

HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
1 September 2015

Subject: BUSINESS IMPROVEMENT DISTRICT

All Wards
Portfolio Holder for Economic Development and Finance: Councillor P R Wilkinson

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to gain approval from Members of the process for the establishment of a Business Improvement District and inform Members of the roles and responsibilities as defined by The Business Improvement District (England) Regulations 2004.
- 1.2 A Business Improvement District is a business led and business funded partnership which is focused on improving and enhancing commercial areas, such as a town centre or industrial estate, through additional services or new initiatives. Government legislation enabling the formation of Business Improvement Districts was introduced into England and Wales in 2003, empowering businesses to 'raise funds locally to be spent locally' on improving their trading environment.
- 1.3 Business Improvement Districts are funded through a nominal levy calculated on the rateable value of all businesses within a defined area. Although the percentage can be set higher or lower, most Business Improvement Districts apply 1% or 2% levies and exempt very small ratepayers. This levy is in addition to the non-domestic rates businesses already pay to the Local Authority and relates specifically to the Business Improvement District. Whilst the majority of income comes from the private sector, non-domestic rate-payers from the public and voluntary sector can also contribute towards it. This nominal levy income can be used to lever in more funding; for example from public sector agencies, grant bodies, sponsorship, landowners and trading income during the 5 year scheme, maximising the potential funding stream and the benefits that the Business Improvement District can achieve.
- 1.4 The process of developing a Business Improvement District involves extensive consultation with businesses to establish what improvements they want and may be prepared to pay for. A Proposal is then produced and a 28 day postal ballot held where businesses vote 'for' or 'against' the proposed programme. For it to go ahead, two conditions must be met; firstly, a majority of those voting have to vote 'yes' and secondly those 'yes' votes have to represent more than 50% of the total rateable value of all votes cast. There is no minimum turnout threshold. If these conditions are fulfilled, payment of the levy becomes mandatory for all businesses in the Business Improvement District regardless of how they voted. This will only be established if the majority of businesses, by number and rateable value, want it.
- 1.5 Business Improvement Districts are viewed by many businesses as a fair and affordable way of creating a ring-fenced fund for up to a maximum of 5 years that is 'managed by business for business.' At 31 March 2015, there are approximately 205 approved in the UK which have focused on increasing footfall and generating additional consumer spend, something that has been particularly relevant to businesses in the recent economic climate.

2.0 ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT:

2.1 Business Improvement Districts are business-led partnerships focused on improving and enhancing commercial areas. Despite the business-led approach there are still a series of critical roles that a Local Authority is required to perform to facilitate the establishment, smooth running and termination as required. The responsibilities for a Local Authority, in enabling the establishment and successful operation of a Business Improvement District, are set out in Annex 'A'.

3.0 LINK TO CORPORATE PRIORITIES:

3.1 The establishment of Business Improvement Districts is a recognised mechanism for improving the economy, a key corporate priority for the Council.

4.0 RISK ASSESSMENT:

4.1 There are no risks associated with the establishment of a Business Improvement District policy. Risks pertaining to individual schemes will be detailed in the requisite reports for those schemes.

5.0 FINANCIAL IMPLICATIONS:

5.1 The Business Improvement District will require input from Council Officers in the following areas:-

1. Business and Economy
2. Electoral Services
3. Revenues and Benefits

5.2 The costs of the Business Improvement District ballot will be met by the Business Improvement District body and stated in the proposal document, to be agreed with the Local Authority.

5.3 A separate bill is required to manage the collection and enforcement of the Business Improvement District levy charges and an annual leaflet has to be provided with the bill. This cost will be calculated on a 'chargeable day' basis. On this basis, the recommended industry standard to cover the cost of the billing is 'a maximum charge of £35/hereditament or 3% of annual levy income, whichever is the lower.

5.4 The Council will reserve the right to waive all charges in respect of the establishment of a Business Improvement District at the discretion of the Executive Director and Deputy Chief Executive.

6.0 LEGAL IMPLICATIONS:

6.1 Business Improvement Districts must be established in accordance with The Business Improvement District (England) Regulations 2004.

7.0 EQUALITY/DIVERSITY ISSUES:

7.1 There are no equality or diversity issues to consider.

8.0 RECOMMENDATION:

- 8.1 That Cabinet approves and recommends to Council the process for establishing a Business Improvement District and the charging mechanism set out in paragraph 5.1.

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Background papers: None

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PROCESS IN ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT

The eight responsibilities for a Local Authority in enabling the establishment and successful operation of a Business Improvement District are set out below:

1.0 Business Improvement District Regulations

1.1 The Council will fulfil its responsibilities via Cabinet, where the Council will satisfy itself that the:

- a. Proposal does not conflict with any existing Council policy nor propose a disproportionate burden on particular businesses by way of an unfair levy charge on a certain 'class' of levy payers, for example by an inappropriate manipulation of the Business Improvement District boundary.
- b. Submission from the Proposer includes a copy of the Proposal; details of the consultation undertaken; details of the finances and financial management of the Business Improvement District (all of which are likely to be contained in the single Business Plan document that businesses will vote on); and a demonstration that finances are available to cover the cost of the ballot in the event that it fails and the number of persons voting in favour was less than 20% of the number of persons entitled to vote. The Council must be notified that the Proposer wishes to put proposals for a Business Improvement District to a ballot, and the Proposer needs to ask the billing authority (the Council) to instruct the Local Authority's Returning Officer (the ballot holder) to hold a ballot.
- c. Final proposals include all of the details stated within Schedule 1 to the BID Regulations (the Business Improvement Districts (England) Regulations 2004) prior to proceeding to ballot.

1.2 In addition the committee paper must include a formal approval for their own vote on their own hereditaments if this is relevant in the area and also make the financial provision for the levy costs assuming a successful ballot

2.0 Provision of Rating List Data

2.1 On receipt of a valid request from the Proposer, the Council is required to prepare a document (from its business rates records) showing the name of each business ratepayer within the boundary of the proposed Business Improvement District, together with the address and rateable value of each relevant business property occupied or (if unoccupied) owned by the ratepayer, and provide this to the Proposer.

3.0 Provision of Statement of existing baseline services

3.1 It is a requirement under Schedule 1, paragraph 1(1) (b) to the Regulations that the proposals include a statement of the existing baseline services provided by the Council or any other public authority in the proposed area. The statement will form part of the proposals which demonstrate to businesses voting for the Business Improvement District that the proposed services are additional to the baseline services provided by the public authorities. If there are no baseline services provided in relation to the Business Improvement District, then this should be stated in the proposal.

4.0 Collection of the Business Improvement District Levy

- 4.1 The Local Authority is required to manage the collection and enforcement of Business Improvement District levy charges. In practice the Business Improvement District body and the Council establish a levy collection agreement often known as an Operating Agreement. The principle of this agreement is to define the principles and processes for collecting the levy; enforcing the payment of the levy; reporting on collection and bad debt; monitoring provisions between the Business Improvement District and the Local Authority; and providing regular detailed and summary information on the service to the Business Improvement District as the client. Best practice suggests that a draft arrangement between the authority and Business Improvement District should be available for scrutiny by businesses during the ballot period.
- 4.2 The Local Authority may opt to send the levy bill out as part of the business rate bill or as a separate bill. Best practice suggests that a separate bill that includes a clear logo for the Business Improvement District on the header of the bill and a smaller Local Authority logo with reference to the Local Authority being the collection agency on its behalf is preferable. This helps to ensure businesses recognise that the Business Improvement District is delivering specific services over and above that which is funded and delivered by the Local Authority. The Local Authority is also required to issue an annual billing leaflet with the levy bills and this should include the previous year's financial summary and the forecast for the forthcoming year as per Schedule 4 to the Business Improvement District Regulations, paragraph 3 (2). In practice, a billing leaflet is often produced by the Business Improvement District with the in-house design style and approved by the Local Authority prior to printing.
- 4.3 The mechanism for charging should be defined within the levy rules of the Business Improvement District Business Plan and should be agreed between the Proposer and Local Authority rating department in advance of publication of the Business Plan. There is no requirement within the Regulations to follow the charging principles of the business rates system; instead it is up to the Proposer to consider the principles that are appropriate to their location.
- 4.4 There are two charging principles – 'daily charging' that 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; or 'chargeable day' that imposes the full year levy charge on the incumbent on a fixed day of the year (usually 1st April) and then makes no refunds within the year as a result of any changes. The daily charge system is a more complex system and therefore requires a greater resource, making the annual levy collection charge higher.
- 4.5 The Local Authority is permitted to charge a reasonable fee for this service. There have been wide variations on charging policies across the country, with approximately one third of Local Authorities providing the service at no charge, whilst others at the other end of the spectrum charging over £100/hereditament (Source: British BIDs Nationwide BID Survey). As a consequence levy payers have increasingly challenged these charges on the basis that there appears to be no correlation between the levy collection rate and its relative collection charge. The Industry Criteria and Guidance Notes (published by British BIDs annually on behalf of the British Retail Consortium, the British Council of Shopping Centres, the Federation of Small Businesses and the Inter Bank Rating Forum) recommend an industry standard of 'a maximum charge of £35/hereditament or 3% of annual levy income, whichever is the lower.

5.0 Provision of Ballot Services

5.1 The Local Authority is required to ensure the ballot is operated, either in-house or outsourced, in line with the Business Improvement District Regulations. Irrespective of whether the ballot is run in-house or outsourced, the Local Authority ballot holder remains legally responsible for the ballot process as set out in Regulations:

- a. **Ballot Timetable** - The timetable for the ballot is defined within Schedule 2 to the Regulations stating the key dates as follows:
 - Notification to the Local Authority and the Secretary of State by the Proposer (minimum 84 calendar days prior to submitting proposals to the Local Authority)
 - Notice of Ballot (Ballot holder to notify voters) (minimum 42 calendar days before the ballot day)
 - Ballot Period (minimum 28 calendar days)
 - Ballot Day (must be a working day and finish at 5pm)
 - Count and Announcement (as soon as 'practicable' after the ballot day)
- b. **Creating the Voter List** - The Local Authority ensures a voter list has been created in readiness for a ballot, and this must originate from the rating list to define the eligible hereditaments.
- c. **Managing Changes to the List** - To ensure that the final voter list is as accurate as possible, the ballot holder should ensure it corresponds with the rating list update from the Valuation Office Agency closest to the date of Notice of Ballot.
- d. **Ballot Principles** - The ballot is run as a secret ballot meaning that the Proposer will not be notified of which way votes have been cast at any stage of the ballot, or after the ballot has ended. However the ballot holder may report to the Proposer during the ballot which ballot papers have been received.
- e. **Ballot Documents** - The Proposer will send out the notification of their intention to put the proposals to a ballot to both the Secretary of State and the Local Authority, at least 84 days before formally asking the ballot holder to arrange a ballot.

The Ballot Holder will send out the following:

- i. Notification to the Secretary of State at least 42 days before the day of the ballot, confirming that the Notice of Ballot has been issued.
- ii. Notice of Ballot and covering letter to those entitled to vote, which includes an explanation of the ballot arrangements, an explanation that the person may request a copy of the proposals from the Proposer and provides the name and address of the Proposer.
- iii. Ballot Paper (best practice suggests using a different colour for the ballot paper to ensure it stands out and ensuring the envelopes used include the logo for the Business Improvement District and a strapline making reference to 'Ballot papers enclosed, please return by *date*').

- iv. Ballot Statement (often produced by the Proposer in line with the other campaign documents and approved by the Local Authority. This must be sent out with the ballot paper and should be an impartial and factual document which provides an explanation of the Business Improvement District arrangements and the ballot arrangements).
- v. The statement of existing baseline services (these must be available for inspection prior to the ballot). If a Baseline Agreement has been agreed (which includes the statement of existing baseline services) then this should be made available. Section 3 of this Guide refers.
- vi. Levy collection arrangement (or operating agreement, (available for inspection prior to the ballot and for adoption at the commencement of the Business Improvement District)) Section 4 of this Guide refers.

6.0 Notification of Ballot Outcome

- 6.1 The Regulations require that as soon as is reasonably practicable after the ballot the ballot holder should arrange for public notice to be given of the outcome of the ballot. Public notice must be given of the four specific matters set out paragraph 17(1)(a) of Schedule 2 to the Regulations, which are:
- a. The total number of votes cast in the ballot excluding any votes given on ballot papers rejected under paragraph 15 of Schedule 2.
 - b. The aggregate rateable value of each hereditament in respect of which a person voted in the ballot.
 - c. The total number of votes cast in favour of the question asked in the ballot.
 - d. The aggregate rateable value of each hereditament in respect of which a person voting in the ballot has voted in favour of the question asked.

7.0 Declaring a Ballot Void

- 7.1 There is a 28 day period immediately after the ballot result announcement during which a request to the Secretary of State to declare the ballot void can be made. The request can be made by either the Proposer/body, at least 5% of the voters, or the Local Authority and this request needs to be made in writing to the Secretary of State. The request must set out the basis of the challenge which must be a perceived material irregularity in the ballot process.
- 7.2 On receipt of a request, the Secretary of State is required to notify the Proposer and the Local Authority and then a further 28 days are available for written representations to be made and 14 days thereafter in response. If the Secretary of State declares the ballot void, a re-ballot must be held.

8.0 Termination Procedures

- 8.1 The Local Authority has a role defined in the Regulations in pursuing termination procedures in the event that the Business Improvement District has insufficient funds and/or is unable to deliver the services. The termination arrangements require the local authority to run a consultation with 'appropriate' business representatives and to give a notice of 28 days.