

Cheltenham Borough Council

Cabinet – 27th April 2021

Cheltenham Business Improvement District (BID) – Renewal Ballot

Accountable member	Leader – Rowena Hay
Accountable officer	Tracey Crews – Director of Planning
Ward(s) affected	All Saints, College, Lansdown, St Pauls
Key/Significant Decision	Yes
Executive summary	<p>All Business Improvement Districts within the United Kingdom are formed in accordance with the governance and regulations set down by central government. These regulations give strict rules on how a BID operates and is administered . This report updates Cabinet on the process for the renewal ballot of the Cheltenham BID’s term and to seek delegated authority to deal with elements of the process for which Cheltenham Borough Council has responsibility.</p> <p>Further information about Business Improvement Districts and the regulations, can be viewed via the following link https://www.gov.uk/guidance/business-improvement-districts.</p>
Recommendations	<ol style="list-style-type: none">1. Notes that the Cheltenham BID company has served notice of their intention to seek a renewal ballot to the Secretary of State and the Council.2. Approves the draft Baseline Agreement (see appendix 3) and delegates to the Director of Planning in consultation with the Leader the authority to complete the Baseline Agreement with the Cheltenham BID company.3. Approves the draft Operating Agreement (see appendix 4) and delegates to Head of Revenues and Benefits in consultation with the Leader the authority to complete the Operating Agreement with the Cheltenham BID company.4. Delegates to Head of Property in consultation with the Leader the District Council’s voting rights for the District premises in the renewal ballot.5. Notes that the Executive Director for Finance and Assets will, as Returning Officer, engage the services of a suitable consultancy that provides election services to carry out the renewal ballot on behalf of the Council in accordance with the BID Regulations.6. Notes the draft BID Business Plan (see appendix 5) and delegates to the Director of Planning in consultation with the Leader to agree the final BID Business Plan with Cheltenham BID.

Financial implications	Financial commitments arising from Baseline Agreement are within existing budgets. Contact officer: gemma.bell@cheltenham.gov.uk
Legal implications	Many of the legal implications are set out in the body of the report, but to summarise: (a) The main piece of legislation governing the creation and administration of Business Improvement Districts is The Business Improvement Districts (England) Regulations 2004 (“the Regulations”). (b) The Regulations set out the Council’s powers and responsibilities in terms of how ballots relating to BIDs are to be conducted and how the BID levy is to be collected and accounted for. (c) The Baseline and Operating Agreements create a legally enforceable contractual relationship between the Council and the BID Company. The Operating Agreement in particular sets out how the BID levy will be dealt with between the parties. Contact officer: linden.dunham@tewkesbury.gov.uk
HR implications (including learning and organisational development)	None arising from this report. Contact officer: Georgie.tweddell@publicagroup.uk
Key risks	See appendix 1
Corporate and community plan Implications	The Cheltenham BID provides additional services to the businesses it serves as set out in the Cheltenham BID Draft Business Plan; this contributes to the health of the town centre from an economic perspective and supports our wider place making objectives.
Environmental and climate change implications	None arising from this report.
Property/Asset Implications	Any associated costs in relation to the BID that falls within CBC’s commercial portfolio needs to be highlighted and budgeted for to ensure there is no significant overspend. Contact officer: Dominic.Stead@cheltenham.gov.uk

1. Background

- 1.1 The Cheltenham Business Improvement District (BID) was established in July 2016 with Cheltenham Borough Council acting as the billing authority. The current term concludes July 2021. The Board of the Cheltenham BID company has decided it wishes to proceed with a renewal ballot and notified Cheltenham Borough Council and the Secretary of State of its intention in accordance with the Business Improvement Districts (England) Regulations 2004 on 24th February 2021.
- 1.2 Below is the timetable for the ballot. The BID Company is seeking a further operating period of 4 years 8 months, running from 1st August 2021 – 31st March 2026.

Jan – Feb 2021	Cheltenham BID consultation with all existing and proposed levy payers
February	Notification to Secretary of State
May	Launch of BID draft Business Plan and Ballot Campaign
3 rd June – 29 th June Last day of ballot 1 st July	Ballot
2nd July	Announcement of ballot result
July 29 th	Challenge period (28 days from 1 st)
1 st August	BID second term operational should win majority of vote and no successful challenges

2. The BID area

- 2.1 The BID area is shown on appendix 2

3. Bid Body and Cheltenham Borough Council responsibilities

- 3.1 The BID body (in this case the Cheltenham BID company) is required to develop a renewal proposal and submit this to the local authority, along with a summary of its business plan, consultation undertaken and financial management arrangements for the BID company. The proposal should set out the services to be provided and the size and scope of the Business Improvement District. It will also set out who is liable for the levy, the amount of levy to be collected and how it is calculated. From a local authority perspective there are a number of activities under the BID regulations which we need to facilitate and action, these are the subject of this report.

Baseline Agreement

- 3.2 The Baseline Agreement covers the services and projects that the local authority will deliver during the BID term. It is a requirement of the BID regulations and provides transparency to the BID businesses of the things the local authority has agreed to deliver and will not be funded from the BID levy. This provides clarity for the BID businesses on the types of projects and services the Cheltenham BID company will provide in addition to those services provided by the Council.
- 3.3 The Baseline Agreement is made between the Cheltenham BID company and the Council and if the ballot is successful will be in effect for the duration of the renewed term. The draft Baseline

Agreement at appendix 3 has been reviewed by all relevant council services together with One Legal and Director of Planning.

Operating Agreement

- 3.4 The Operating Agreement sets out who is liable for the BID levy, the amount of levy to be collected, how it is calculated, the basis upon which the Council is responsible and enforcement mechanisms available for collection of the BID levy. The Operating Agreement is created between the Cheltenham BID company and the Council and if the ballot is successful will be in place for the duration of the term. One Legal, Director of Planning and Head of Revenues and Benefits have reviewed the draft Operating Agreement provided at appendix 4.
- 3.5 Should the Cheltenham BID company be successful at ballot, the Council will continue to manage billing and the collection of the levy and will hold the levy in a ring-fenced revenue account on behalf of the BID.

4. Draft BID Business Plan

- 4.1 Consultation was undertaken across the existing BID and proposed BID area January/February 2021. The purpose of this consultation was to understand the priorities for the BID Company in respect of what has been delivered in the first term of the Cheltenham BID, and should the ballot be successful, what the future priorities should be. This consultation has informed the preparation of the BID Business Plan. A draft of this plan is provided at appendix 5 and will be a key document that will be launched as part of the Cheltenham BID renewal ballot campaign.

5. The Ballot

- 5.1 Businesses that are subject to the levy vote in a ballot. This determines whether the new term for the Cheltenham BID will go ahead. A successful vote is one that has a simple majority both in votes cast and in rateable value of votes cast. The Council manages the ballot process. Due to internal capacity and priorities, the council has outsourced the ballot to a consultancy that provides election services.
- 5.2 The legislation allows for appeals to be made against the establishment of a Business Improvement District. The Secretary of State for Housing, Communities and Local Government can only consider an appeal if it appears that material irregularities have occurred during the ballot process.
- 5.3 A request to appeal must be made in writing to the Secretary of State within 28 days of the result of the ballot being published. An appeal can only be made by the Business Improvement District proposer, the Business Improvement District Company, at least 5% of the number of persons entitled to vote in the Business Improvement District ballot or the relevant local authority.

6. Reasons for recommendations

- 6.1 To facilitate the Cheltenham BID Company renewal in accordance with the Business Improvement Districts (England) Regulations 2004.

7. Alternative options considered

- 7.1 No alternatives have been considered. Under the legislation relating to BIDs, the council has obligations it must fulfil.

8. How this initiative contributes to the corporate plan

- 8.1 The Cheltenham BID provides additional services to the businesses it serves as set out in the Cheltenham BID draft Business Plan; this contributes to the health of the town centre from an

economic perspective and supports our wider place making objectives.

9. Consultation and feedback

9.1 There has been direct engagement with the Cheltenham BID in the preparation of the BID business plan and preparations for ballot.

10. Performance management – monitoring and review

10.1 Should the Cheltenham BID company be successful for a second term, the Baseline Agreement includes a structure for engagement with the Council, however, alongside this there are strong and established informal working arrangements that supports monitoring of outputs and understanding of priorities.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Cheltenham BID Area of Ballot3. Cheltenham BID Baseline Agreement4. Cheltenham BID Operating Agreement5. Draft Cheltenham BID Business Plan
Background information	<ol style="list-style-type: none">1. https://www.gov.uk/guidance/business-improvement-districts

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
207	If Cheltenham BID do not achieve a positive ballot this will impact on CBC's priorities for economic recovery	Director of Planning	Jan 2021	3	3	9	Reduce	To support reducing the risk CBC has provided officer support to support the Cheltenham BID Board in the delivery of the BID ballot. Full engagement with ELT on approach and need to support to help manage the risk	1/8/21	Director of Planning	4/3/21
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											