

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET – 6 SEPTEMBER 2016  
REPORT OF THE DIRECTOR (FINANCE AND OPERATIONS)

PROPOSAL FOR A BUSINESS IMPROVEMENT DISTRICT IN WELWYN GARDEN CITY

**1 Executive Summary**

- 1.1 This report sets out proposals by Welwyn Garden City Town Centre Partnership (WGCTCP) to establish a Business Improvement District (BID) in Welwyn Garden City.
- 1.2 WGCTCP was set up in 2012. The Council has representation on the Board. The partnership was set up to facilitate partnership working within the town and as a precursor to establishing a BID.
- 1.3 In December 2015 the Council's Town Centre and Events Manager post was seconded to WGCTCP in order to progress the development of a BID in Welwyn Garden City.
- 1.4 Following extensive consultation a BID Business Plan, BID boundary and levy criteria are proposed. The requirement to hold a ballot is triggered by a formal request accompanied by relevant documents as set out in the Business Improvement Districts Regulations 2004 4 (2) (a). These are set out in Appendix A. The draft Business Plan may be subject to some minor amendments before the ballot is held, but the themes and the apportionment of funding to each theme will remain the same.
- 1.5 The report outlines the financial implications for the Council should the BID vote return a positive majority.

**2 Recommendation(s)**

- 2.1 That Cabinet supports the BID proposal, having considered the draft Business Plan, baseline agreements and BID boundary and taking into account the right to veto as set out in Paragraph 3.7.
- 2.2 That Cabinet, having reviewed and discussed the attached proposals for a Welwyn Garden City BID agree they are not in conflict with the objectives of the Authority
- 2.3 That Cabinet agrees to delegate authority to the Director (Governance) to cast a YES vote in the BID ballot.
- 2.4 That Cabinet notes that the Council will run the ballot.
- 2.5 That Cabinet notes that the Council will be the billing authority.

- 2.6 That Cabinet agrees that the Council will purchase the additional system software and any associated licences required to enable them to administer and collect the levy. The council will invoice the BID company for these fees as set out in paragraph 5.4
- 2.7 That Cabinet agrees that the council will make a separate charge for the billing costs, as set out in Paragraph 5.5
- 2.8 That subject to a successful ballot, Cabinet agrees to delegate authority to the Director (Governance), in consultation with the Executive Member Resources, to enter into an operating agreement and memorandum of understanding with the BID Company.
- 2.9 That Cabinet agrees, subject to a successful ballot and the establishment of the BID Company, to provide a councillor to sit as a Director on the Welwyn Garden City Bid Limited Board and a senior council officer (Head of Service or Director) to act as adviser to the Board.

### **3 Explanation**

- 3.1 BIDs were introduced to England in 2003/04. BIDs now exist in over 230 locations throughout the United Kingdom. Locally Letchworth, Luton, Watford, Royston, Bedford and Hitchin have successful BIDs in place, some on their second or third term.
- 3.2 In order to create the BID a successful ballot must be achieved of those occupiers within the proposed BID area. This has to meet two tests: 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'. This is intended to ensure that there is a degree of parity in a town centre populated by larger multi nationals and smaller, specialist shops.
- 3.3 WGCTCP has sent the appropriate Notice to the Secretary of State to hold a ballot for the creation of a Welwyn Garden City town centre BID. The proposed ballot date is 27 October 2016. The proposed ballot period 29 September to 27 October 2016. No votes will be accepted after 5pm on 27 October.
- 3.4 The ballot will be conducted by post and will be run by the council's Electoral Services team. The regulations require that the cost of the ballot is met by the council.
- 3.5 A small levy (usually set between 1% and 2.5%) in addition to the business rates is charged to occupiers within the agreed BID area. This provides a budget which pays for a range of services and improvements that are specific to the BID area and are in addition to services already being provided by the local authority. The proposed levy rate for Welwyn Garden City town centre BID is 1.75% - with a reduced rate of 1.5% for businesses within the Howard Centre – to reflect the fact that they already pay a service charge.
- 3.6 If successful at ballot the WGC BID will commence on 1 April 2017 and be in place for five years. This is the maximum period of a BID before a fresh ballot is required.
- 3.7 The Council has the power to veto a BID in the following circumstances so the council should satisfy itself that:

- The BID proposal does not conflict to a material extent with any policy formally adopted and published by the authority;
  - The BID proposal does not place a significantly disproportionate financial burden on any person or class of person, as compared to other non-domestic rate payers in the area of the BID, and that burden is caused by a manipulation of the geographical area of the BID or the way the BID levy is structured, and that burden is inequitable.
- 3.8 The Council has been involved in the WGCTCP since its inception in 2012 and has supported the development of this BID throughout this year with seconded staff and Board representation. Currently the Executive Member for Business and Partnerships is nominated to the WGCTCP Board and the Heads of Service (Housing and Community and Planning) act as advisers to the Board.
- 3.9 The BID proposal does not conflict to a material extent with any policy formally adopted and published by the council. The proposal supports the council's corporate objective to 'help build a strong local economy' and in particular to 'revitalise our town centres and other shopping areas'. The council's Action Plan 2016/17 (4.2.2) states we will 'participate in the BID campaign to support a BID in Welwyn Garden City'
- 3.10 The proposal sets out the levy of 1.75% for any business with a rateable value of £5000 or more and a reduced levy of 1.5% for businesses inside the Howard Centre, to reflect the fact that they pay a service charge for certain services already. The BID proposal does not place a significantly disproportionate financial burden on any person and is considered to be equitable.
- 3.11 Officers are satisfied that sufficient engagement and consultation (set out in detail in the Business Plan attached) has been carried out and that the BID proposal does not trigger either of the circumstances which would warrant a veto, as set out in paragraph 3.7
- 3.12 In summary all businesses within the proposed BID area were surveyed and sent information including newsletters and fact sheets; drop in sessions and formal consultation events and workshops have been held on a regular basis since January 2016. Over 70% of businesses agreed to a personal visit to discuss the BID and more than 50% participated in detailed interviews and completed a survey. In addition information has been provided on a regular basis via social media, e-bulletins and press releases.
- 3.13 The overwhelming feedback from businesses is that Welwyn Garden City is a beautiful town, but that they wished to have an impact on improving the 'experience' of visiting the town centre. The BID vision and objectives reflect the feedback from businesses.
- 3.14 The BID proposal includes the BID Business Plan, the baseline agreements (which are the outline of services to be provided by the local authority within the BID area) and the BID boundary and hereditaments. This documentation is included at Appendix A. This report seeks support for the BID proposal.
- 3.15 Assuming the ballot is successful a number of tasks must be completed before the BID starts in April 2017. This includes setting up the billing procedure for collection of the levy; governance arrangements and setting up the BID

company; appointing staff to manage the company and deliver the Business Plan and setting up a performance management framework.

- 3.16 Welwyn Garden City Town Centre Partnership's Board has been acting as the BID Development Board and Steering Group guiding the development of this BID proposal and is the body which has proposed the BID for the purposes of the BID statutory provisions. However in line with best practice and on legal advice to the WGCTCP Board a totally separate and independent company will be set up, limited by guarantee, to have responsibility for and deliver the BID plan.
- 3.17 In accordance with the legislation and subject to a positive ballot, the billing procedure will be carried out by the council. This will require the purchasing and implementation of new software.

Other supporting documents include:

- Draft Operating Agreement (outline of the terms of the relationship between the BID company and the billing authority with specific regard to collection of the bid levy)
- Draft letter to the council requesting the council to hold the ballot
- Summary of consultation undertaken with persons liable for the proposed BID levy

## **Implications**

### **4 Legal Implication(s)**

- 4.1 The Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004 (the Regulations) outlines the statutory process for the establishment of BIDS.
- 4.2 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.
- 4.3 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 and then supported by businesses through the ballot process.
- 4.4 For the purposes of BID proposals, 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 (a) The BID Proposer (b) The Billing Authority and (c) The Ballot Holder
- 4.5 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.
- 4.6 In this case, the WGCTCP will be the BID proposer, the Council will be the Billing Authority and the Council's Returning Officer in respect of elections will be the Ballot Holder.

- 4.7 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.
- 4.8 A valid BID proposal must contain information expressly identified in the Regulations.
- 4.9 The BID Proposals are to be self funding
- 4.10 The Council is required by law 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.
- 4.11 The Council is required by law to administer the BID billing, collection, enforcement and accounting of the levy if the ballot is successful. Under the Regulations, the Council may charge for this service but is not obliged to do so.
- 4.12 As ratepayers the council is 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 Council will need to consider which appropriate officer should be authorised to vote in the ballot.
- 4.13 The BID ballot can only succeed if it can meet two tests. These are that (a) a simple majority of those who vote must register a 'Yes' AND (b) 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.
- 4.14 What may 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
- 4.15 The Regulations lay down a very specific timetable for progressing to ballot and these will need to receive detailed consideration, planning and resourcing.
- 4.16 A BID has a maximum life of five years and can be extended following a further ballot.

## **5 Financial Implication(s)**

- 5.1 The council has seven premises within the BID area, two of which will be exempt from the BID levy as they fall below the threshold of £5k.
- Campus East offices
  - Campus West
  - Campus East Car Park
  - Hunters Bridge Car Park

- WGC Shop Mobility
- Store/Garages in Campus East Car Park (exempt)
- AdSpace 2000 (outside Waitrose) (exempt)

5.2 The total liable rateable value is £667,800.00. If the ballot is successful a 1.75% levy will be £11,686.50. This will be a growth item within 2017/18 budget.

5.3 The approximate estimated cost of running the ballot is £1,500.

5.4 In accordance with the legislation and subject to a positive ballot, the billing procedure will be carried out by the council. This will require the purchasing and implementation of new software. Software cost is approx £9000 and licence fee of approx £1300 a year, and will be purchased by the council and reimbursed by the BID company once established.

5.5 The Council is required by law to administer the BID billing, collection, enforcement and accounting of the levy if the ballot is successful. Under the Regulations, the council may charge for this service but is not obliged to do so. The estimated cost of this is around £300 per annum plus postal costs. It is recommended that the council does make a separate charge for this.

## **6 Risk Management Implications**

6.1 The BID Development Board has a risk register linked to the BID development project, which is monitored by the Development Board.

6.2 The specific risks related to the content of this report is:

- Voter data base is incorrect or incomplete. Likelihood Low; Impact Medium
- Fail to have proper ballot procedures in place. Likelihood Low, Impact Medium

## **7 Security & Terrorism Implication(s)**

7.1 There are no known security and terrorism implications associated with this recommendation

## **8 Procurement Implication(s)**

8.1 There are no known procurement implications associated with this recommendation

## **9 Climate Change Implication(s)**

9.1 There are no climate change implications associated with this recommendation.

## **10 Link to Corporate Priorities**

10.1 The subject of this report is linked to the Council's Corporate Priority 'Help build a strong local economy', and specifically to the achievement of 'Supporting the development of a Business Improvement District in WGC'.

## **11 Equality and Diversity**

11.1 An Equality Impact Assessment (EIA) has been carried out in connection with the proposals that are set out in this report. There are no negative impacts, but there are positive impacts linked to the proposals set out in the Business Plan, specifically improvement of signage within the town centre, which will improve accessibility for people with a disability.

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Date	4 August 2016

Background papers to be listed (if applicable)

- Business Improvement Districts (England) Regulations 2004
- BIDs technical guidance for local authorities

Appendices to be listed

Appendix 1 - BID Proposal and Business Plan including summary of consultation undertaken with persons liable for the proposed BID levy set out within the proposed Business Plan.

Appendix 2 - Draft Operating Agreement (outline of the terms of the relationship between the BID company and the billing authority with specific regard to collection of the bid levy) – Appendix.

Appendix 3 - Letter to the council requesting the council to hold the ballot.