

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

REPORT OF THE CHIEF EXECUTIVE AND THE CORPORATE DIRECTOR – COMMUNITIES

10 MAY 2016

THE PROPOSED BRIDGEND BUSINESS IMPROVEMENT DISTRICT

1. Purpose of Report

- 1) To seek Cabinet approval to support the progression of the Bridgend Business Improvement District (BID) to ballot and to decide in particular how the Council should vote in the proposed ballot.
- 2) To seek Cabinet approval to establish the legal requirements to enable the Council to deliver on its key roles and responsibilities in respect of the proposed BID.

2. Connection to Corporate Plan/Other Corporate Priority

2.1 The Corporate Plan 20016/20 contains the following key priority:

- This proposal will contribute to the Corporate Improvement Priority of Supporting a Successful Economy.

3. Background

- 3.1 The Bridgend Business Improvement District (BID) has been in development since 2014 following one-off funding of £25,000 from Welsh Government and the Council.
- 3.2 A BID is a mechanism that has been recognised as being successful in bringing local businesses and other stakeholders together with the aim of improving their trading environment and enhancing their profitability. The Welsh Government is supporting the development of BIDs in Wales, as a key component of its commitment to encourage economic development and to deliver its regeneration framework, Vibrant and Viable Places.
- 3.3 The aim of a BID is to deliver a sustainable financial model to a defined geographical area of a town or city, where businesses have voted through a ballot process to invest collectively in local improvements. BIDs are developed, managed and paid for by the commercial sector by means of a BID levy. They are often a partnership arrangement through which the local business community and the statutory authorities can take forward projects and activities which will benefit the local economy.
 - 3.3.1 The programme of projects and activities should clearly be in addition to those provided by the local authority and not be used to replace existing public sector services. Everything the BID delivers should be new or additional to the services currently provided by the Council.

- 3.3.2 These projects and activities will be set out in a BID proposal document, which includes the description of the BID programme and how it will be funded through the BID eligible businesses.
- 3.4 In order for businesses to establish a BID it is necessary to undertake a ballot and secure a positive vote. Each separate property occupied or owned by a business rate payer (referred to as a hereditament) attracts a vote. To be successful the vote must meet two tests: more than 50% of votes cast must be in favour of the BID and the 'yes' vote must represent more than 50% of the aggregate rateable value of votes cast. A vote in favour of the BID proposals on the basis of these two criteria being met means that all eligible businesses have to pay the levy, irrespective of whether they voted for it. If the ballot is successful a BID company limited by guarantee will be established.
- 3.4.1 The legislation in respect of the ballot approval is contained in Section 50 of the Local Government Act 2003. The second test in respect of rateable value is contained in Section 50 (3)-(5).

Section 50 Local Government Act 2003

“(1) BID proposals are not to be regarded as approved by a ballot held for the purposes of section 49(1) unless two conditions are satisfied.

(2) The first condition is that a majority of the persons voting in the ballot have voted in favour of the BID proposals.

(3) The second condition is that A exceeds B.

(4) A is 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.

(5) B is the aggregate of the rateable values of each hereditament in respect of which a person voting in the ballot has voted against the BID proposals.

(6) For the purposes of subsections (4) and (5), the rateable value of a hereditament is that shown on the day of the ballot under section 42(4) of the Local Government Finance Act 1988 (c 41).”

- 3.4.2 The levy will be collected separately from business rates by the Council and the collected funds will then be paid to the BID Company (which will be registered as 'CF31') in Bridgend who will be responsible for the implementation of the agreed proposal.
- 3.5 In Wales and England, BIDs were introduced through the Local Government Act 2003 and subsequent regulations which in respect of Wales are the Business Improvement Districts (Wales) Regulations 2015 (the Regulations). Welsh Government has supported the establishment of BIDS in a number of towns. Eight of these have been voted in and set up to date: Swansea, Merthyr Tydfil, Newport, Neath, Llanelli, Caernarfon & Bangor, Aberystwyth and Pontypridd. Bridgend is the last of the Welsh Government supported towns to go to ballot.

4. Current Situation

Bridgend BID Proposal

- 4.1 The Bridgend BID (CF31) has commenced its campaign period following 24 months of development by the BID Steering Group. The BID Steering Group consists of

representatives from the business community, a representative from Bridgend Town Council and the Cabinet Member for Regeneration & Economic Development. The Group is independently advised and steered through the BID process by specialist consultants 'The Means', appointed by the Council.

- 4.2 Following extensive consultations with businesses in the BID area, a draft BID proposal document is being prepared by the BID Steering Group which outlines the programme of services the BID will deliver over a 3 year term. The key areas will be described in more detail in the proposal including the proposed service delivery relating to these.
- 4.2.1 Businesses have identified their specific priorities for the town centre in the draft BID proposal: developing strategy and supporting business; better marketing; a safer and more welcoming town, and improving access and parking. Cabinet should note that an Access Study has been commissioned for Queen St, Dunraven Place and Market Street, in Bridgend Town Centre, which will help inform the BID priority of improving access and parking. This will be presented to Cabinet in June.
- 4.2.2 The BID proposal is both a manifesto and a legal document. The Regulations require that a BID proposal has to be submitted by a person or persons specified in the Regulations. The BID proposal has to be submitted to the Council by the BID proposer and must include:-
- a statement of the works or services to be provided and the name of who will provide them e.g. the BID Company;
 - a statement of the existing baseline services provided by relevant organisations, including the Council (see paragraph 4.7.1 of the report);
 - a description of the geographical area in which the proposed BID arrangements are to have affect;
 - a statement of whether all non-domestic ratepayers in the geographical area or a specified class of them are to be liable to pay the BID levy, and explanation of how the BID levy to be levied is calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding 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;
 - a statement of the commencement date of the BID arrangements.
- 4.2.3 It is also a requirement of the Regulations that as well as the BID proposal the BID proposer sends to the Council a summary of:
- the consultation process it has undertaken with those persons who are liable for the proposed BID levy;
 - the proposed business plan;

- the financial management arrangements for the BID body (in this case the BID Company referred to earlier in the report), and the arrangements for periodically providing the Council with information of the finances of the BID body (in this case the BID Company referred to earlier in the report).

4.2.4 The BID proposer also has to send to the Council a notice requiring the Council to instruct the relevant ballot holder (Returning Officer) to hold a BID ballot.

4.3 At the time of the preparation of this report the Council has only received a draft BID proposal but anticipate that the finalised BID proposal required to be submitted under the Regulations will have been submitted by the time that this report is considered by Cabinet. If a BID proposal that fully complies with the Regulations has not been submitted by the time the Cabinet consider this report then it will be necessary to delegate power to the Corporate Director – Communities to approve any BID proposal in order that the BID ballot can take place (see paragraphs 4.6 and 4.6.1 as to the holding of the BID ballot) within the timeframe envisaged for the holding of the ballot.

4.4 The following streets are included in the BID area in whole or in part:

Adare St, Angel St, Boulevard de Villenave d'Ornon, Brackla St, Brewery Lane, Caroline St, Cheapside, Court Rd, Cross St, Derwen Rd, Dunraven Place, Elder St, Langenau Strasse, Market St, Merthyr Mawr Rd North, Nolton St, Quarella Rd, Queen St, Station Hill, the Rhiw, Water St, Wyndham St.

4.4.1 The map of the geographical area covered by the BID area is shown edged red on the map in the Appendix to the report

4.5 The BID proposal is that a business will pay a levy of 1.25% of their rateable value resulting in an annual income of approx. £130,000. This BID levy will be fixed for a three year term, after which a renewal ballot will take place. The BID proposal provides in greater detail the proposed BID levy and the requirements of which non-domestic ratepayers will be required to pay the levy if the BID ballot is successful.

BID Ballot

4.6 As indicated in paragraph 4.2.4 of the report the BID proposer has to serve a notice on the Council to instruct the relevant Returning Officer to hold a BID ballot. The Council is not obliged to instruct the Returning Officer to hold a BID ballot until a BID proposal that complies with the requirements of the Regulations as briefly set out in this report at paragraphs 4.2.2 and 4.2.3 is complied with. However, it is clearly desirable for the BID proposer to have discussions with the Returning Officer as to the timetable of the ballot in advance of the instruction to hold the BID ballot. The relevant Returning Officer under these Regulations is in this case the Council's Chief Executive Officer.

4.6.1 The legal requirements for holding a BID ballot under the Regulations are shown in the below timetable.

Ballot timetable

Action	Regulation Requirement
Publication by BALLOT HOLDER (the Returning Officer) of Notice of Ballot and comply with the other arrangements that need to have been undertaken under Paragraph 3 of schedule 2 of the Regulations. Copy notice of ballot sent to the National Assembly	Latest day: 42 days before ballot day
Dispatch of ballot papers	Latest day: 28 days before ballot day
Ballot Day	Ballot day means end of ballot period - 30 th June (provisional)
Counting of votes	As soon as practicable after the ballot day
Publication of notice of result	As soon as is reasonably practicable after the result is certified
BID start date	To be agreed

- 4.6.2 The indicative ballot period is June 2nd – June 30th, with publication of the result targeted for July 1st. These dates will be subject to the actions in the above table being satisfied, and the other requirements of the Regulations detailed earlier in the report having been complied with.

Formal Agreements

- 4.7 In accordance with the BID Regulations, a series of agreements between the Council and the BID Company must be put in place following a successful BID ballot:
- 4.7.1 Baseline Service Agreement – this defines the level of service delivered by the Council to the BID area, which includes public conveniences, street cleansing, highway maintenance, town centre management, car parks, CCTV and licensing, which covers taxis, street trading and late night food. The Agreement obliges this Council to notify the BID Company of any changes to these services during the term of the BID. The purpose of the Agreement is to reassure businesses that they are not paying the BID levy for existing services. The baseline agreement also confirms that the Council will not reduce services as a consequence of investment in the BID. Whilst a draft Baseline Service Agreement will be available before the ballot, the finalised terms of Agreement will have to be negotiated with the BID Company, which will only be established following the result of a successful ballot. On the basis that the BID ballot is successful, the Baseline Services Agreement will need to be completed. Once the finalised terms of the Baseline Services Agreement has been finalised and agreed with the BID Company then the Agreement will need to be signed by the Council and the BID Company. The report recommends that Cabinet delegate to the Chief Executive Officer the power to approve and finalise

the terms of the Baseline Services Agreement and to arrange the execution of the Agreement by the Corporate Director – Operational and Partnership Services.

- 4.7.2 Operating Agreement – this document is an agreement between the BID Company and the Council in respect of the administration, collection and enforcement of the BID levy. The Council will be the local authority with legal responsibility to set up the BID financial account and provide the invoice, billing and collection of the Bridgend BID levy. The Council's costs and expenditure in carrying out this work are in accordance with the Regulations deductible from the collected BID levy. There is a requirement under the Regulation for the Council to keep a BID Revenue Account. The finalised terms of the Agreement will again have to be negotiated with the BID Company which will only be established following the result of a successful ballot. The Council must pass to CF31 the levy collected on its behalf. The financial risk associated with non-payment of the levy rests with CF31, not the Council.
- 4.7.3 It is recommended to Cabinet that they delegate to the Head of Finance the power to agree the final terms of this Agreement and to arrange for execution of the Agreement by the Corporate Director - Operational and Partnership Services.

Progress and next steps

- 4.8 The Bridgend BID Proposer (acting for the Steering Group) in accordance with the BID legislation asks the Council to instruct the ballot holder (Returning Officer) to hold a ballot. The Council serves notice on the ballot holder to hold a ballot. The ballot holder then has to publish notice of ballot at least 42 days before the date of the ballot. The Returning Officer is obliged under the BID regulations to manage the ballot and has instructed electoral reform services, UK Engage, to carry out the administration of the ballot.
- 4.8.1 Following publication of the BID result, in the event of that being in favour of the BID, the Baseline Service Agreement and Operating Agreement can be finalised and executed by the Council and the BID Company (see paragraphs 4.7.1 to 4.7.3 of the report).
- 4.8.2 The Council in its capacity as the Billing Authority in the Regulations is required to put in place arrangements for collection of the levy following publication of the result. This will entail the acquisition and testing of new software, and setting up of a billing system. This cannot be done until after the result, but will be arranged and put in to effect as soon as practicably possible.
- 4.8.3 Following publication of the result, in the event of a "yes" vote the BID proposer will be responsible for establishing a BID Company that will have responsibility for managing the BID for the 3 year term.

The Council's vote

- 4.9. The Council as a business rate payer within the defined BID area has a number of votes in the BID ballot.
- 4.9.2 The Council has five separate hereditaments with a total rateable value of £871,500 (see paragraph 6.2 of the report). The annual levy liability is £10,893.75 at 1.25%. This allows the Council to have five individual votes, increasing the importance of a

Council 'yes' vote to deliver an overall BID success, if Cabinet decide that the Council should cast a "yes" vote. As indicated previously in the report in order for the ballot to be successful the vote must meet two tests: more than 50% of votes cast must be in favour of the BID and the 'yes' vote must represent more than 50% of the aggregate rateable value of votes cast. It is only if the ballot is successful on both criteria will the ballot be successful. As previously indicated paragraph 3.4.1 of the report sets out in full the legislation as contained in Section 50 of the Local Government Act 2003. The second test in respect of rateable value is contained in Section 50 (3)-(5).

- 4.9.3 As indicated at paragraph 4.3 of the report at the time of the preparation of this report the Council has only received a draft BID proposal but anticipate that the finalised BID proposal required to be submitted under the Regulations will have been submitted by the time that this report is considered by Cabinet. If a BID proposal that fully complies with the Regulations has been submitted by the time Cabinet consider this report then the Corporate Director – Communities will provide Cabinet with the views of officers at the Cabinet meeting in order for Cabinet to determine how the Council shall vote in the BID ballot. However, if the BID proposal has not been submitted by the time Cabinet consider this report then it will be necessary for Cabinet to receive another report for its Cabinet Meeting in June in order for Cabinet to determine how it wishes to vote in the BID ballot.

Conclusion

- 4.10 A BID for Bridgend will be an important tool in stimulating economic development of the town centre. The investment made by the businesses through the levy will address key issues that currently affect the success of the town and play a role in transforming Bridgend into a better place to do business. A BID mechanism has proven to create a cohesive business community, encourage private sector creativity to tackle problems and improve communication between business and councils. It is the view of officers that a BID for Bridgend could prove central to improving the vitality and viability of the town centre and in general recommend that the Council support the principle of a BID, however, clearly at the time of writing of this report officers are unable to express any further views on this specific BID proposal until the finalised proposal is received and officers have had an opportunity of considering its contents in full.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 None.

6. Financial Implications

- 6.1 As a business rate payer within the proposed BID area, there are financial implications for the Council in the event of a yes vote.
- 6.2 Within the proposed BID area there are five properties in the Council's ownership. The table below identifies the properties concerned, the rateable value and the levy. The levy payable would be fixed at the time of ballot for the duration of the BID. The levy would be paid annually for three years.

Hereditament	Rateable Value £	Levy payable £
Civic Offices, Angel St	490,000	6,125
Car Park No 1, Brackla St	11,000	137.50
Ground & First Floors Ravens Court	275,000	3,437.50*
Car Park West side, Brackla St	47,500	593.75
Bus Station, Market St	48,000	600
Total	871,500	10,893.75

- 6.3 The ballot cost, which the Regulations stipulate should be borne by the Council, is £2,629.37. This will be met by the Council's Town Centre Management budget. In the event of the yes vote being less than 20% of the number of persons entitled to vote in the ballot and the proposals were not approved, the Council is entitled to reclaim the cost of the ballot from the BID proposer and also the costs of arranging the ballot. However, it is proposed that this entitlement is waived. Establishing a BID is for the general good of the town centre, therefore taking on the responsibility and cost of carrying out the ballot, whether it succeeds or fails, would fall under the Council's general powers to promote wellbeing, and the Council would therefore not want to discourage a ballot from taking place.
- 6.4 A contribution of £5,000 towards the full cost of collecting and administering the BID levy will be charged to the BID Company annually, any administrative related costs in excess of this figure will be borne by the Taxation Section. Specialist software is required and the cost of purchasing and implementing the software will be charged to the Town Centre Management budget along with the annual licence fees for the duration of the BID. Recovery of the costs will be set out in the Operating Agreement between the BID Company and the Council
- 6.5 The ballot and other administrative costs are summarised in the following table. Items 1, 2 and 3, and the annual levy, will be paid for by BCBC from the Town Centre Management budget.

	Item	Yr 1	Yr 2	Yr 3
1	Ballot costs	2,629.37		
2	Purchase of BID collection software	15,000		
3	License agreement for BID software	2,000	2,000	2,000
4	Collection costs rechargeable to the BID	5,000	5,000	5,000
	Total	24,629.37	7,000	7,000
	Total cost to BCBC	19,629.37	2,000	2,000

7. Recommendations

Cabinet is **recommended** to:

- (i)(a) Note that the BID proposal and supplementary documentation have been submitted to and approved by the Council as complying with the requirements of the Regulations, or
- (b) If they have not been submitted to the Council by date of the Cabinet meeting, delegate to the Corporate Director – Communities the power to approve the BID

proposal and supplementary documentation required to be submitted to the Council for approval as duly complying with the Regulations, as so duly complying once the same has been submitted by the BID proposer.

- (ii) Upon receipt of a notice from the BID proposer that the Council should instruct the Returning Officer to hold a BID ballot the Cabinet delegate to the Corporate Director – Communities the requirement to serve the notice upon the Returning Officer to make the arrangements to hold a BID ballot, and also delegate to the Corporate Director – Communities the power to decide when to so serve the notice on the Returning Officer, if the BID proposal and supplementary documentation required to be submitted to and approved by the Council as complying with the Regulations, has not been submitted and approved by the Council at the time the notice is served by the BID proposer.
- (iii) Approve the financial arrangements detailed in paragraphs 6.3 to 6.5 of the report.
- (iv)(a) On the basis that the BID proposal and supplementary documentation have been submitted to and approved by the Council as complying with the requirements of the Regulations by the date of the Cabinet meeting, then Cabinet will need to decide how the Council should cast its votes in the subsequent BID ballot. Since at the time of preparation of this report the BID proposal and supplementary documentation have not been received the Corporate Director – Communities will provide the views of the Council's officers at the meeting to inform Cabinet in determining how the Council should cast its votes, and the Cabinet shall after considering those views determine how to cast its votes in the BID ballot, or
 - (b) If the BID proposal and the supplementary documentation have not been submitted to and approved by the Council as complying with the requirements of the Regulations by the date of the Cabinet meeting then Cabinet shall receive a further report at its meeting in June in order that it can determine how the Council should vote in the BID ballot and upon such a report being necessary the Corporate Director – Communities is to take the opportunity of updating Cabinet on the BID for Bridgend.
 - (c) That the Council's votes in the BID ballot be cast by the Leader on behalf of the Council.
- (v) Upon there being a successful BID ballot (and the relevant publication notice required by the Regulations having been undertaken), Cabinet authorise the Chief Executive Officer in consultation with the Corporate Director – Communities, Corporate Director – Operational and Partnership Services and the Section 151 Officer to approve and finalise the terms of the Baseline Services Agreement with the BID Company and to arrange for the Corporate Director – Operational and Partnership Services to execute the Baseline Service Agreement.
- (vi) Upon there being a successful BID ballot (and the relevant publication notice required by the Regulations having been undertaken), Cabinet authorise the Head of Finance in consultation with the Corporate Director – Communities and the Corporate Director – Operational and Partnership Services to approve and finalise the terms of the Operational Agreement with the BID Company and to arrange for the Corporate Director-Operational and Partnership Services to execute the Operational Agreement.

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Background documents:
Non
Appendix

The map of the BID geographical area is shown delineated edged red in the below plan.

