

Decision Maker: EXECUTIVE, WITH PRE-SCRUTINY BY THE RENEWAL & RECREATION POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Date: R&R PDS - Wednesday 5 July 2017
Executive - Wednesday 19 July 2017

Decision Type: Non-Urgent Executive Non-Key

Title: ORPINGTON BUSINESS IMPROVEMENT DISTRICT (BID) PROPOSAL – RENEWAL FOR 2018-2023

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Chief Officer: Executive Director of Environment & Community Services

Ward: Orpington; Petts Wood & Knoll; Cray Valley East

1. Reason for report

This report updates Members on the progress to date on the development of a proposed Second Term for the existing Business Improvement District (BID) in Orpington Town Centre and its potential implications for the Council; Introduces the outline Orpington BID Proposal 2018 – 2023 which has been presented to the Council by the Orpington First Ltd (the Orpington BID company) and requests delegated authority for the Portfolio Holder for Renewal and Recreation to review the final version of the BID Proposal in order to authorise a Ballot to be held on the renewal of the Orpington BID in November 2017.

2. **RECOMMENDATION(S)**

Members of the Executive are asked to:

2.1 Note the draft Orpington BID Proposal 2018 – 2023 (summarised in 3.11 below but provided in full as part of a report on Part 2 of this agenda) which details the progress to date on the development of the BID, including the level of consultation with businesses, and outlines the BID levy rules and emerging key priorities of the BID for its second term.

2.2 Agree in principle, on the basis of the outline BID Proposal that the Council's Ballot Holder may be instructed to hold a ballot in November 2017, according to the Business Improvement District Regulations (England) 2004, being satisfied that the BID Proposal does not conflict with any of the Council's priorities and plans, and that its geographic scope is

within the boundaries of the London Borough of Bromley (see map of draft BID boundary in APPENDIX 1).

2.3 Agree delegated authority to the Portfolio Holder for Renewal & Recreation to review the FINAL version of the BID Proposal which is expected to be delivered to the Authority by 13 September 2017 and provided that this still meets the criteria outlined in 2.2 above, instructs the Ballot Holder to run the BID ballot, on behalf of the Executive.

2.4 Agree that the Portfolio Holder for Renewal and Recreation nominates an officer to vote 'Yes' on behalf of the Council for eligible Council-occupied hereditaments which fall within the proposed BID area (these are listed in paragraph 5.2).

2.5 Subject to a BID 'yes' vote, authorise the Director of Corporate Services to enter into all legal agreements necessary to renew and operate the BID, and that the agreements ensure that the BID company acts at all times in the best interests of the town centre. The draft agreements, which are still to be finalised, are included as part of APPENDIX 2.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Vibrant, Thriving Town Centres
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Financial

1. Cost of proposal: One-off costs: £6.25k
 2. Ongoing costs: Approx. £4k per annum
 3. Budget head/performance centre: Town Centre Management Initiative Fund
 4. Total current budget for this head: £24.5k
 5. Source of funding: Existing Controllable Revenue Budget 2017/18
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Staff

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Businesses within Orpington Town Centre, especially up to 350 business rates payers who are likely to be BID Levy Payers from April 2018 – March 2023
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: At time of finalising this report, comments have been received from Councillor Botting (Orpington Ward), Cllr Page (Cray Valley East Ward) and Cllr Pierce (Cray Valley East Ward). All were strongly in support of Orpington BID and its continuation into a second term.

3. COMMENTARY

Background

- 3.1 The Orpington First BID, covering Orpington High Street environs, was the first Business Improvement District (BID) to be established within the London Borough of Bromley. It was launched in April 2013 after a successful ballot of business rate payers which took place in November 2012. The ballot and the campaign were led by the Council's Town Centre Management team but fully supported by the Orpington Business Forum and a wide range of local stakeholders including the management of the Walnuts Shopping Centre. The Orpington First BID was set up to run for five years, which is the maximum allowable term for a BID under the BID Regulations. The current term of the BID therefore ceases on 31 March 2018.
- 3.2 In preparation for the end of the current BID term, the BID Board and management team undertook some initial feasibility work and confirmed that there is an appetite amongst the local businesses for renewal of the BID mandate to continue for a further 5 years. The Board therefore approved the issuing of a notice of the intention to hold a ballot to the Secretary of State (as required by BID Regulations) which was sent and acknowledged in April 2017. The Board also approved that further work, including consultation with levy payers, was undertaken by BID staff in preparation for a ballot to be held in October 2017.
- 3.3 In proposing a renewal of the BID, Orpington 1st Ltd (the BID company) has taken on the bulk of the work involved in preparing for the Ballot with light-touch support and advice from Central Management Services (CMS) and from the Council's Town Centre Management Team. Based on advice from CMS, the BID is using a standard and well proven 5-stage approach to setting up a BID, consisting of the following:
- Feasibility Stage – involving establishing the need for a BID, assessing business interest, testing the financial feasibility based on business rates data and raising awareness of the process
 - Planning Stage – including establishing the vision, undertaking research and in-depth consultation, modelling the potential BID levy rules and creating the Proposal
 - Local Authority Stage – including developing Operating and Baseline agreements, agreeing and setting up the ballot process and agreeing a ballot timetable, creating a voter database and agreeing BID levy collection processes. This Stage involves some input from various Council teams, with the lead taken by the Head of Town Centre Management & Business Support.
 - Campaign Stage – Involving establishing the voters at each business, communications with voters, ballot monitoring and agreeing contingency for failure at ballot
 - Establishment Stage – including preparation for launch, setting up billing procedures, governance arrangements, staffing and recruitment

Because the timescales for delivery are short the Planning Stage and the Local Authority Stage activities are being run in parallel to ensure that the statutory deadlines for undertaking a BID ballot and setting up the BID are met within a timescale to enable the ballot to take place in October / November 2017.

- 3.4 A copy of the outline Orpington BID Proposal 2018 – 2023 report containing a summary of the consultations, the proposed BID levy rules and the activities to be delivered through the BID are provided as APPENDIX 1, but are summarised in the sections below.

Council decision-making for the establishment of the BID

- 3.5 The Business Improvement District Regulations (England) 2004 require a BID proposer to request that the Local Authority holds a ballot on the BID Proposal. The parameters of this decision are framed by the legislation – and these are set out in paragraph 6.1. However, because of the short timescales involved, the BID Proposal is not yet finalised. The draft BID Proposal will be refined by a further round of consultation, including a business survey of all potential levy payers and 1 to1 meetings with at least 100 levy payers, with a view to providing the Council with the final BID Proposal and Business Plan by 13 September 2017.
- 3.6 Due to the need to run the BID Ballot for 28 days from 6 October to 2 November 2017, the Notice of Ballot will need to be issued by 20th September and there would not be sufficient time for the September meeting of the Executive to review the final version of the Proposal and Business Plan in good time. Therefore, although this report recommends that the Executive agrees in principle with the running of a BID Ballot on the basis of the Outline BID Proposal, Members are also requested to approve delegated authority for the final decision to be accorded to the Portfolio Holder for Renewal & Recreation, who would be provided with the final version of the BID Proposal and Business plan and would therefore be able to instruct the Ballot Holder to proceed at the appropriate time. Additionally the Portfolio Holder will need delegated authority to mandate an Officer to vote in favour of the final BID Proposal in the ballot in respect of hereditaments which are occupied by the Council.

Consultation of Orpington businesses

- 3.7 As the BID has been operating since April 2013, there has been continuous feedback from the levy payers throughout the first term, a process which has been encouraged by the BID Board. This was essential to ensure that project delivery reflects the expectations of the businesses, and to understand the appetite for proceeding to seek a second BID term. Based on this informal feedback from businesses, in March 2017 the Board approved a plan to seek a second term through a ballot of levy payers. In effect this concluded the Feasibility Stage.
- 3.8 The Planning Stage, incorporating a more structured consultation process, started in April 2017 with a BID Forum meeting – an open meeting attended by Board Directors and Orpington BID levy payers – at which the Board’s approach was confirmed. In May 2017, the BID convened a number of sector-specific meetings (covering Hospitality, Retail, Service and Office sectors) which were held to help establish new priorities for the 2nd term. In June 2017 a survey was sent to all BID levy payers with the aim of receiving responses from at least 45% of the businesses. In July a further Forum Meeting will take place at which the results of the survey will be presented, along with the draft Business Plan for the 2nd term. Throughout July and August, one to one meetings with at least 100 levy payers will be convened to consult on the draft Business Plan. As a result of this process the Business Plan and BID budget for the 2nd term will be refined with a view to publishing the final Business Plan on 20 September 2017.
- 3.9 In the early stage consultation, businesses have not been specifically asked as to whether they would vote in favour of a BID since at this stage there was no BID Proposal for them to decide upon. However, those undertaking the work have reported a generally very positive approach to the concept of a continuing BID for Orpington which suggests that the

BID will be successful at ballot. For consultation taking place between June and August businesses will be asked to indicate their voting intentions and the results of this canvassing will be fed back to the Council on a regular basis. A summary of all consultation to be undertaken by the BID in preparation for the renewal Ballot is contained in **APPENDIX 1**.

Outline of BID Proposal

3.10 The consensus amongst levy payers, arising out of the consultation undertaken to date, is for the BID to continue to deliver along the 4 work themes which were the priority during the 1st term, but there has also been clear support from businesses for the BID to introduce a 5th theme 'For Investment', which is related to encouraging and influencing new investment into the town centre. Some of the activities currently undertaken will continue but there are a number of new activity programmes and projects which will deliver to the key themes. The below provides a brief description of each theme.

For Customers

3.11 This theme is about making the town centre more attractive to customers, retaining regular visitors and shoppers, and bringing additional footfall and spend into the town. This encompasses building on the success of the town centre website, extending the reach of the BID e-newsletter for residents and customers, promoting the Orpington loyalty card and maintaining an annual programme of high profile events

For Look and Feel

3.12 This theme is about fostering a safe and pleasant local environment to encourage our visitors and shoppers to keep coming back. The BID will continue to deliver and enhance its activities around community safety and environmental enhancement – supporting the presence of a dedicated town centre police team, promoting the radio safety scheme and other crime reduction initiatives, and will seek to provide additional cleansing services to help keep the town centre clean.

For Access

3.13 This theme is about ensuring the town centre remains accessible to all, is easy for customers to find their way around and that suitable facilities are available within the town. As part of this theme the BID funded the renovation and management of the public toilets, worked with the Council to promote the Car Club, promoted cycling, reviewed car parking in the town and have supported beneficial changes to parking and loading provision. Most of these activities will continue – although the relocation of the public toilets facility into the Walnuts Shopping Centre is expected before the start of the new BID term, which means the existing facilities will close to the public. An additional area of work within this theme in the 2nd term will be to review and improve town centre wayfinding.

For Business

3.14 This theme is about supporting the businesses based within the BID zone to ensure that they can be as competitive and successful as possible. This will continue to involve providing networking opportunities and events such as the quarterly open Forum meetings and monthly networking breakfast meeting; helping businesses save money through the BID's collective purchasing offer for business services, and providing an expanded waste management and recycling service. The BID will continue to play an advocacy role for its members – taking part in regional and national lobbying along with others in the BID

industry and is represented on local partnership bodies such as the Bromley Economic Partnership.

For Investment

- 3.15 The theme is about working with partners to encourage inward investment and development that is beneficial to the town centre and its businesses and residents. It is the only new theme to be introduced in the draft Business Plan but in fact a number of these activities have been delivered by the BID during the first term. Examples include organising the annual Opportunity Orpington expo; working with local agents to promote empty commercial properties to suitable tenants; providing editorial on the town in a variety of property and investment publications and using online information to monitor changes to the town centre retail mix and identify potential gaps and opportunities. In addition to these, in the 2nd term the BID will use the town centre regeneration capacity report commissioned by the Council to produce a comprehensive development plan for the town – in partnership with all relevant stakeholders.
- 3.16 Because the BID Company is an independent private company and their plans for the delivery of services are still under consultation with their own members and levy payers – the BID has asked for the full draft Business Plan and 5-year Budget for the period 2018 – 2023 to be kept confidential at this stage. For this reason the full draft documents are provided to Members as an appendix to a report under Part 2 of this agenda.
- 3.17 In the Feasibility and early Planning stage, assumptions had been made that had been retained throughout the research stages. These were that:
- For the new term there would be a threshold of £5,000 rateable beneath which businesses within the area would not be subject to a levy and so would not be balloted. The reason for this is that the levy collected from these very small premises will be so low as to make collection uneconomical.
 - There would be a cap of £20,000, being the maximum amount paid by any one hereditament.

The recommended headline BID Rules for Orpington BID (Term 2) are:

The levy rate to be paid by each hereditament is to be calculated at 1.5% of its rateable value as at the Chargeable Day (1 st April in each year).
All hereditaments with a Rateable Value of £5000 or above will be eligible for payment of the levy. (The number of hereditaments liable for payment of the levy is expected to be 325)
Each year the levy rate will be increased by a fixed rate of inflation of 2% per annum.
The levy will be charged annually in advance for each chargeable period, to be April to March each year. No refunds will be made.
The maximum amount payable for any one hereditament each year to be capped at £20k
Owners of untenanted buildings would be liable for the levy.
Occupiers of covered shopping centres, already paying service charges in addition to rent and rates, to pay 75% of the levy that would otherwise apply.
Charitable organisations that are subject to relief on their business rates liability will pay 75%

of the levy that would otherwise apply (excluding those eligible for discount as Shopping centre tenants).
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The London Borough of Bromley will be responsible for collection of the levy. The parameters of this responsibility, including collection charges to the BID, are to be set out in the Operating Agreement.

On this basis, the renewed Orpington BID would have Year 1 levy income of £184,904 (assuming a collection rate of 98%), increasing by 2% per annum thereafter. In addition, based on experience of the first term, the BID expects to be able to generate additional annual income of circa £36,000. Over the full second term of the BID, the total expected average income to be raised by the BID would be approximately £229k per annum. This would be sufficient to deliver the programme of improvements and activities which are outlined above.

Implications of BID establishment

3.18 Based on the proposed BID levy rules above, and barring any significant changes in the rateable values within the BID area, the total investment which would arise from the BID levy will be £1.14m over the 5 year term. This is a significant level of private sector investment to help ensure that Orpington town centre remains competitive within London and the South East. In terms of financial impact on the businesses, although there are a small number of national businesses who will be making a significant contribution to the BID budget, the average annual levy bill will be just under £590 per hereditament.

It is important to note that for a BID Proposal to be successful at ballot it must meet two key criteria:

a. More than 50% of votes counted must be in favour

AND

b. More than 50% of the rateable value represented by the vote must be in favour

This means that Orpington First BID Board must not only persuade more than 50% of the voters to vote in favour, but also ensure that businesses with multiple hereditaments or properties with large rateable value support the BID in the ballot. One to one engagement is already under way with managers and potential voters at these higher rateable value organisations to understand their needs and requirements for a renewed BID.

3.19 Should the BID ballot be successful, delivery of the activities outlined in the BID Business Plan would be the responsibility of Orpington First Ltd (a Company Limited by Guarantee) as is the case for the current BID term. The board of Directors for this Company will continue to be drawn from amongst a range of businesses – large and small – within the BID area. A full list of the current Board members will be included in the final BID Business Plan. As is currently the case, the Council will have non-voting advisory members on the Board – with one Officer and one Councillor playing this role. These arrangements are to be confirmed as part of the Operating Agreement for the renewed BID.

3.20 The Operating Agreement, a draft of which is included as **APPENDIX 2**, will govern how the London Borough of Bromley and the proposed BID will cooperate on the operation of the BID – including how the BID levy will be collected and passed across to the BID company. Included with the Operating Agreement is what is known as the Baseline

Agreement which defines the services being delivered by the Council within Orpington Town Centre which are expected to continue during the BID term. These will remain the responsibility of the Council but the BID may introduce additional services to enhance the existing baseline – for example additional or specialist cleansing patrols. Further information on the legal aspects of the BID set up is provided in the Legal Implications section below.

4. POLICY IMPLICATIONS

4.1 Because Orpington BID has at its heart the improvement, enhancement and promotion of this major town centre, the BID Proposal is expected to assist in the Council’s ambition to encourage Vibrant Thriving Town Centres. It is therefore recommended that the Council supports the renewal of the Orpington First BID as the best means of ensuring that the town centre continues to be managed effectively – to enable it to flourish and develop positively into the future, in partnership with the Council.

5. FINANCIAL IMPLICATIONS

- 5.1 As part of the Council's statutory duty under the BID Regulations, it has to fund the cost of any BID ballot. For Orpington BID, this is estimated to be £2.5k.
- 5.2 It is also proposed that the Council meets the one-off set up cost for the BID levy collection system for the new term, which is expected to be £3.75k. In total the ballot and start-up costs for the renewed Orpington BID will be £6.25k and this can be funded from the Town Centre Management Initiative budget for 2017/18, which is £24.5k.
- 5.3 The main revenue implication for the Council over the 5 years of the BID, is the liability to pay the BID levy on Council-occupied hereditaments which are located within the BID area. These are listed below – with their rateable value and likely BID levy charge during the first year of operation. Assuming no changes to the Council’s occupation of commercial premises the total potential charge to the Council over the five year period is expected to be £20.2k.

Council Building	Department Responsible	Rateable Value (RV) £	Bid Levy in First Year £	Estimated 5 Year Total £
2nd Floor Council Offices, The Walnuts	ECHS	57,000	855	4,449
Saxon Centre (part), Lych Gate Road	ECHS	14,250	214	1,114
Orpington Library, The Walnuts	ECS	99,000	1,485	7,728
The Former Library, Church Hill *	ECS	59,500	893	4,648
The Priory Museum, Church Hill *	ECS	29,500	443	2,306
Total			3,890	20,245

* **NOTE:** The two hereditaments listed above which are in the Priory Building are due to be taken over by a new leaseholder, after which point the Council will no longer be liable for the levy, saving £1.3k per annum. The totals provided above are therefore 'worse case scenario'.

5.4 The Orpington BID is expected to generate nearly £221k in the first year of operation and will invest approximately £1.14m into the town centre in the new 5-year term.

6. LEGAL IMPLICATIONS

6.1 Whilst there is no statutory obligation on the Council to establish BIDS there is a statutory process to follow if the decision is made to promote one. These are set out in the Business Improvement District Regulations (England) 2004. This requires approval of the Council be

given for a ballot on the proposed BID and this approval is being sought from the Executive Committee. Through this process the Authority is to satisfy itself that the BID Proposal does not conflict with any Council policies or priorities, has been generated in accordance with the BID Regulations and is within its jurisdiction (i.e. the proposed BID boundary falls wholly within the Local Authority's boundary). These are the only criteria on which a Local Authority can reject an application for a BID ballot or veto the outcome of a ballot.

6.2 Orpington First Ltd, which has been responsible for the delivery of the Orpington BID from 2013 – 2018, is the body which will be formally requesting the Council approval to go to ballot for the further 5 year term – from April 2018 to March 2023.

6.3 Additionally Council Officers have been working with Orpington First Ltd to draft and finalise two legal agreements which are required for the formation of the BID, as follows:

- Operating Agreement – The Operating Agreement covers the arrangements for the billing, collection and payment of the BID levy collected to the BID Company. This will place an obligation on the Council to take certain steps to secure payment of the levy and in the event of failure to follow the specified steps to pay the relevant sums to the BID Company itself. A draft version of this Agreement is provided in APPENDIX 2
- Baseline Agreement – The Baseline Agreement forms a Schedule to the Operating Agreement and summarises those statutory and standard non-statutory services provided by the Council which may potentially overlap with services to be provided by the BID. This provides reassurance to the BID company and levy payers that the levy income is funding additional services, not those currently being provided. The baseline agreement describes the services provided by the Council at this point in time and will not, save to the extent that any services amount to a statutory requirement, constitute a binding commitment on the Council to continue to provide these in the future. A draft version of the Baseline Agreement is included in APPENDIX 2.

6.4 Should there be a requirement for Orpington First Ltd to take up any other services from the Council, then Legal will draft a further agreement for any additional services which the Council may provide (for example the operation of the High Street Markets and Promotions).

6. PERSONNEL IMPLICATIONS

7.1 The Council's only ongoing staff input for the Orpington BID is to provide an Officer as an advisory member of the board and this Officer (Head of Town Centre Management and Business Support) is responsible for monitoring the delivery of the BID programme and the associated legal agreements – an arrangement which is expected to continue. The administration of the levy collection involves both Liberata and Council staff – and this is expected to continue during the renewed BID term. Costs related to these services will be recharged annually to the BID company. There will be no staffing changes as a result of the successful renewal of the Orpington BID.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	Business Improvement District Proposal for Orpington 12 Sept 2012 (DRR12/106)