

Herefordshire County Business Improvement District Advance Request

Meeting: Cabinet

Meeting date: Thursday 26 May 2022

Report by: Cabinet member environment and economy;

Classification

Open

Decision type

Key

Wards affected

(All Wards);

Purpose

To seek approval for an advance loan of up to £210,000 in 2022/23 to the Herefordshire County Business Improvement District (BID) Limited to enable the company to become operational until such time as the council (as the billing authority) can commence collection of the 2% business rates levy.

Recommendation(s)

That:

- a) **To approve a short term 0% loan of up to £210,000 in 2022/23 to the Herefordshire County BID Limited, to be repaid within the financial year through collection of the levy by the council as the billing authority; and**
- b) **To delegate to the Section 151 Officer following consultation with the cabinet member environment and economy all operational decisions in relation to the payment and recovery of the loan.**

Alternative options

1. The council could choose not to provide a loan to the Herefordshire County BID Limited in advance of the collection of the levy. This is not recommended as it would lead to significant delay of the Herefordshire County Business Improvement District (County BID) becoming operational, and would fail to deliver the Herefordshire County Plan 2020-2024 commitment to support tourism. The County Plan states '*We will... Protect and promote our heritage, culture and natural beauty to enhance quality of life and support tourism*'. The County BID will also

support visitor economy businesses and independent retailers, the sectors worst affected by Covid 19 and the related lockdown periods. The Marches Local Enterprise Partnership and the council have funded a range of support to enable the soonest possible recovery from the pandemic, including the redevelopment of the visitor website and a wide range of marketing and PR which is now coming to an end. The County BID will now lead and fund this and other activity going forward. Any delay in the commencement of the County BID would result in the loss of these critical services ahead of peak visitor season.

Key considerations

2. Herefordshire County BID Ltd have requested a loan of up to £210,000 over a six month period from the council to enable the commencement of services in the County BID until such time as the council (as the billing authority) can collect the levy from businesses that are liable to pay. Herefordshire County BID Ltd is a company limited by guarantee which has been formed to implement the County BID. The company has a private sector led Board. The requested loan would be paid in instalments to the company over a six month period and be repaid by the end of 2022/23 through the levies collected by the council.
3. A BID is developed and run by businesses and is an arrangement where they and other contributing partners get together, and decide what improvements they want to make in their destination. This goes into a business plan which is voted on by all those who would have to pay a contribution to the delivery of the business plan (i.e. all business rate paying businesses over an identified threshold defined in the plan).
4. Eligible tourism and independent retail businesses with a rateable value of over £12,000 were invited to vote in a ballot regarding the development of the County BID. The ballot was held in November 2021 in accordance with the Business Improvement Districts (England) Regulations 2004 (“the 2004 Regulations”). The outcome of the ballot was published on 1 December 2021, and can be found here: [Business Improvement District for Herefordshire County](#). Of those that voted in the ballot 83% by number and 89% by rateable value voted in favour of creating the County BID.
5. Under Regulation 9 of the 2004 Regulations there is a 28 day period immediately after the ballot result announcement where a request may be made in writing to the Secretary of State to declare ballot void on the grounds specified in the regulations. Any such request must set out the basis of the challenge which must be a perceived material irregularity in the ballot process.
6. Following the declaration of the ballot outcome on the 1st December 2022, the 28 day period passed without any challenge to the bid ballot or the business plan prepared by the private sector led Task Group having been made. The BID Proposal also incorporates the Business Plan for the current County Bid in a single document. The County BID was approved by Cabinet on the 15 November 2021: [Decision - Herefordshire Destination Business Improvement District - Herefordshire Council](#)
7. The Hereford County Business District Improvement Plan 2022-2027 (“the County BID and Business Plan”), can be found here: [Herefordshire County BID – The digital home of Herefordshire County BID](#). The Business Plan identifies that through a 2% levy on business rates of eligible businesses a budget of £431,000 per annum will be generated. As the billing authority, the council will be responsible for collecting the levy for onward payment to Herefordshire County BID Ltd. The terms of the levy collection and the related charges for this service are defined in an Operating Agreement between Herefordshire County BID Ltd and the council.

8. As it will take some time for the council to be in a position to collect the levy, which will be backdated to the date upon which the Operating Agreement commences, Herefordshire County BID Ltd has requested an advance loan of up to £210,000 to enable operations over the first six months secured against the levy due to be collected in 2022/23. The loan will be repaid via the collection of the levy, with the council retaining the levy income until such point as it has been repaid in full.
9. The loan represents 49% of the annual levy income. Nationally, only 4% of businesses fail to pay the levy. As the billing authority the council would also be responsible for recovering levies from those that refuse to pay.
10. The loan will be utilised by Herefordshire County BID Ltd to enable the BID to become operational, for example: continuation of marketing and PR campaigns as the council led activities come to an end; maintenance and further development of the www.visitherefordshire.co.uk website as the primary information portal for visitors to the county; commencement of the development of a centralised procurement programme for interested businesses; and for staffing, office space, IT costs and initial business engagement events.

Environmental Impact

11. This decision relates to providing a short term loan to Herefordshire County BID Ltd to enable them to become operational, so there are limited direct environmental impacts or benefits.
12. The County BID are committed to reducing their environmental impact wherever possible, and the development of sustainable tourism in the county is a key focus of their future activities.

Equality duty

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The decision relates to a short term loan to Herefordshire County BID Ltd who are committed to inclusion, and the development of accessible tourism opportunities in the county. The County BID will work with tourism businesses and independent retailers to enhance the accessibility of the county's offer for visitors and residents, and to promote visits to the county to disabled people.

Resource implications

15. Herefordshire County BID Ltd have requested a loan of up to £210,000 for a six month period in 2022/23, to be repaid from the levy collected by the council (as the billing authority). The loan will be made in monthly instalments up to a maximum value of £210,000.
16. Any advance loan if agreed would sit on the council's balance sheet as a debtor to be repaid by Herefordshire County BID Ltd from the year one BID levies collected by the council.

Revenue or Capital cost of project (indicate R or C)	2022/23	Future Years	Total
Revenue Loan	£210,000	£000	£210,000
TOTAL	£210,000		£210,000

Funding streams (indicate whether base budget / external / grant / capital borrowing)	2022/23	Future Years	Total
<i>Herefordshire County BID Limited identified as a debtor to the council until the loan is repaid.</i>	£210,000	£000	£210,000
TOTAL	£210,000	£000	£210,000

Revenue budget implications	2022/23	Future Years	Total
	£210,000	£000	£210,000
<i>Herefordshire County BID Limited identified as a debtor to the council until the loan is repaid.</i>			
TOTAL	£210,000	£000	£210,000

Legal implications

17. Business Improvement Districts (BIDs) were introduced by Part 4 of the *Local Government Act 2003* (LGA 2003). Their establishment, enforcement and operation is regulated by the framework set out in the LGA 2003 and the *Business Improvement Districts (England) Regulations 2004 (as amended)* ("2004 Regulations").

18. Guidance on BIDs can be found in Department for Communities and Local Government - Business Improvement District Technical Guide for Local Authorities 2015 and Technical Guidance for Local Authorities 2015. The key provisions relating to the operation and implementation of BIDs are set out below.
19. Under Regulation 15 of the 2004 Regulations the relevant billing authority shall, by the commencement date, provide for the imposition, administration, collection, recovery and application of the BID levy and Schedule 4 shall have effect with respect to those matters.
20. Under Section 53 of the LGA 2003 the council must ensure that the BID arrangements are in place which give effect to the BID proposals prior to the BID arrangements coming into effect. The BID arrangements are to come into force on such day as may be provided under the BID Business Plan (the Bid Proposals).
21. Section 45(1) Local Government Act 2003: The BID levy is to be imposed in a business improvement district only for periods which fall within the period in which the BID arrangements are in force in respect of the business district (known as the chargeable period).
22. The council has legal powers to provide a loan to the Business Improvement District, though s1-4 of the Localism Act 2011 (General Power of Competence). In exercising these powers and providing the requested loan, the council must have regard to its general fiduciary duty in the management of public finances, as well as its specific duty to obtain best value in the delivery of all of its functions, under s3 of the Local Government Act 1999. The terms of the loan will be detailed in a loan agreement to be entered into between the council and Herefordshire County BID Ltd. As the loan repayments will be made from collection from the County BID levy which is the responsibility of council there are no legal issues arising from the proposed loan.

Risk management

23. The following are considered to be the key risks;

Risk / opportunity	Mitigation
Levy paying businesses refuse to pay, putting at risk the repayment of the loan.	Following the outcome of the ballot, eligible businesses are now legally required to pay the levy. As the billing authority the council would be responsible for seeking recovery of any unpaid funds. Nationally only 4% of businesses (on average) don't pay the levy, and the BID company is seeking a 49% advance of the first year levy income.
The BID company decides not to repay the loan.	The council will directly collect the levy from businesses (as the billing authority) and will retain the income until the loan is repaid.
The loan fund is used for activities not identified in the business plan.	The BID company are legally required to implement the business plan that was subject to the ballot. A BID company Board has been formed to oversee the implementation of the business plan. The BID have provided a breakdown of activities the funds it will be spent on.

Consultees

24. As a Key Decision the political groups have been consulted. Cllr Louis Stark and Cllr David Summers sought clarification as to what the loan funds would be used for and the risk of non recovery. Further information on both of these areas included in the decision paper.

Appendices

None.

Background papers

None

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 04/05/2022
Finance	Louise Devlin	Date 03/05/2022
Legal	Sharon Bennett-Williams & Alice McAlpine	Date 05/05/2022
Communications	Luenne Featherstone	Date 29/04/2022
Equality Duty	Harriet Yellin	Date 05/05/2022
Procurement	Mark Cage	Date 29/04/2022
Risk	Kevin Lloyd	Date 02/05/2022
Approved by	Ross Cook	Date 06/05/2022

[Note: Please remember to overtype or delete the guidance highlighted in grey]

Please include a glossary of terms, abbreviations and acronyms used in this report.