

Herefordshire County Business Improvement District Loan Extension

Decision maker: Cabinet Briefing (Cabinet Feeder) Finance, Planning and Corporate Services

Decision date: 2 April 2023

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

To extend the Herefordshire County Business Improvement District (BID) advance loan by £70,000 to total £280,000 to provide critical cash flow support until levy demand notices can be issued to relevant businesses and income received, and to revise the repayment period for the original loan.

Recommendation(s)

That:

- a) **To approve an extension of an interest free loan by £70,000 to a total of £280,000 to the Herefordshire County BID Limited and to extend the repayment term of the existing loan, with all funds to be repaid by the end of the current BID term in December 2026; and,**
- b) **To delegate to the Service Director for Economy in consultation with the Section 151 Officer all operational decisions in relation to the payment and recovery of the loan.**

Alternative options

1. The council could choose not to extend the loan to the Herefordshire County BID Limited. This is not recommended as it would lead to cessation of all operations, and the loss of related staffing. 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 recently published Herefordshire Economic Plan

identifies visitor economy as a key growth sector in its own right, and recognises the importance of promoting tourism in raising awareness of the county as a great place to study, work and invest.

Key considerations

2. Herefordshire County BID Ltd have requested a loan extension of up to £70,000, increasing their total loan from the council to £280,000, and an extension to the repayment term of the existing loan. The extended loan would be drawn down in monthly instalments until June 2023. The original loan decision can be found here: [Decision - Herefordshire County Business Improvement District Advance Request - Herefordshire Council](#). 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.
3. Following unforeseeable delays to the issuing of invoices in 2022/23, the loan extension will enable the continuation of critical services undertaken by the Herefordshire County BID by meeting core operational and visitor marketing costs until such time as the council (as the billing authority) can collect the levy from businesses that are liable to pay. For example, the continuation of marketing and PR campaigns, maintenance and further development of the www.visitherefordshire.co.uk website as the primary information portal for visitors to the county, current minimal staffing, and the recruitment of a Chief Executive.
4. 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).
5. 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 in November 2021. The ballot was held 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.
6. The Hereford County Business Improvement District Business 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.
7. The original decision to provide a loan was based on a repayment through the collection of and council retention of initial levy payments within the same financial year (2022/23). However, there have been unforeseen delays in the finalising the issuing of invoices, which has not made this possible in 2022/23. Due to the delays the BID Board have decided it is not now possible to ask businesses to pay for the minimal activity undertaken in 2022. Therefore, invoices will be issued in 2023/24, with the levy charged from January 2023.
8. Given the scale of the total loan would equate to 65% of their annual income, severely restricting any activities/ viability in year, the original loan (£210,000) will now be repaid over the lifetime of BID (by December 2026). Please see the schedule in the Resource section

below. The additional £70,000 loan will be repaid from levies collected by the council in 2023/24.

Environmental Impact

9. This decision relates to providing a loan to Herefordshire County BID Ltd to enable them to become operational, so there are limited direct environmental impacts or benefits.
10. 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

11. 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.
12. The decision relates to a 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

13. Herefordshire County BID Ltd have requested an additional loan of £70,000 (to total £280,000) in 2023/24 to be drawn down in monthly instalments until June 2023, 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 £70,000.
14. As with the original loan decision, the extension would sit on the council's balance sheet as a debtor to be repaid by Herefordshire County BID Ltd from BID levies collected by the council.
15. The following is an indicative profile of repayments for the total £280,000 loan agreed with the Herefordshire County BID Ltd;

2023/24	2024/25	2025/26	2026/27	Total
£70,000	£35,000	£65,000	£110,000	£280,000

Legal implications

16. 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").
17. 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.
18. 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.
19. 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).
20. 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).
21. 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

22. 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), the total loan (£280,000) equates to 13% of the total BID income based on their five year business plan.
The BID company decides not to repay the loan.	The council will directly collect the levy from businesses (as the billing authority) and can 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

N/A

Appendices

None.

Background papers

None

Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 21/03/2023
Finance	Rachael Hart	Date 21/3/2023
Legal	Sarah Halliwell	Date 22/3/2023
Communications	Luenne Featherstone	Date 14/03/2023
Equality Duty	Harriet Yellin	Date 14/03/2023
Procurement	Lee Robertson	Date 14/03/2023
Risk	Kevin Lloyd	Date 14/03/2023
Approved by	Ross Cook	Date 28/03/2023

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