

Cherwell District Council

Executive

9 January 2023

Banbury Business Improvement District (BID) Renewal Ballot

Report of Assistant Director – Growth and Economy

This report is public

Purpose of report

The purpose of this report is to:

- (i) provide an update on the process for Banbury Business Improvement District (the BID)'s renewal ballot.
- (ii) seek Member/officer delegations to establish, via a series of officer and member meetings, CDC's voting position.
- (iii) seek the necessary officer delegations for the ballot process (including delegation of authority to a senior officer to cast votes in the ballot).

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the steps required in the process leading to Banbury BID's renewal ballot.
- 1.2 To delegate authority to the Assistant Director – Growth and Economy; the Assistant Director – Finance, and the Council's Monitoring Officer to review the draft Business Plan submitted by the BID in order to enable the Plan to be approved as compliant with the relevant BID legislation within the required timescale; or reject it, in which case, it would not be possible to proceed with the renewal ballot.
- 1.3 To delegate authority to the Assistant Director of Finance, as the Council's s.151 officer, to determine the Levy Collection Fee per annum for the next five year term and negotiate as required with the BID.
- 1.4 To delegate authority to the Assistant Director - Growth and Economy, in conjunction with the Assistant Director of Finance and the Council's Monitoring Officer, to enter into and amend any agreements, legal or contractual, between the Council and the BID, including the Operating Agreement; Data Sharing Agreement; and Baseline Statement.

- 1.5 To delegate authority to the Corporate Director – Communities, in conjunction with the Assistant Director – Growth and Economy; the Assistant Director – Finance; the Council’s Monitoring Officer; the Leader of the Council; the Portfolio Holder for Regeneration and Economy; and the Council’s Banbury BID Board elected member observer, to establish, via officer and member meetings, the Council’s voting position in the renewal ballot.
- 1.6 To delegate authority to the Corporate Director - Communities to cast the votes on behalf of the Council in the renewal ballot.

2.0 Introduction

- 2.1. Banbury BID entered its first five year term of office on 1 April 2018, following a successful ballot on 14 November 2017. The BID’s first term of office is, therefore, scheduled to end on 31 March 2023.
- 2.2 In compliance with the relevant legislation, on 7 October 2022 Banbury BID submitted a Notice of Intent to the Secretary of State for Levelling Up, Housing and Communities and to the Chief Executive of the Council for a renewal ballot for a further five year term of office to be held on 16 February 2023.
- 2.3 The normal lead-in time to undertake a renewal ballot is typically nine months to a year. In this case, just five months have been available and the resultant abridged timeline to undertake all the prescribed steps set out in the relevant legislation has presented significant challenges for both the BID and the Council and these challenges should not be underestimated.

3.0 Background

- 3.1 A Business Improvement District (BID) is a defined area in which a levy is charged on business rate payers in addition to the business rates bill.
- 3.2 A BID is voted upon by businesses which are within a curtilage pre-determined by the BID Proposer who has to prepare a five year Business Plan for the eligible voters as the basis for the ballot.
- 3.3 The ballot process is unusual in that it is businesses, rather than residents, which are eligible to cast votes, with the number of National Non-Domestic Ratepayers within the proposed boundary liable to pay the BID Levy determined by the exceptions prescribed by the BID Proposer – for example, for the first five year term of Banbury BID, businesses with a Rateable Value below £4,750 were (i) exempt from paying any BID Levy and (ii) were therefore ineligible to vote in the ballot.
- 3.4 The majority of businesses within the current BID area have paid a Levy based on 1.5% of their property’s Rateable Value during the BID’s first five year term of office. Properties deemed to be “Managed Centres” have, however, paid the BID Levy at a lower rate of 1.125%, reflecting the fact that they are already paying service charges.

- 3.5 The BID Levy is used to develop projects which will benefit businesses in the local area and there is no limit on what projects or services can be provided through a Business Improvement District. The only requirement is that it should be something that is in addition to services provided by local authorities.
- 3.6 The Business Improvement Districts (England) Regulations 2004 (BID Regulations) provide the legislative framework within which BIDs and local authorities must operate.
- 3.7 It should be noted that the Council undertakes a number of different roles in relation to the BID, which are as follows:

- (a) Ballot Holder** – upon receipt of a Notice of Intent, the Council is required to set in train the various steps outlined by the BID Regulations for the preparation and running of a ballot or, as in this case, a renewal ballot.
- (b) Local Billing Authority** – the Council’s Revenues and Benefits service, within the Finance department, collect the BID Levy on behalf of the BID. The Council’s charge to the BID for the Levy collection work over the first five year term has been £24,000 per annum (with a grant voluntarily provided by the Council to offset part of this cost, as explained under point 6 below).
- (c) Regulator** – it is incumbent upon the Council as Ballot Holder and Local Billing Authority to ensure that the ballot and Levy Collection procedures align with the BID Regulations (2004). An example of this is the requirement for the Council to review and (i) approve the BID’s Business Plan before it can be circulated to the eligible voters – or - (ii) reject it, in which case, it would not be possible to proceed with the renewal ballot.
- (d) Services Provider** – the Council provides a number of services within the curtilage of the BID area, including street cleaning, waste collection and recycling, landscape services and both Charter and Farmers’ markets. The services provided by the Council are summarised in the Baseline Statement and any services or projects initiated and delivered by the BID during its five year term of office have to be in addition to the services summarised in the Council’s Baseline Statement.
- (e) BID Levy Payer** – by aggregate, the Council is one of the BID’s largest Levy payers because of the hereditaments (properties) it owns within the BID area. In addition to the Council-owned car parks and the bus station, the Council is also liable for the Levy payable on any vacant units within the Castle Quay shopping centre.
- (f) Financial supporter** – the Council provided a bridging loan to the BID of up to £50,000 in 2017 to cover set-up, operational and project costs and the sum that was borrowed was repaid in full to the Council in 2021.

The Council’s Growth and Economy department has also provided the BID with an annual grant of £9,000, to offset the Levy Collection fee of £24,000 charged by the Council’s Revenues and Benefits service. This method of operating reflected the Executive decision of 2017 that the BID company be charged the full cost of the collection, but that the Growth and Economy

budget should provide an annual grant in order to offset this cost and bring the Levy Collection fee more in line with market expectations for a town and a BID of this size, which would be in the order of between £10,000 and £15,000. It is proposed, therefore, that should the renewal ballot be successful, an annual virement of £9,000 would be made from the Growth and Economy budget to the Revenues and Budget budget in order that the BID is charged a fee commensurate with market expectations.

4.0 Report Details

- 4.1 The BID Regulations provide a statutory process for the preparatory work required to enable a renewal ballot, with the timescales prescribed by the closing date of the ballot.

The various steps involved are detailed in the table below.

Action	Date
<i>Notice of Intent from Banbury BID to Secretary of State and the Chief Executive of the Council to hold ballot on 16 February 2023.</i>	<i>Notice of Intent issued Friday 7 October 2022. A period of 84 days has to elapse before submission of the Letter of Request and the BID's Business Plan, meaning that the earliest possible date for submission to the Council would be Saturday 31 December 2022.</i>
CDC to provide Civica with list of eligible voters and the wording for the ballot documents.	Monday 19 December 2022
Letter of Request from Banbury BID to the Council to conduct Ballot, submitting its Business Plan.	Statutory deadline date is Tuesday 3 January 2023.
Statutory (Latest Date): Notification of Ballot	Thursday 5 January 2023.
Statutory (Latest Date): Dispatch of Ballot Papers	Thursday 19 January 2023.
Close of Ballot	Thursday 16 February 2023.
Issue of Result by 17:00	Friday 17 February 2023.

- 4.2 Following the submission of a Notice of Intent in October, the resultant timeline is not only extremely compressed, but it also necessitates the need to seek delegation of authority to the relevant officers, as specified within Recommendation 1.2 above, to review the BID's draft Business Plan in advance of the formal submission of the Plan, in order to enable the Plan to be approved as compliant (or rejected) with the relevant BID legislation within the required timescale. The review and approval of the draft Business Plan is undertaken within the Council's role as Regulator, as outlined in Section 3.7 (c) above and as specified within the BID Regulations; it is not for the Council to pass judgement as to whether it is a good Business Plan or not, at this stage. It will be up to the Levy payers to judge in the renewal ballot whether it is a good Business Plan or not and the Council will have its opportunity to make its judgement at that point, as one of the largest Levy payers (see Section 3.7 (e) above).

- 4.3 In its role as Ballot Holder (see Section 3.7 (a) above), the Council is contracting with Civica Election Services to arrange the renewal ballot with the democratic processes involved. The Council's Democratic Services, working closely with officers from the Growth and Economy department, will oversee the renewal ballot and ensure that all the correct procedures are observed. The fee charged by Civica for this service will be in the region of £4,000.

5.0 Conclusion and Reasons for Recommendations

- 5.1 The meeting is asked to note the steps required in preparation for the renewal ballot and to approve the proposed Recommendations in order to have the necessary delegations of authority in place to enable the renewal ballot's progression in alignment with the BID Regulations 2004.

6.0 Consultation

The BID is required to submit evidence of the consultation it has undertaken at the same time as submitting its Business Plan to the Council.

7.0 Alternative Options and Reasons for Rejection

- 7.1 The following alternative option has been identified and rejected for the reasons as set out below.

Option 1: Not to approve the recommended delegations of authority.

Reason for rejection: This was rejected because not approving the recommended delegations of authority would mean that the Council would be unable to fulfil its role as Ballot Holder; Billing Authority and Regulator in alignment with the BID Regulations 2004 in undertaking the actions required for the renewal ballot and thereafter.

8.0 Implications

Financial and Resource Implications

- 8.1 This purpose of this report is to update on the process for holding a renewal ballot and the costs as specified within the report are available within existing budgets.

Comments checked by:

Michael Furness, Assistant Director – Finance

Michael.Furness@cherwell-dc.gov.uk Tel: 01295 221845

Legal Implications

- 8.2 The process for holding a renewal ballot will be in accordance with the BID Regulations, as specified in Section 4.1.

- 8.3 In the event that (i) the Business Plan is approved; and (ii) the ballot on 16th February 2023 is successful, then those properties which the Council owns within the BID area will be liable to the additional statutory liability for the BID Levy for the BID's second five year term of office. This will, therefore, lead to an additional statutory liability which the Council will have to fund for the next five years, commencing financial year 2023-24.

Comments checked by:

Shahin Ismail, Interim Deputy Monitoring Officer

Shahin.Ismail@cherwell-dc.gov.uk Tel: 07887 550 472

Risk Implications

- 8.4 The report sets out the process for the renewal ballot and the following risks have been identified:
- (a) Risk One: if the steps prescribed by the relevant legislation are not followed within the mandatory timescales, the Ballot Holder will be unable to conduct the renewal election. To mitigate this, officers will comply with the relevant legislation.
 - (b) Risk Two: if the Business Plan is judged by the delegated officers as not being compliant with the relevant BID legislation within the required timescale, the Ballot Holder will be unable to conduct the renewal election. There is no mitigation to this, because it is up to the BID to supply a Business Plan which is compliant with the legislation; and if it is not, then the renewal ballot cannot proceed.
 - (c) Risk Three: as specified in Section 2.3 above, the abridged timeline, which resulted from the BID's not submitting a Notice of Intent until 7 October 2022, against a fixed expiry date (31 March 2023) of their five year term, presents significant challenges for both the BID and the Council. To mitigate these challenges, the Council, in its role as Regulator, is working closely with the BID to ensure that the necessary obligations set out within the BID Regulations 2004 are met.
- 8.5 These, and any further risks arising in the future, will be managed through the service's operational Risk Register, and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance and Insight Team Leader

Celia.prado-teeling@cherwell-dc.gov.uk Tel: 01295 221556

Equalities and Inclusion Implications

- 8.6 It is considered that there are no equalities and inclusion implications for the Council in relation to the renewal ballot process outlined or the recommended delegations of authority.

Comments checked by:

Celia Prado-Teeling, Performance and Insight Team Leader
Celia.prado-teeling@cherwell-dc.gov.uk Tel: 01295 221556

Sustainability Implications

- 8.7 It is considered that there are no sustainability implications for the Council in relation to the renewal ballot process outlined or the recommended delegations of authority.

Comments checked by:

Ed Potter, Assistant Director - Environmental Services
ed.potter@cherwell-dc.gov.uk Tel: 0300 003 0105

9.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

Banbury Cross and Neithrop

Links to Corporate Plan and Policy Framework

The continuation of a Business Improvement District in Banbury for a further five year term aligns with the Council's Business Plan 2022 – 2023, in particular linking to the Strategic Priority of "An enterprising economy with strong and vibrant local centres".

Lead Councillor

Councillor Ian Corkin - Portfolio Holder for Regeneration and Economy

Document Information

Appendix number and title

- None

Background papers

None

Report Authors and contact details

Robert Jolley, Assistant Director – Growth and Economy
Tel: 01295 221688 robert.jolley@cherwell-dc.gov.uk

Philippa Tatham, Economic Growth Officer
Tel: 01295 221780 philippa.tatham@cherwell-dc.gov.uk

