

Briefing note

Nottingham Business Improvement District (BID) Renewal

1.0 Background

- 1.1 On 9 March 2015 Full Council delegated the following decision to the Deputy Chief Executive/Corporate Director of Development and Growth in consultation with the Portfolio Holder:
- (i) The receipt and consideration of the renewal proposals from Nottingham BID Company on behalf of the City Council;
 - (ii) Approval of the BID company Business Plan;
 - (iii) The entering into of an Operating Agreement under which the Council will collect levies due on behalf of the Nottingham BID;
 - (iv) That the Portfolio Holder for Jobs and Growth be nominated as the proxy vote holder on behalf of the Council as an eligible levy payer in the BID Ballot.
- 1.2 Detailed information leading up to this decision is contained within the report to full Council and exempt appendix dated 9 March 2015. The information in this briefing note concerns itself with the Council's consideration of the renewal proposals and whether they comply with the Local Government Act 2003, The Business Improvement Districts (England) Regulations 2004 ("the Regulations").
- 1.3 The City Council took receipt of the renewal proposals on Friday 22 May 2015. The Council is now required to **consider** the BID proposals in line with the Regulations, and say whether they **conflict** with council policy. Technically the Council does not approve the proposals, it may only consider them. It is the BID electorate that will decide whether or not to approve them in the BID Ballot.
- 1.4 Nottingham City Council adopted policy is set out in the Retail Strategy (Retail Nottingham) 2013, The Time and Place Plan 2014, and the Nottingham Growth Plan 2012.

The relevant Nottingham City Council adopted policies are:

- Retail Strategy – Priority 1.2 Independents – ensure a thriving independent retail/leisure sector
- Retail Strategy – Priority 1.5 Promotion – better promote retail and leisure offer through joined up campaigns by stakeholders
- Retail Strategy – Priority 2.1 Public spaces – improve use of public spaces to ensure events support the retail and leisure

- Retail Strategy – Priority 3.2 Crime and Cleansing – focus on good public order
- Time and Place Plan – “Independent Shops” – distinctive destinations
- Time and Place Plan – “Creative Quarter” – innovative business
- Nottingham Growth Plan – Programme 1.3 City Centre – City Centre Retail Strategy.

1.5 The proposals for the renewal of the BID had not been finalised or agreed by the BID Management Committee at the point when full Council considered the report of the Portfolio Holder on 9 March 2015. Therefore an exempt appendix was included with the report for Council consideration. The appendix covered the key priorities that the Council considered should be addressed as part of any renewal proposals so as to ensure consistency with Council policy. It was considered that premature discussion in the public domain of the proposals which might not have made it into the final version could have adversely affected the outcome of the renewal ballot.

1.6 After an initial consideration the BID Company was requested to clarify its position on a number of Council priorities in order to assist the Council with its decision. This was provided in a letter dated 22 June 2015 from the BID Company. The table below sets out the priority areas for the Council, the response from the BID Company, (as provided in the letter from the Chair) and also references the relevant sections of the BID Business Plan.

	Council Priority	Nottingham BID Company response:
(i)	What the BID proposals/priorities will be for supporting independents, how small businesses below the threshold in the BID area (particularly given the increase in the threshold level)?	<p>BID Business Plan</p> <p>The BID priorities for supporting independents are set out in the “Independent City” section of the Business Plan.</p> <p>Extract from BID letter of 22 June:</p> <p>The BID’s first term has demonstrated significant work on behalf of this sector, primarily through awareness building, engagement, promotion and support. As you know, 3 June has seen the launch of another Independents’ Campaign and this is one example of our work.</p> <p>Whilst I am not suggesting that it is the case, the Council and others must not view the raising of the threshold as a way of excluding any businesses. It is both a practical measure (e.g. collection costs should not exceed income, the total number of BID members should be within national guidelines etc.) and is a continuation of the BID’s belief that, as far as possible, small</p>

businesses should have their own earnings available to them to ensure their future prosperity. It is our intention that independent businesses below the new threshold will be eligible to be automatically enrolled as a BID Associate Members (assuming they elect to be so), thereby entitling them to be included in BID communications, promotions etc. and to be eligible to represent this sector on BID working groups, including the new Independents Group (see later). Joint working with the Council will be required to achieve this objective as the business rates data relating to this group will need to be made available in order that initial mailings can be initiated. The existing 'Friends of the BID' scheme, which will continue to incur a charge for membership, will therefore focus more upon businesses outside the BID area, rather than on those within it.

It is important to differentiate between the two groups (i.e. those businesses within the BID levy area and with rateable values below the threshold, and those outside the BID area and of any rateable value). Those within the BID area will automatically benefit from the existence of the BID say, for example, from additional cleaning regimes or with those licensed premises having their Late Night Levy costs covered. The BID will require the Council to provide the required contact data in order that these businesses can be fully included in communications/invitations etc., as we do not have access to that data. Those outside the area would need to opt in and pay a membership cost to be included. Therefore, our proposal is that these groups should be treated differently, but we are open to discussions on naming for the schemes.

As far as 'support' more generally is concerned, the BID has a particular specialism in marketing, promotion, communication and awareness-building for businesses. Whilst not exclusive, we see this as being the item of most value that the BID can add to the excellent work of other organisations involved in working with this sector.

The BID will continue to be a member of the Retail Growth Forum where the issue of attracting more independent businesses to the city has been an important strand of delivery. The particular expertise of each partner organisation should complement one another and there is no ambition on behalf of the BID to compete with existing delivery, instead we want to

		use our resource to build on what is already there. If it is considered appropriate by the partners, the BID would be prepared to take more of a leadership role in the future of the Retail Growth Forum.
(ii)	Provide details on the proposed associate body for small retail and leisure businesses to represent and advocate for small businesses (e.g. membership and purpose).	<p>BID Business Plan</p> <p>The BID priorities for supporting independents are set out in the “Independent City” section of the Business Plan.</p> <p>Extract from BID letter of 22 June:</p> <p>This new group will be established upon renewal and will be led by a small business owner who will serve on the Committee to represent the sector.</p> <p>Rather than determine what support the independent sector requires without involvement of the sector and wider partners, there is a clear commitment within our Business Plan that it will be this group that will advise on activities involving the independent sector and will determine what activity the funding commitment (£100,000 each year, plus inflation) delivers. This stream of delivery includes the Independents’ campaign (circa £19,000 per annum) as it is felt strongly that the new Group should have a full and active involvement in the development of that campaign. I would want to see the Council represented on this Group alongside the BID, the Creative Quarter Company and a small number of small independent businesses from across the BID area to ensure a joined-up approach.</p>
(iii)	How the independent sector (retail and leisure businesses below the BID threshold) will be represented on the BID Committee?	<p>BID Business Plan</p> <p>The representation of the independent sector on the BID Committee is set out in the “Independent City” and the “BID Rules” section of the Business Plan.</p> <p>Extract from BID letter of 22 June:</p> <p>The Chair of the group representing this sector will be guaranteed a seat on the BID Committee.</p>
(iv)	How the BID proposes working with the PMO to ensure integrated marketing offer for the	<p>BID Business Plan</p> <p>The BID’s commitment to working with the PMO is referenced in the “Transformed City” and “Promoted City” sections of the Business Plan.</p>

<p>city?</p>		<p>Extract from BID letter of 22 June:</p> <p>The BID wholly supports the direction of travel evidenced by the creation of the new PMO, and as outlined in the recent meeting between BID Committee members and PMO representatives, we are keen to help shape the future strategy for place marketing of the city. We will not seek to duplicate efforts or outputs and will embrace the opportunity to collaborate and, where appropriate to jointly commission initiatives.</p> <p>If the opportunity is afforded to the BID by the new Chair of the PMO, a Director will be allocated to sit on PMO working groups or similar where value can be added. The BID Renewal Business Plan clearly states our intention to invite the Chief Executive to represent the PMO on our Committee.</p> <p>The Vision for the new BID is entirely consistent with the aspirations of the Council – “To transform Nottingham into a regional and national city of choice for shopping, leisure, work and study.” This can be achieved through fewer organisations, each with substantive budgets, all committed to working collaboratively to achieve their joint aims. With the renewal of the BID and the new PMO, this foundation would appear to be in place.</p>
<p>(v)</p>	<p>How the BID has fulfilled its commitments on the late night economy previously negotiated when an exemption for the late night levy was agreed and how it will continue to do so in the future?</p>	<p>BID Business Plan</p> <p>The BID’s commitment to working on the late night economy is set out in the “Managed City” section of the Business Plan.</p> <p>Extract from BID letter of 22 June:</p> <p>Initially, it is important to set out the general agreement in respect of the BID levy payers’ exemption. As part of our negotiations, the BID agreed that licensed premises will be retained within the renewed BID (benefitting from an exemption) and that, in return, the BID would commit to ring-fencing £200,000 per annum (£1.2 million over 6 years contained in joint media announcements). The alternative was for no exemption and for the BID to regrettably exclude this sector as members at renewal and to then simultaneously cease delivery of community safety initiatives to balance out loss of income.</p> <p>I remain extremely grateful for the spirit with which this exemption was agreed and for the good sense that prevailed on both sides.</p>

The BID continues to deliver community safety initiatives in line with its commitment at the time that the Late Night Levy exemption was negotiated. In an email to John Kelly (25 February 2015) we confirmed these for the current financial years as:

Ambassadors - £124,953
Best Bar None - £27,000
Purple Flag - £6,000
Taxi Marshalls - £43,000
Street Pastors - £2,500
Late Night Toilets - £10,000
Cleaning £37,500
RadioLink - £5,000
Safety Messages (with campaigns) - £5,000
Total = £260,953

Therefore, the BID has maintained its commitment, evidenced by it having spent in excess of the £200,000 committed in the first full year. We propose to continue these current projects and level of commitment going forward into the new BID.

In addition to this, and as a further demonstration of our continued commitment to community safety, particularly within the evening economy, the BID has recently initiated a proposal for joint funding with the Police and Crime Commissioner's office to ensure the continued operation of the Street Pastors. Similarly we have increased our commitment to the late night opening of the Greyhound Street toilets. These are in addition to our commitments at the time of the Late Night Levy exemption and have been jointly agreed with partner organisations. As part of the renewed BID we will be investigating the commissioning of a joint study to look at the causes of on-street problems in the late night economy and the best mechanism for tackling them. This will be fed back, and actioned where appropriate, through the new Community Safety Partnership.

If renewed, the BID will continue to be a member of the new Community Safety Partnership, established through the Council as a result of the Late Night Levy and the BID exemption. My fellow Directors, Neil Fincham and David Lucas, represent the

		<p>BID on this group.</p> <p>Our agreement in relation to the exemption is that this group should analyse overall community safety initiatives and suggest the most beneficial services. If more efficient or improved ways of delivering such initiatives are suggested, this group is tasked with working them through and Neil and David will make recommendations to the BID Committee. So, to use a practical example, if the BID's spend on, say, taxi marshals could be reduced and spent in a different and more efficient way, the group may recommend to the BID Committee an alteration. If, for example, this improved activity reduced the BID's financial commitment to below £200,000 a year, the saving could be reallocated to alternative activities determined through the Partnership. We would anticipate this would cover activities to ensure that late night businesses are safe places for visitors to enjoy, and that any adverse impacts on the public realm are minimised.</p> <p>We recognise it is not appropriate for the BID to propose such alternative activities in isolation as it has been agreed that these would be worked through by the Partnership. What I am able to confirm is our commitment, once again, to work openly as part of the wider Partnership and reasonably flexible delivery to suit on-going community safety needs.</p>
(vi)	<p>How will the BID work with the Creative Quarter given that they will cover the whole area?</p>	<p>BID Business Plan</p> <p>The BID's commitment to working with the Creative Quarter is referenced in the "Transformed City" section of the Business Plan and will also be addressed through the "Independent City" section of the Business Plan.</p> <p>Extract from BID letter of 22 June:</p> <p>At the Council's suggestion, we have met with the Chief Executive of the Creative Quarter and other representatives. There is no suggestion that the renewed BID will conflict in any way with their work. Indeed, a commitment again expressed in our Business Plan is to working in collaboration with the Creative Quarter Company to enhance current deliveries. I would certainly see them being represented on the new Independents Group, as outlined above.</p> <p>The BID specifically supports the work of the Creative Quarter in</p>

		<p>helping to grow and mature new micro-businesses and there is an opportunity, through joint working, to help build on this. Once again, the BID would not wish to duplicate service provision, rather to collaborate to work closely with the CQ Company to align our objectives and activities where appropriate.</p> <p>One example of how we would like to work in the future is the Creative Quarter delivers an Indy Fashion event that coincided this year with the BID's 48 Hours of Fashion event. I would hope that, from 2016 onwards, the two events could be built on by being jointly promoted with natural economies of scale resulting.</p> <p>Through the Creative Quarter Company involvement on the independents group, we will be better able to align activities throughout the Independents Campaign. There will be numerous other opportunities presented through collaboration between the two organisations, including the Food and Drink festival and the Christmas campaign. I would propose that a meeting between the BID and the Creative Quarter Company happens within two months of the renewal ballot result in order that such opportunities can be identified and worked on ahead of the start of the BID's second term.</p>
(vii)	<p>How are small leisure businesses to be encouraged to sign up to the principles of responsible management if they are to benefit from the BID Late Night Levy exemption?</p>	<p>BID Business Plan</p> <p>The BID's commitment to working on the late night economy is set out in the "Managed City" section of the Business Plan and small leisure businesses are referenced in the "Independent City" section.</p> <p>Extract from BID letter of 22 June:</p> <p>The offer contained within the Renewal Business Plan to fund any Late Night Levy costs for businesses under the new threshold is another example of where our discussions with yourself [the Council] and your colleagues has helped ensure that the BID works for the greater good and we are grateful for this suggestion. However, from the BID's perspective, this is not a way for those few, small businesses who will benefit from the exemption (a majority of whom are currently exempt as they are BID Levy payers) to disregard responsible management principles. In the 5 months between renewal and the start of the second BID term (if successful), I would suggest that our operational team and your licensing colleagues meet to agree</p>

		how this would be ensured. In the meantime, you have my commitment to making sure that principles of responsible management are prioritised by the BID within the new BID area.
(ix)	In accordance with the BID Regulations, could you confirm that the BID would have sufficient funds to cover the costs of ballot should it be required to do so?	Extract from BID letter of 22 June: I attach a copy of the BID's accounts for the last financial period (to December 2014). You will note from this that the balance sheet shows a healthy position and that the BID is able to cover ballot costs should it be called upon to do in accordance with the Regulations. Furthermore, the costs of the renewal process (e.g. research, consultation, advice, business plans, staffing, launch event etc.) have been covered from budgets within the existing term, leaving future levy receipts to be wholly devoted to future project delivery and operational costs.

City Council comments on the Business Plan and Supplementary Letter

1.7 It is considered that the proposals set out in the BID Business Plan supplemented by the detail provided in the BID letter of 22 June, are consistent with, and are not likely to conflict with adopted Council Policy as follows:

- Retail Strategy – Priority 1.2 Independents – ensure a thriving independent retail/leisure sector
- Retail Strategy – Priority 1.5 Promotion – better promote retail and leisure offer through joined up campaigns by stakeholders
- Retail Strategy – Priority 2.1 Public spaces – improve use of public spaces to ensure events support the retail and leisure
- Retail Strategy – Priority 3.2 Crime and Cleansing – focus on good public order
- Time and Place Plan – Page 19 – Independent Shops – distinctive destinations
- Time and Place Plan – Page 23 – Creative Quarter – innovative business
- Nottingham Growth Plan – Programme 1.3 City Centre – City Centre Retail Strategy

The Council welcomes the commitments from the BID, particularly in relation to the independent sector, the proposed joint working with the Council, the PMO and the Creative Quarter, and looks forward to a second BID term should the BID ballot be successful.

Compliance with Regulations

Veto of BID Proposals

1.8 The Council needs to satisfy itself that the renewal BID proposals do not conflict with any existing local authority policy nor propose a disproportionate burden on particular businesses by way of an unfair levy charge on a certain 'class' of levy payers. It is sensible for the Council to assess the proposals against these grounds prior to allowing the ballot to take place so as to minimise the risk of having to veto the proposals following the ballot.

1.9 Regulation 12 states that the prescribed circumstances are that the relevant billing authority is of the opinion the BID arrangements are likely –

- (a) To conflict to a material extent with any policy formally adopted by and contained in a document published by the authority (whether or not the authority is under a statutory duty to prepare such a document); or
- (b) To be a significantly disproportionate financial burden on any person or class of persons (as compared to the other non-domestic ratepayers in the geographical area of the BID) and –
 - (i) That burden is caused by the manipulation of the geographical area of the BID or by the structure of the BID levy; and
 - (ii) That burden is inequitable.

2.0 Submission of the BID Proposals

2.1 In accordance with Regulation 4, the Local Authority must be satisfied that the submission from the BID Proposer includes the following:

	Documents to be included within the renewal proposal submission. Summaries of:	Comments
(i)	The consultation it has undertaken with those persons who are to be liable for the proposed BID levy;	Information contained within section 10 of the renewal proposals is a copy of the Final Consultation document, copy letter to all applicable hereditaments and research findings and an options appraisal of those findings. Also, contained within the Business Plan (section 8 of the Renewal Proposals) at pages 8 and 9 is a summary of the

		consultation and its findings.
(ii)	The proposed business plan (including estimated cash flow, an estimate of the predicated revenue to be generated and the predicted expenditure to be spent under the BID arrangements, the predicted budget over the duration of the BID arrangements and the contingency margin included in the budget	Information contained within Section 8 of the Renewal Proposals. Page 20 of the Business Plan and Section 11 of the Renewal Proposals, and supplementary information of the BID's end of year accounts 31 st December 2014, provided on 3 June 2015.
(iii)	The financial management arrangements for the BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BID body	Information contained within Section 9 of the Renewal Proposals within the Draft Operating Agreement – (section 7 – Accounting Procedures and Monitoring)
(iv)	Notice in writing requesting the billing authority to instruct the ballot holder to hold a BID ballot in relation to the BID renewal proposals	<p>The BID Company has notified and requested the Local Authority to put the proposals for the renewal BID to a ballot in a letter dated 22 May 2015 which was received the same date along with the renewal proposals.</p> <p>Subject to the Council's confirmation that it is satisfied that the proposals comply with the Regulations, the Returning Officer will instruct an external company Electoral Reform Services to deliver this service.</p> <p>Notice of Ballot was despatched on 4 June 2015</p>

		and the ballot period will commence on 19 June 2015 ending on the ballot day which will be 16 July 2015.
(v)	Provide such information to the billing authority as it shall reasonably require to satisfy itself that the BID proposer or, as the case may be, the BID body, has sufficient funds to meet the costs of the renewal ballot should it be required to do so under regulation 10.(I.e. that the ballot fails and the number of personas voting in favour was less than 20% of the number of persons entitled to vote).	Supplementary information of the BID's end of year accounts 31 st December 2014, provided on 3 June 2015.

Content of the BID Proposals

2.2 The final proposals shall include all of the details stated within Schedule 1 to the BID Regulations prior to proceeding to ballot. The Council must be satisfied that all of these elements have been included in the BID proposals prior to the commencement of the ballot process.

		Comment
(i)	A statement of the works or services to be provided, the name of who will provide them and the type of body the provider is (whether a local authority, a company under the control of the authority, a limited company or a partnership)	Information contained within the Business Plan at section 8 of the renewal proposals. Section 4 of the renewal proposals – confirms that the Nottingham BID Company Limited is a limited not for profit company (company registration number 7205523) VAT Registration No: 998198533.
(ii)	A statement of the existing baseline services (if any) provided by the relevant billing authority or other public authority	This is contained within the draft Operating Agreement at Section 9.

		Schedule 9 of the Agreement covers the baseline public realm management.
(iii)	A description of the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect.	Information contained within Section 5 of the Renewal Proposals which contains a map of the proposed BID area and Section 6 contains a detailed list of streets and hereditaments within the proposed renewal BID Zone.
(iv)	A statement of whether all non-domestic ratepayers in the geographical area or a specified class of them are to be liable to the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy	Section 2 of the renewal proposals sets out the proposed BID Levy rules which includes a description of the Levy and the recovery of charges via the Levy. Supplementary information provided on 3 June 2015 confirms the costs of the renewal process have been covered from budgets within the existing BID term.
(v)	A statement of the specified class of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply	Section 2 of the renewal proposals sets out the proposed BID Levy rules. The rules include includes discounts for covered shopping or leisure centres that are subject to a service charge who will pay 60% of the levy that would otherwise apply and a discount for Charitable organisations

		that are subject to relief on their business rates liability will pay 60% of the levy that would otherwise apply.
(vi)	A statement of whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way.	<p>Section 7 of the Renewal proposals covers the situation of alterations. It states that provided that the BID is meeting its overall objectives and subject to full consultation with the BID Committee, the Board shall have the ability to vary service delivery and expenditure allocation according to the changing demands of levy payers. However, any change to the BID Boundary or levy rate proposals would require an alteration ballot.</p> <p>The BID Levy Rules state that in the unlikely event that Late Night Levy exemption arrangements change, the liability for payment of the BID levy for those affected may be adjusted and community safety services altered in order that a balanced budget is maintained.</p>
(vii)	A statement of the duration of the BID arrangements	The BID Company has confirmed that the BID shall commence on January 1 st 2016 and will continue for five years until December 31 st 2020. (Section 3 of the Renewal

		Proposals).
(viii)	A statement of the commencement date of the BID arrangements	The proposed commencement date is 169 days after the day of ballot. Included at section 3 of the Renewal Proposals

2.3 As detailed in the tables above at 2.1 and 2.2 it is considered that the renewal proposals are compliant with the Regulations in terms of the documents and information submitted.

Collection of the BID Levy

2.4 The Council is required to manage the collection and enforcement of the BID levy charges. The Nottingham BID Company and Nottingham City Council will enter into a levy collection agreement which is known as an Operating Agreement. A draft Agreement was submitted to the Council on 22 May 2015 along with the BID renewal proposals. This Agreement has been reviewed with a final version attached to this briefing note for consideration. At a later date to be confirmed the appropriate authorised Officer will be requested to execute the Agreement on behalf of the Council. Best practice suggests that a draft arrangement between the authority and the BID should be available for scrutiny by businesses during the ballot period. The draft Agreement will be available to view on the Council's website along with this decision during the Ballot period.

2.5 The mechanism for charging is defined within the levy rules of the BID business plan as being the 'chargeable day' mechanism which imposes a full year levy charge on the incumbent on a fixed day of the year (which will be 1 January) and then makes no refunds within the year as a result of any changes. This is a simplified mechanism of collection compared to the daily charge system which is currently being used and administered by the Council for collection of the Levy.

2.6 The Council is permitted to charge a reasonable fee for its service. In line with the report to full Council and taking into account the reduced administration that will result from using the 'chargeable day' mechanism, the Council proposes to charge £20,000 which works out at approximately £24 per hereditament.

3.0 RECOMMENDATIONS

It is recommended that for the reasons provided in this briefing note and after considering the wider implications contained in the delegated decision form and the BID renewal proposals, the Deputy Chief Executive/ Corporate Director for Development and Growth in consultation with the Portfolio Holder:

- (i) (a) Notes the content of the BID renewal proposals, including the business plan and the information contained within the supplementary letter received on 23 June 2015 from the BID Company.
- (b) Confirms that the renewal proposals are not likely to conflict to a material extent with any policy formally adopted by and contained in a document published by the authority and further that they are not likely to have a significantly disproportionate financial burden on any person or class or persons (as compared to other non-domestic ratepayers in the geographical area of the BID).
- (ii) Notes that the proposals are considered compliant with the Regulations in terms of the documents and information provided and that the Ballot Holder (the Council's Returning Officer) in exercise of his duties has instructed Electoral Reform Services to commence the renewal ballot process on the Council's behalf in accordance with the preferred timescales requested by the BID Company.
- (iii) Notes the draft Operating Agreement under which the Council will collect levies due on behalf of the Nottingham BID and authorises the Deputy Chief Executive/Corporate Director for Development and Growth to sign the agreement on behalf of the City Council once finalised.
- (iv) Notes that the Portfolio Holder for Jobs and Growth will exercise the proxy vote holder on behalf of the Council as an eligible levy payer in the BID Ballot.