

Chichester District Council

THE CABINET

2 October 2018

Chichester BID Alteration Ballot

1. Contacts

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2. Recommendation

- 2.1. **Following the request from Chichester BID that an Alteration Ballot be held, the Ballot Holder (CDC Chief Executive) be instructed to hold the ballot.**
- 2.2. **That following the approval of the request in 2.1 the Cabinet supports the change to the new administrative vehicle for the BID to operate as Chichester BID Limited in the Alteration Ballot**
- 2.3 **That following the approval in paras 2.1 and 2.2 above the Cabinet recommends to the Council to delegate authority to the Deputy Leader to vote in accordance with Cabinet's decision in relation to the Alteration Ballot.**

3. Background

- 3.1. Business Improvement Districts (BIDs) are business led partnerships operating within a defined area, in which a levy is charged on all business rate payers to fund projects and services which will benefit the BID levy paying businesses. BIDs are created through a ballot process whereby levy-rate payers vote to determine whether the BID goes ahead. The maximum period that a BID levy can be charged is 5 years. Once the term is completed the BID will automatically cease. However, if it wishes to continue its activities it can hold a new ballot to renew the BID for a further five years. The local authority covering the BID area manages the ballot process. A successful vote is one that has a simple majority both in votes cast and in rateable value of votes cast.
- 3.2. In 2010, the Council's Economic Development Service worked with Chichester Chamber of Commerce and city centre businesses to propose the establishment of a BID for Chichester City Centre. In 2011, Cabinet (Executive Board) agreed to support the establishment of a City Centre BID. Following a successful ballot, Chichester BID was established in April 2012. The BID was

established as a community interest company - Chichester City Centre Partnership CIC – trading as Chichester BID for a term of five years. At its meeting on 12 July 2016, Cabinet approved support to the renewal of the BID. A subsequent ballot was undertaken, with approval being given for BID2 to commence from 1 April 2017 until 31 March 2022.

- 3.3. In April 2017 Chichester BID administration vehicle was changed to Chichester BID Limited. The benefit of doing so was that no corporation tax is paid on any surplus generated through their activities, which they consider to be in the interest of the levy payers as this means that tax is not paid twice (an issue commonly known as “cascade taxation”). In turn this means that more money is available to support the activities of the BID and the local business community.
- 3.4. During 2018 a court case made clear that the process to create a local BID was followed correctly and the levy was required to be paid by relevant businesses. However it also highlighted that the change of administrative vehicle administering the BID was not fully reflected and the recommendation from the Judge was that this change should be addressed as soon as possible. Without this amendment payments cannot be made to Chichester BID Limited and still enjoy the taxation benefits outlined above. The Court case made clear that before alterations can be put in place to enable those benefits to the BID and the payers, a further ballot will be needed.
- 3.5 Chichester BID board have requested that an alteration ballot should be held. The ballot will ask BID Levy payers whether they agree with the amended administrative arrangements of the BID. If the vote is in favour of the changes to the arrangements, the BID can continue with the intended arrangements as to payments and taxation. If this is not agreed then the Community Interest Partnership will need to operate through the Chichester Centre Partnership organisation which continues to administer the BID. This will have an impact upon the financial position of the BID and therefore the ability of the BID to deliver its intended out comes.
- 3.6 To avoid the need for further ballots on such issues the BID is also seeking authority to make any further minor administrative changes without reference to such additional ballots.

4. Outcomes to be Achieved

- 4.1 The BID Ballot is undertaken to determine whether BID Levy payers are in agreement with the proposals as set out as to which body is authorised to receive payments on behalf of the BID. If any further minor administrative changes were to be required then the changes empowered by the Alteration Ballot would also give flexibility to enable those changes. If the outcome of the vote is to support the BID Alteration then more money would be available to support the activities of the BID.

5. Proposal

- 5.1 The Cabinet is asked to support the BID in the Alteration Ballot and to instruct the Chief Executive to hold an Alteration Ballot

- 5.2 The Cabinet is requested to note the proposed draft timetable as set out in 7.3 and to recommend to Full Council to delegate to the Deputy Leader the authority to vote on behalf of the Council in the BID Alteration ballot in accordance with the Cabinet resolution. In relation to recommendation in 2.2 and 2.3.

6. Alternatives Considered

- 6.1 Not to support the BID in the Alteration Ballot. However, this would mean that the council would not be supporting the BID in the most tax efficient way to operate.

7. Resource and Legal Implications

- 7.1 The legislative framework under which Business Improvement Districts are established, renewed and governed is contained in Part 4 of Local Government Act 2003 and The Business Improvement Districts (England) Regulations 2004.
- 7.2 The Council will work with the BID on the procedure for the Ballot. Under the regulations, the Council as 'relevant billing authority' is responsible for instructing the 'Ballot Holder' to hold the ballot. The Ballot holder is *"the person the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(a) as the returning officer for elections to that authority"*. i.e. the Chief Executive
- 7.3 The BID Ballot proposer will be required to send out the notification of their intention to put the BID proposals to a ballot to the Secretary of State at least 84 days before formally asking the ballot holder to arrange a ballot. The Secretary of State must be notified at least 42 days before the day of the ballot, confirming that the Notice of the Ballot has been issued. The process is likely to progress using the following timescale, although this will be for the Ballot Holder to determine:
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| 3 Jan 2019 | Notice of the ballot from the Ballot Holder to the Levy Payers |
| 17 Jan 2019 | Ballot papers sent out to eligible voters |
| 4 Feb 2019 | Deadline for appointments of proxy |
| 14 Feb 2019 | Close of Ballot Ballot Day: voting closes at 5pm |
| 15 Feb 2019 | Ballot count and announcement of the result |
- 7.4 The regulations state for the BID to amend the company status, more than 50% of those who vote must vote 'Yes'. Of those positive votes, the total rateable value must be higher, when added together, than the rateable value of those who voted 'No'.
- 7.5 There are over 650 hereditaments within the BID area that are eligible to vote.
- 7.6 In the event that the result of the Ballot is negative, the BID will continue to operate under the initial company status as set out.
- 7.7 The Council's Ballot Holder ie the Chief Executive will be required to conduct the ballot. The Council is also a BID Levy payer and will be able to vote.

- 7.8 The regulations state that all expenditure incurred by the ballot holder in relation to the holding of a ballot shall be paid by the relevant billing authority (CDC). Initial estimated costs are in the region of £3,000. This will be funded through existing budgets.

8 Consultation

- 8.1 Since its inception, the BID has developed a programme of communication and consultation with BID levy payers, the local authorities and other bodies. The BID's work is reviewed by the Council's Overview and Scrutiny Committee and the BID Chairman will be attending their meeting in November.

9 Community Impact and Corporate Risks

- 9.1 The BID works to deliver a number of projects for the benefit of the city, including a programme of events, partnership working, public realm improvements, marketing, co-ordination, and safety initiatives. As outlined in the report the BID advises that some elements of these benefits may be reduced by the tax and financial impacts if the Amendment ballot is not successful.
- 9.2 The establishment and continuation of the BID supports two key priorities in the Corporate Plan, i.e. Improve and support the local economy to enable local growth and Support our Communities.

10 Other Implications

	Yes	No
Crime and Disorder		x
Climate Change and Biodiversity		x
Human Rights and Equality Impact		x
Safeguarding and Early Help		x
General Data Protection Regulations (GDPR)		x
Other (please specify)		x

11 Appendix

- 11.1 None

12 Background Papers

- 12.1 None.