



# Northumberland

## County Council

CABINET

DATE: 11<sup>TH</sup> SEPTEMBER 2018

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### Hexham Business Improvement District (BID) Termination (Part 1)

**Report of** Paul Johnston, Executive Director of Place  
**Cabinet Member:** Councillor Richard Wearmouth, Portfolio Holder for Economic Development

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#### **Purpose of report**

To advise Cabinet of the legislative process required to terminate the Hexham Business Improvement District (BID).

This report is part 1 of this report, due to the timescales in progressing the termination procedures this report provides a briefing on the requirements. Further detail will be provided to Cabinet (and Scrutiny prior to this) in advance of their meetings in a supplementary (part 2) of this report.

#### **Recommendations**

Cabinet is recommended to:

- Note and endorse the overarching process required to terminate the Hexham BID arrangements.

#### **Link to Corporate Plan**

This report is relevant to the following priorities included in the NCC Corporate Plan 2013-2017:

**Economic Growth** – our aim is to promote a more prosperous county through sustainable economic growth that provides residents with ready access to high wage and skilled jobs and opportunities to create thriving businesses.

**Places and Environment** – our aim is to maintain and further improve the quality of towns, villages and countryside, and make it easier for residents to access services and high quality affordable homes and to travel using different modes of transport.

### **Key issues**

- Hexham Business Improvement District (BID) has operated since October 2016. Following a series of issues and difficulties the Board of this business-led project has now given notice to the County Council that it wishes to terminate the BID arrangements effective from 10th September 2018 following a statutory 28 day notice period.
- The required legislative process to terminate the BID arrangements is the responsibility of the County Council. This process is set out in this report. This includes reconciling the BID Revenue Account, which holds levy funds collected on behalf of the BID and then issuing refunds as appropriate to businesses subject to the levy.
- It is the responsibility of the Hexham BID Company Board of Directors to close the BID Company, a process which has been initiated. The timescales for the County Council to terminate the BID arrangements are dependent on this process in ensuring that remaining levy funds are returned to NCC.
- The national BID regulations indicate that the Council will be required to:
  - Write to all businesses subject to the levy after the 28 days termination notice (effective date 10th September).
  - Reconcile the BID Revenue account once funds have been returned to it from the BID Company, this is the account which holds the BID levy funds for Hexham BID.
  - In writing to businesses the Council will need to ensure that businesses subject to the levy are able to understand the termination process and the individual implications regarding their own levy accounts.
  - Confirm as part of this process the overall reconciliation of the BID Revenue account including how issues of bad debt in relation to unpaid levy bills and related costs have been addressed.
  - Issue any refunds as appropriate.
- The Council will seek to complete the termination procedure in a robust fashion as quickly as possible. However this process is bound by legislative steps and company law requirements, some of which is outwith the Council's control which may necessarily impact on completion of the termination process.
- The Council is now in the process of establishing a clear and consistent approach ensuring it follows legislative guidelines and professional external advice. A further supplementary report will be provided to Scrutiny and Cabinet prior to their

meetings on 3rd September and 9th September respectively setting this out in more detail.

## 1. Introduction

Hexham Business Improvement District (BID) has operated since October 2016. Following a series of issues and difficulties the Board of this Business led project has now given notice to the County Council that it wishes to terminate the BID arrangements.

This report outlines:

- Background regarding BIDs,
- a summary of the Hexham BIDs development, and;
- A summary of the required process to terminate the BID arrangements which are the responsibility of the County Council.

## 2. Background regarding BIDs

### *Business Led*

BIDs are business led partnerships created through a ballot process to deliver additional services to local businesses. Government states they can be a powerful tool for directly involving local businesses in local activities and allow the business community, local authorities and other key partners such as the Police to work together to improve the local trading environment.

There are around 300 active BIDs nationally with over 25 new BIDs brought into existence in the last year.

### *BIDs in the North East and Cumbria*

There are a number of BIDs in the North East and Cumbria operating successfully such as in Penrith, Barrow, Stockton, and Newcastle Upon Tyne. In Northumberland the first BID began operating in Hexham in October 2016 following a successful ballot announced in February 2016. Following a series of operational and governance challenges the Hexham BID Board issued a termination notice in August 2018 and this process is now being undertaken. Morpeth BID was developed during 2017 but was not successful at ballot earlier this year. Blyth is the third BID to be proposed in Northumberland launching its development process in July 2017 and currently expected to go to ballot in November 2018.

### *BID Rules and Levy*

A BID is a defined area in which a levy is charged on all business rate payers in addition to the business rates bill. This levy is used to develop and deliver projects which will benefit businesses in the local area. Unlike business rates the levy is held locally by the BID for use in the specific location. Businesses that are subject to the levy, as set out in the proposals, vote in a ballot. This determines whether the scheme goes ahead.

Whilst all BIDs are subject to the same legislative guidelines, the proposals and Business Plan for any individual place should reflect the circumstances of that community and the issues it faces. This includes the thematic priorities and levy rules that will be proposed.

The BID proposer is required to develop a proposal and submit this to the local authority, along with a business plan. A pre BID Steering Group made up of volunteers from the local business community is established by the BID proposer. Their role is to lead the

development of the BID proposals prior to the ballot using a wide range of engagement and consultation activities.

### *NCC Policy*

The principle of establishing BIDs in Northumberland is supported within the NCC Policy Framework, where local business groups bring forward proposals. In Northumberland, NCC's approach has been to assist and facilitate the processes required when BID proposals are brought forward by local businesses ensuring that local growth is driven by local partners.

NCC has a range of statutory responsibilities in relation to the development of BID proposals as well as potentially being a levy payer and voter in relation to a BID. Once established a BID is operated by a BID Company, normally a not for profit company limited by guarantee led by a Board of local levy payers.

## **2. Hexham BID Background**

Below is a summary of the key stages of the Hexham BIDs development from initial development to the recent decision to terminate.

### *BID Establishment April 2015-September 2016*

Hexham BID was democratically adopted in a ballot of businesses eligible to pay the proposed levy in Hexham in February 2016 following a development and consultation process.

The ballot result was challenged by a section of the business community following the ballot. The result was fully upheld following appeal by the Secretary of State for Communities and Local Government in September 2016 and consequently the BID began operating in October 2016 for a period of four and a half years.

### *BID Delivery October 2016 - December 2017*

To deliver the BID arrangements a business led private company was established led by the BID Board made up of volunteers drawn from the businesses subject to the levy to deliver against the priorities in the Hexham BID Business Plan.

The BID operated and developed projects and initiatives to boost the towns trading environment, some of which became fully operational, such as the Love Hexham project and some that never came to fruition as still at the planning and design phase such as the town wide signage and wayfinding scheme.

Continuing on from the appeal, complaints continued throughout the BID's operation from some businesses subject to the levy, both relating to the original ballot result and then the delivery by the BID in the town. This meant that the BID faced ongoing issues throughout its period of operation. Following the Company AGM which was poorly attended the County Council sought to raise its concerns with the Company regarding a lack of appropriate representation within its membership at that stage.

### *Board Resignation December 2017*

At this point, in December 2017 the previous board of Directors of Hexham BID, wrote to the County Council stating that they wished to terminate the Hexham BID arrangement with two months notice, at which point the full board resigned.

NCC did not at this point consider that a full consultation had been undertaken with the businesses subject to the levy as required in BID regulations and did not accept the termination of the agreement.

#### *Consultation and establishment of new Board March 2018*

To ensure the Company could operate and respond to the consultation substantial work was then undertaken by council officers to support the BID membership in democratically selecting a new board. Three new board members were in place on the 19th March 2018 drawn from the existing membership as required by company law.

Prior to securing a new Board to enable the company to operate, the County Council undertook the necessary consultation with all businesses subject to the levy, followed by a public meeting in Hexham on 26th March 2018. Whilst response rates to the consultation were low, those responding and attending the public meeting were largely in favour of terminating the BID.

#### *Alteration Proposals May 2018*

Following the consultation the new BID Board sought to propose the development of an alteration ballot as a means of fully testing a new and improved BID model via a democratic process. The alterations proposed focused on reducing the BID's geographical area to encompass only the retail town centre, and simplifying the levy rules.

#### *BID Termination Notice August 2018*

Although the new BID Board have stated there was some support for these proposals 'behind closed doors', they have now confirmed their view that negativity in the town made it untenable for businesses to openly support the proposals and as such it is not possible for the BID arrangements to continue thus making termination the only viable option.

On the 13th August 2018 the Board wrote to the County Council formally terminating the BID arrangements with the statutory minimum 28 days notice.

#### *Confirmation of Termination August 2018*

Councillor Jackson formally acknowledged the termination, stating that the Council considers that sufficient consultation has now been undertaken and confirmed that officers would write to all businesses subject to the levy after the 28 days notice period is complete. Effective date 10th September 2018.

### **3. Termination Process**

#### *Legislative Requirements for Termination*

Upon acceptance of the termination request from the BID Board following the required 28 day notice period, the County Council is bound by the Business Improvement Districts Regulations 2004<sup>1</sup>. The Regulations require the Council to undertake the following tasks.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2004/2443/contents/made>

- **BID Revenue Account Reconciliation:** The regulations require the Council to recoup all residual funds from the BID company into the BID Revenue Account. The BID Revenue Account is the dedicated account held by the council used for the purposes of holding BID funds collected by the Council prior to their transfer to the BID Company.
- **Communications with Businesses subject to the levy:** Where BID arrangements are terminated the regulations require the County Council to, as soon as is reasonably practicable, give notice of the termination in writing to each person liable for the BID levy. This notice shall include an explanation of whether a repayment is to be made under the terms set out in the legislation.

### *Termination Process*

The County Council has a duty to undertake the termination process in line with the regulations above. The County Council is now drawing together the necessary information from the BID Company to enable this process to be initiated as soon as possible following the 28 day notice period.

As such, at this stage an indicative timetable is set out below regarding the notice of termination stage. Following the 28 day statutory notice period the termination process itself will be progressed. Details of this process will be confirmed in Part two of this report.

### **Timetable**

The following is the current timeline the notice of termination process which has been determined. The steps during the termination process itself are subject to further confirmation.

<b>Timeline</b>		
<b>Date</b>	<b>Detail</b>	<b>Responsibility</b>
<b>Notice of Termination process - 28 day statutory notice period</b>		
12/8/18	BID Board decision to terminate BID Arrangement	BID
13/8/18	Letter from BID Board to NCC terminating BID arrangements with 28 days notice.	BID
13/8/18	Develop necessary process to close BID Company	BID
15/8/18	Formal response to BID from County Council confirming acceptance of proposal to terminate	NCC
3/9/18	Report to Scrutiny advising of termination process	NCC
10/9/18	End of 28 day notice period from BID termination letter of notification	NCC
11/9/18	Report to Cabinet to agree termination process	NCC
11/9/18	Initiate Termination Process following Cabinet	NCC

The timetable for the full and final reconciliation of the BID Revenue Account and the issuing of advice to businesses and any refunds due is dependent on processes outwith the County Councils control in relation to the appropriate closure of the BID Company and the transfer to the Council of remaining funds. The County Council is working with the BID Board to seek to ensure this process is expedited as quickly as possible.

The County Council has also sought external professional advice from the national organisation British BIDs, who have dealt with termination procedures regarding this matter to ensure the process undertaken fully meets legislative requirements.

#### 4. Next steps

The County Council is now in the process of establishing the clear and consistent approach to the reconciling of the BID Revenue account and any refunds due to businesses subject to the levy.

#### Implications

<b>Policy</b>	BIDs are supported by Government policy and legislation as set out in the Business Improvement Districts Regulations 2004. The Termination of BIDs is bound by the national BID regulations 2004.
<b>Finance and value for money</b>	The Council is supporting the termination process utilising existing officer capacity as we are bound to do by the legislation. The BID Regulations state that any reasonable costs accrued by the County Council in completing the termination process and reconciling the BID Revenue Account can be charged to the account. This may require costs such as the professional fees for advice referred to in the above report to be charged to the Account.
<b>Legal</b>	The County Council has sought external professional advice on the termination process. The Council has advised the BID Board to utilise separate legal advice as appropriate as part of the company closure process.
<b>Procurement</b>	None
<b>Human Resources</b>	See points under finance and VFM above.
<b>Property</b>	Eligible NCC properties will be subject to the levy dependant on the final levy rules and geography of the BID established in the Business Plan. The presentation from the BID proposer will outline the current proposals.
<b>Equalities</b>	(Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>



<b>Risk Assessment</b>	None
<b>Crime &amp; Disorder</b>	None
<b>Customer Consideration</b>	Levy Collection Services follow the same procedures as billing, collection and enforcement requirements are set out in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.  As stated in the main report the Council will establish a process communicating clearly with all businesses subject to the levy and ensure enquiries can be made to the business rates team effectively to resolve enquiries as the termination process is undertaken.
<b>Carbon reduction</b>	None
<b>Wards</b>	The geographical coverage of the BID is the town of Hexham bounded by the A69 to the North and Hexham Racecourse to the South.

**Background papers:**

Hexham BID Consultation Feedback Report 19th March 2018 - go to:  
<http://www.northumberland.gov.uk/Business/Hexham-Bid-Consultation.aspx>

**Report sign off.**

***Authors must ensure that officers and members have agreed the content of the report:***

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