower towards the Council's costs of collecting the BID levy as set out in 4.4 of the report.

SUMMARY:

- A Business Improvement District (BID) was established in Andover Town Centre in 2019. The first five-year term expires in March 2024.
- This report discusses the implications of the term's expiry and seeks approval for the Council to undertake certain functions related to the ballot for approval of the new BID proposals.

1 Introduction

- 1.1 The Andover Town Centre BID was established in 2019 in accordance with The Business Improvement Districts (England) Regulations 2004 (the Regulations), following a ballot of local businesses.

- 1.2 The five-year fixed term expires on 31 March 2024. A ballot is necessary for the BID to continue the current arrangements for a second five-year term.
- 1.3 Andover Town Centre Bid Limited have prepared BID proposals which they wish to apply from 1 April 2024.
- 1.4 The purpose of this report is to consider a formal request from Andover Town Centre BID Ltd to undertake a ballot for the approval of the new BID proposals.

2 Background

- 2.1 A BID is a business-led and funded company formed to support and enhance a defined commercial area. There are about 300 BIDs in the UK. The Andover BID, relates to the town centre area.
- 2.2 The establishment of the BID in 2019 was led by local businesses through a BID Steering Group. This was supported by the work of external consultants, CMS, who were engaged by the Council. Following the successful ballot, Andover Town Centre BID Ltd (the BID company) was established and the BID company has implemented the BID arrangements (i.e. the measures which were set out in the BID proposals which were approved in the ballot process).
- 2.3 Andover Town Centre BID Limited have prepared proposals for the next five years, which include a business plan for the operation of the BID if the proposals are approved. The BID company's business plan sets out what projects and services it anticipates offering within the BID area, and a copy of the business plan is shown in Exempt Annex 3. The proposals are in draft form at present, but will be formally submitted to the Council once they have been finalised, as shown in the timetable attached as Annex 1.
- 2.4 If the BID Proposals are approved by a formal ballot, the BID company will implement the approved proposals (which will constitute the BID arrangements) in the BID area for a five-year term from 1 April 2024.
- 2.5 The implementation of BID Proposals are funded by a BID levy, a statutory levy which is charged on non-domestic rate payers and collected separately from the non-domestic rates bill to ensure the two are seen as separate charges.
- 2.6 BID Proposals (and the imposition of a BID levy) can only proceed if the proposals are approved through a formal ballot. Proposals are only approved if the BID ballot succeeds on two counts:
 - i) A straight majority of business rate payers eligible to vote within the defined boundary; and
 - ii) Majority by rateable value.

This ensures that the interests of large and small businesses are protected.

- 2.7 The government has published a Technical Guide for local authorities on BIDs to assist BID Proposers and local authorities deal with the various issues which BID Proposals give rise to. The Council has had regard to the Guide and to the Business Improvement District (England) Regulations 2004 in preparing this Report. The guide is available at:
[Business Improvement Districts: technical guide for local authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262222/BID-Technical-Guide-2016.pdf)

3 Preparing for a BID ballot

- 3.1 The Council expects to receive a formal request from Andover Town Centre BID Ltd (the BID Proposer) to hold a ballot for an Andover Town Centre BID for a period of 5 years from 1 April 2024. Submission is anticipated to be on 29 August.
- 3.2 Under Regulation 5 of the Business Improvement Districts (England) Regulations 2004, when the request referred to in paragraph 3.1 is received, the Council as billing authority is required to issue an instruction to the Returning Officer of the Borough Council (the Chief Executive) to hold the ballot. As the formal request has not yet been received, it is recommended that delegated authority be given to the Head of Finance and Revenues to issue the formal instruction to the Chief Executive under Regulation 5 when the request is received.
- 3.3 It is possible to outsource the running of the ballot, although the Ballot Holder remains legally responsible for the process. Civica Electoral Services (CES) have been engaged to manage the ballot on behalf of the Chief Executive.
- 3.4 The Council is required to publish the Notice of Ballot 42 days before the ballot date. Based on the latest timetable (see annex 1), this means the notice must be published by 21 September 2023.
- 3.5 The Ballot Holder is required to meet the costs of holding the ballot. In the event that the proposal for a BID is not approved and the number of persons who have voted in favour is less than 20% of the number of persons entitled to vote, the Regulations allow the Council to recover its costs from the BID. It is proposed that the Council will not seek reimbursement of the cost of holding the ballot from the BID Proposer if those circumstances arise.
- 3.6 To assist businesses in the BID area, it is best practice for the Council to prepare a statement of baseline services. The purpose of this statement is to demonstrate to those voting in the ballot that the BID levy will be used to fund additional services rather than pay for services which public bodies already deliver.
- 3.7 Statements of existing baseline services are not legally binding and, given the uncertainty over future local government finance, they cannot guarantee or commit the Council to continue to fund services at the baseline level for the 5-year term of a BID.
- 3.8 The Statement of Baseline Services is shown in Annex 2 to the report.

- 3.9 Under Regulation 12 of the BID Regulations, the Council has the power to veto BID Proposals if it considers that the BID Proposals conflict with any existing local authority policy or propose a disproportionate burden on particular businesses by way of an unfair levy charge on a certain “class” of levy payers (e.g. by an inappropriate manipulation of the BID boundary).
- 3.10 The Technical Guide recommends that if this power is to be exercised, any veto is done prior to allowing the BID ballot to take place, so as to minimise the risk of having to veto the proposals following the ballot. This decision is not determining how the Council will exercise its votes in the BID ballot, but purely about whether there is a conflict / disproportionate burden as set out in paragraph 3.9 above.
- 3.11 In considering whether the BID conflicts with its policies the Council has had regard to the draft BID business plan which includes: map of BID boundary; levy rate and discounts etc.. The draft business plan is shown in Exempt Annex 3.
- 3.12 The Business Plan sets out the proposed rateable value thresholds for liability to a BID charge and the percentage of rateable value that the charge will be. It also explains the circumstances in which an exemption will be permitted.
- 3.13 It is considered that the BID Proposals do not conflict with any of the Council’s policies. The level of the proposed BID Levy and the proposed BID area are both considered reasonable. Assuming that the final BID Proposals are in line with the draft, it is therefore proposed that the power of the Borough Council to veto the BID Proposals under Regulation 12 of the BID Regulations is not exercised for the reasons stated above. It is recommended that delegated authority is given to the Chief Executive to decide on this point when the final BID Proposals are submitted.

4 Operating Agreement and BID levy charging process

Operating Agreement

- 4.1 If the ballot approves the BID proposals for the BID area, the Council will continue to be responsible for the collection and enforcement of the BID levy. The amounts collected are then passed to the BID company so that it can undertake delivery of the projects and services as set out in their proposals.
- 4.2 There is an existing Operating Agreement between the Council and BID Company that sets out how the levy shall be billed and collected. It also sets out the technical detail of the levy rate charging and other matters including for example relevant exemptions from the BID levy.
- 4.3 It is likely that there will be some small changes that will be agreed by both parties ahead of the second term commencing, if the ballot is successful. It is recommended that delegated authority to agree the terms of the Operating Agreement be given to the Head of Finance and Revenues in consultation with the Portfolio Holder for Finance and Resources and the Head of Legal and Democratic Services.

- 4.4 As the collecting body, the Council can charge the BID company for carrying out this function. The Technical Guide recommends an industry standard of a maximum charge of £35 per hereditament or 3% of annual levy income, whichever is lower.

Levy charging process

- 4.5 As part of the Operating Agreement, the Council also needs to set out the levy charging process that it intends to implement for the collection of the levy. The Technical Guide states there are two charging principles – ‘daily charging’ and ‘chargeable day’.
- 4.5.1 ‘Daily charging’ mirrors the approach in the business rate system of the charge being broken down to each day of the 365 days of the year thereby managing refunds as each change to occupation occurs.
- 4.5.2 ‘Chargeable day’ imposes a full year levy charge on the incumbent on a fixed day of the year (usually 1 April) and then makes no refund within the year as a result of any changes.
- 4.6 The ‘daily charge’ system is a more complex system and therefore requires a greater resource making the annual levy charge higher, whereas the ‘chargeable day’ system tends to be preferred by BIDs because it provides a more predictable cash flow and usually means a lower collection charge.
- 4.7 The daily charge system has been used in the BID’s first term and is proposed if the BID proposals for the next five years are approved.

5 Casting the Council’s vote

- 5.1 The Council will be entitled to cast a vote in the ballot for properties that is liable for business rates on as at the date the Notice of Ballot is published.
- 5.2 A further report will be presented to Cabinet on 4th October 2023 that will consider the Council’s options for how to cast its vote.

6 Options

- 6.1 Options at this stage are limited. The Regulations require the Council to hold the ballot upon receipt of notice from the BID Company. As noted in the report, that notice is anticipated on 29 August.
- 6.2 Assuming the formal notice is served, the options therefore relate to the way that the ballot is undertaken and the approval of administrative functions, such as agreeing terms in the Operational Agreement.

7 Options Appraisal

- 7.1 The Council will have a clear strategic and financial interest in the outcome of the ballot. To ensure transparency in the undertaking of the ballot and declaration of results, it is recommended that CES manage the ballot process. Initial conversations have been held with them and they are able to meet the Council’s requirements for this ballot.

- 7.2 In all other material respects, the arrangements for the administration of the BID and managing relationships between officers and the BID Company are expected to remain consistent with the approach that has worked effectively throughout the first five-year term. The recommendations of the report enable this to continue seamlessly, should the ballot approve the new BID proposals for the five years from 1 April 2024.

8 Resource Implications

- 8.1 The BID regulations require that the Council meet the costs of undertaking the ballot. This can be contained within existing budgets.
- 8.2 The cost implications of the BID levy on Council properties will be considered in a future report to Cabinet on 4 October 2023.

9 Risk Management

- 9.1 An evaluation of the risks associated with the matters in this report indicate that further risk assessment is not needed because the issues covered do not represent significant risks.

10 Equality Issues

- 10.1 No matters related to equality issues have been identified in preparing this report.

11 Consultations / Communications

- 11.1 This report relates to the administrative function of undertaking the ballot.
- 11.2 The Council's Economic Development team undertook two facilitated engagement exercises with BID businesses in July 2023. The feedback and recommendations from those sessions will be discussed in the next report to Cabinet.

12 Conclusion and reasons for recommendation

- 12.1 Andover Town Centre BID Ltd has been operating in Andover since 2019.
- 12.2 The five-year fixed term of the BID is due to expire in March 2024. This report examines the roles and responsibilities of the Council in supporting the ballot process, and recommends that all necessary procedures to enable that to happen be approved.

Background Papers (Local Government Act 1972 Section 100D)

[Business Improvement Districts: technical guide for local authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115422/Business-Improvement-Districts-technical-guide-for-local-authorities.pdf)

Confidentiality

Report and Annexes 1-2: It is considered that these parts of the report do not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

Annex 3: It is considered that the information contained in annex 4 includes exempt information within the meaning of paragraph 3 of Schedule 12A of the Local Government Act 1972 on the grounds that it contains information related to the business affairs of a third party that are not yet in the public domain and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

No of Annexes:	3	File Ref:	N/A
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(Portfolio: Democracy and Governance) Councillor N Lodge

Officer:	Carl Whatley and Howard Bone	Ext:	8540 / 8467
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Report to:	Cabinet	Date:	23 August 2023
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