

Report to Cabinet

28 September 2023

By the Cabinet Member for Local Economy and Place

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Horsham Business Improvement District Proposal

Executive Summary

Business Improvement Districts (BIDs) are business led partnerships which are created through a ballot process to deliver additional services to local businesses. They allow the business community and local authorities to work together to improve the local trading environment.

In 2022, a group of businesses in Horsham set up the Horsham Business Initiative to draw up plans for a Business Improvement District (BID) for Horsham. They are developing a draft BID Business Plan based on consultation with local businesses during the summer of 2023. The Horsham Business Initiative has instructed Horsham District Council to run a confidential ballot for businesses to vote on the proposal in November 2023. If the ballot returns a “Yes” vote, the Horsham Business Initiative will set up a BID company to deliver the BID business plan over a period of 5 years.

This report tells Cabinet about the intentions of the Horsham Business Initiative in their BID proposal and the implications of the proposed BID for the Council. The report asks Cabinet to decide whether it wishes to vote for the BID. The report also asks Cabinet to delegate authority to and nominate officers to lead on some of the administrative roles that are not included in the Council’s scheme of delegations.

Recommendations

Cabinet is recommended to:

- i) note the Council’s role and expenses in exercising its legal duty to run the BID ballot;
- ii) agree to vote “yes” with its votes in the BID ballot;
- iii) delegate making the Council’s votes to the Monitoring Officer.

That, in the event of an overall ‘Yes’ vote in the BID Ballot:

- iv) note the Council’s role in the collection of the annual BID levy on behalf of the BID Company;

- v) authorise the Monitoring Officer to approve and enter into the Operating Agreement between Horsham District Council and the Horsham BID Company;
- vi) nominate the Director of Place as the Council's representative on the BID Company Board;
- vii) approve that Horsham District Council enters into the Operating Agreement; and
- viii) note the Council will incur an annual cost in relation to its levy contributions which will be reflected in the Medium-Term Financial Plan and Budget accordingly.

Reasons for Recommendations

- i) and iv) the Council has a legal duty to carry out these tasks.
- ii) supporting the BID is a key action of the current Corporate Plan and proposed Council Plan.
- iii), v) and vi) are delegations not included in the current scheme of delegations.
- vii) to facilitate the operation of the BID.
- viii) to note the cost of the levy contributions payable by the Council if the BID ballot is successful.

Background Papers: None

Wards affected: Denne

Contact: Barbara Childs, Director of Place

1. Introduction

- 1.1 A BID is a defined area in which a levy is charged on all business rate payers in addition to the business rates bill. The levy is used to develop projects which will benefit businesses in the local area.
- 1.2 A BID can be set up by the local authority, a business rate payer or a person or company whose purpose is to develop the BID area.
- 1.3 The BID proposer, in the Council's case being the Horsham Business Initiative, is required to develop a proposal and submit this to the local authority along with a business plan.
- 1.4 The proposal should set out the services to be provided and the size and scope of the BID. It will also set out who is liable for the levy, the amount of the levy and how it is calculated.
- 1.5 The ballot proposer should notify the local authority and the Secretary of State of their intention to put the BID proposal to ballot.
- 1.6 Businesses that are subject to the levy, as set out in the proposals, vote in the ballot. This determines whether the scheme goes ahead.
- 1.7 A successful vote is one that has a simple majority both in votes cast and in rateable value of votes cast. Each business entitled to vote in a BID ballot is allowed one vote in respect of each property occupied, or if unoccupied, owned by them in the geographical area of the BID.
- 1.8 Once the BID is in operation the levy is charged on all businesses within the BID area regardless of whether or how that business voted in the ballot.
- 1.9 The maximum period that a BID levy can be charged is for five years. Thereafter, the BID will automatically cease. If the BID company wants to continue its activities, it must hold a new ballot.
- 1.10 A BID is managed by a BID body. This is often a private company but can be a partnership with the local authority. The BID body is responsible for developing and implementing the proposal which sets out how the BID will operate.
- 1.11 They will provide the local authority with the proposal along with the business plan (including the estimated cash flow and predicted revenue to be generated by the BID) along with the financial management arrangements for the BID body.
- 1.12 The local authority will manage billing and the collection of the levy and will hold the levy in a ring-fenced revenue account on behalf of the BID body.

2. Background

- 2.1 There are now over 300 BIDs operating across the UK. Horsham is unusual for a town of its size to not already have a BID in place.

- 2.2 A group of businesses based in Horsham town centre thought about putting forward a bid proposal for some years. Known as the Horsham Business Initiative, after the pandemic the group raised their ideas again and in June 2022 Horsham District Council agreed to give £80,000 of its Additional Restrictions Grant (a COVID grant) to support them to develop their proposals. This group has developed a proposal and draft business plan and submitted these to the Council.
- 2.3 As such, the Horsham Business Initiative has now instructed the Council to run a ballot for businesses to vote on their BID proposal this autumn.
- 2.4 Horsham District Council owns six properties within the town centre area proposed for the BID. This means the Council will have a vote for each property it owns in the ballot.
- 2.5 If the Horsham Business Initiative has a successful ballot Horsham District Council and the new Horsham Business Improvement District Company will have an operating agreement covering such matters as the collecting the levy and passing the money to the Company. The BID Company will pay the collection costs.

3. Relevant Council policy

- 3.1 In the 2019/2023 Corporate Plan under the key theme of a Thriving Economy there was a specific action to support Horsham businesses with their plans for designating the Town Centre as a Business Improvement District. This report marks the completion of this action.
- 3.2 In the draft 2023/27 Council Plan, elsewhere on the same agenda on which this report is contained, under the key theme of Building a Thriving Local Economy there is an aim to help deliver Horsham's first Business Improvement District. Cabinet agreeing the Council make a positive vote for the BID and agreeing the administrative arrangements to support it, is the first step towards helping deliver the BID for Horsham.

4. Details

- 4.1 The projects the Business Improvement Initiative has worked up following extensive discussions with the business community within the proposed BID area, include tackling antisocial behaviour, developing and marketing the Horsham brand, improving wayfinding for pedestrians, working with Horsham District Council to pilot parking offers at quieter times of the year, running events to attract people to the town focussing on drawing customers into businesses, and providing support to businesses through joint purchasing and lobbying. These projects will benefit the local economy in Horsham and support the Council's objective to build a thriving local economy. Therefore, this report recommends the Council use its votes in the BID referendum to vote yes for a BID in Horsham town.
- 4.2 The Council has appointed a company to run the BID ballot. The company will issue all ballot papers by 31 October 2023 at the latest. The ballot will close on 30 November. The external firm will conduct the count and notify the Council of the result by 1 December 2023.

- 4.3 The Council's officer team will work with the Horsham Business Initiative to prepare an operating agreement for the billing and collection of the levy. This report asks Cabinet to delegate the detail of this agreement to the Monitoring Officer to ensure a quick finalisation of the agreement to allow billing of the levy alongside the 2024/25 business rate bills.
- 4.4 If the BID ballot is successful, the Horsham Business Initiative will set up an independent not-for-profit company limited by guarantee to deliver its proposed services. It will commence operations on 1st April 2024. The Board will have fifteen directors from businesses paying the levy. The Business Improvement Initiative has indicated it will invite "representatives" from Horsham District Council to take this role. The Director of Place is the Council's officer lead for Economic Development. This report recommends the Director of Place take the role as the Council's representative on the company board.

5. Next Steps

- 5.1 The Council's Returning Officer has instructed the contractor to go ahead with running the ballot and the Count.
- 5.2 If the ballot outcome is yes:
- the Head of Finance and Performance will put the cost of the Council's levy into the budget papers for next year and the Medium-Term Financial Strategy;
 - the Monitoring Officer will prepare and sign the Operating Agreement;
 - the Head of Revenues and Benefits will prepare the billing for the levy;
 - the Director of Place will attend the Horsham Business Improvement District Company Board;
 - the Director of Resources will transfer the levy money to the Horsham Business Improvement District company at the times agreed in the Operating Agreement; and
 - officers in services throughout the Council will work with the Horsham Business Improvement District Company to deliver their objectives throughout the lifetime of the BID.

6. Views of the Policy Development Advisory Group and Outcome of Consultations

- 6.1 The Policy Development Advisory Group for the Local Economy & Place met the project managers of the Horsham Business Initiative at their meeting on 11 September. They saw a presentation on the proposals for the BID and what it can deliver. All members of the Advisory Group supported the Council using its votes to support the BID.
- 6.2 The Director of Place has had close involvement with the BID since the inception of the Horsham Business Initiative. She is enthusiastic about the opportunities for the BID Company and Horsham District Council to work alongside each other to help the economy of our main town to thrive.
- 6.3 The Director of Resources, and his legal, elections and revenues teams, have worked with the project team at the Horsham Business Initiative to prepare for

the Council's administrative role in facilitating the vote and introduction of the BID.

- 6.4 The Horsham Business Improvement Initiative has consulted business in the town centre about the type of projects they include in their proposed business plan.

7. Other Courses of Action Considered but Rejected

- 7.1 The Cabinet could theoretically vote against the BID. However, this would be acting outside the Council's policy framework in the 2019/23 Corporate Plan.
- 7.2 Cabinet cannot refuse to administer the BID ballot process or the levy collection. It could choose to run the ballot itself, rather than outsource the work, but officers rejected this option because the Council does not own the software to do so and has no experience in this specialist field.

8. Resource Consequences

- 8.1 If the vote is successful, then the Council will have to pay the levy on its town centre properties. This will total £12,500. The Director of Resources will build this into the 2024/25 budget.
- 8.2 The Council will have to fund the BID ballot process. The contract for this work will cost £2,720, which includes the printing and postage of the ballot papers, re-issued packs, and the conduct of the count. This sum is included in the 2023/24 budget.
- 8.3 If the BID goes ahead the Council will need to resource the preparation and approval of the Operational Agreement. Existing Legal Services' resources will carry out this work.
- 8.4 If the BID goes ahead the Council will have to initially fund the collection of the levy. This will subsequently be reimbursed so will have no net impact on the Council's resources.

9. Legal Considerations and Implications

- 9.1 The requirements relating to the (i) ballot process, and, (ii) the BID arrangements are set out in the Business Improvement District (England) Regulations 2004 and the Local Government Act 2003.
- 9.2 Legislation allows for appeals to be made against the establishment of a BID. 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.
- 9.3 The Secretary of State cannot consider questions surrounding the nature or merit of the BID or BID policy.

10. Risk Assessment

- 10.1 The Secretary of State may declare void the BID ballot in certain circumstances, for example, if there has been a contravention of the relevant statutory regulations or voters have been prevented from voting.
- 10.2 Levy payers may not pay their contributions rendering projects undeliverable under the BID scheme. There is a risk of losses to the Council if the new BID Company were unable to pay their costs of levy collection. Lawyers will draft the Operating Agreement and by the involvement of the Director of Place at Board meetings of the BID Company will mitigate these risks.
- 10.3 The council could be challenged on the grounds that the BID proposal conflicts with any existing council policies. Officers believe this risk to be remote as the Council's Corporate Plan supports BID development.

11. Procurement implications

- 11.1 The Returning Officer decided to outsource the poll to a company experienced in carrying out BID votes. A single quote process was undertaken under the value for money threshold as it is a specialist area of expertise, in accordance with the Council's Procurement Code.
- 11.2 If the vote is positive, the Council's ongoing contract with Milton Keynes City Council to supply our revenues services will need to pick up the work. As this is a partnership agreement the Director of Resources will agree the additional costs and recharge these to the BID Company through the Operational Agreement.

12. Equalities and Human Rights implications / Public Sector Equality Duty

- 12.1 The establishment of a BID and the administrative processes surround it are business to business transactions and, therefore, have no equalities implications.
- 12.2 Voting for the BID itself is unlikely to directly impact on equalities or human rights as it is part of a collective decision and insufficient in itself to impact the overall decision so an Equalities Impact Assessment is not required.
- 12.3 Although the BID Company itself is not directly subject to the public sector equality duty, the work proposed in the draft business plan of the BID is likely to improve the economy and opportunities for people who live, work and visit in Horsham town. This would have a positive impact on equalities and the Director of Place will use her influence with the Board to encourage the developments proposed to enhance the opportunities for people with protected characteristics in Horsham.

13. Environmental Implications

- 13.1 A BID will make business communication and projects associated with the Council's carbon neutral strategy more efficient and effective. The Director of Place will use her influence with the Board to encourage the developments

proposed to enhance the environmental benefits of the activities proposed in the town.

14. Other Considerations

- 14.1 The decisions in this report have no other implications. However, the Horsham Business Initiative's proposed projects contain several interesting ideas to reduce anti-social behaviour in the town centre and to achieve Purple Flag status. Purple Flag is a proven international accreditation system for excellence in night-time economies <https://www.atcm.org/purple-flag>. If the vote is yes, and the projects in the draft business plan go ahead they could lead to a reduction in crime and disorder in Horsham.

- 14.2 Collective purchasing and a mandate to help future proof and reduce business overheads could open a path to sustainable energy and water saving initiatives across the BID area.