

CITY OF PLYMOUTH



Scrutiny Report

Proposed Business Improvement District: Power of Veto

Overview and Scrutiny Commission

October 2004

PROPOSED BUSINESS IMPROVEMENT DISTRICT: POWER OF VETO

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1.0 Summary

- 1.1 At its meeting on 3rd August, 2004, Cabinet received and adopted the recommendations of a report endorsing the draft Project and Business Plan for the Plymouth Business Improvement District (BID).
- 1.2 The legislative framework for BIDs includes provision for local authorities to veto BID proposals where –
- (a) they conflict to any material extent with any corporate policy of the Council, or
 - (b) have significantly disproportionate effect upon any person or class of persons.
- 1.3 With Plymouth BID being effectively a partnership between the Council and the business/retail sector in the shape of the City Centre Company it is important that a degree of independence is maintained when the time comes for the Council, as a whole, to consider whether the power of veto is applicable and should be used in these circumstances.
- 1.4 For reasons of openness and transparency it was considered proper that the matter should be referred to scrutiny and a proposal was therefore put forward that the 'Business Improvement District proposals be reviewed with a view to making a recommendation to the City Council regarding the power of veto'.

2.0 Summary of Recommendations

- 2.1 The Overview and Scrutiny Commission, having considered -
- (a) the reports and advice of Officers and external legal consultants;
 - (b) the statutory grounds upon which the power of veto may be used;
- supports the BID Proposals, and wishes the BID Company every success in establishing and implementing them. It therefore recommends to Council –
- (i) that the power of veto is not exercised subject to there being no significant change(s) to the current BID proposals which would impact on the factors which influence the use of the power of veto as identified in Regulation 12 of the Business Improvement District (England) Regulations 2004;

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- (ii) in the event of there being no significant change(s) as indicated above, the Monitoring Officer be permitted, at the appropriate time after the BID Ballot, to confirm that the Council will not be exercising the power of veto;
- (iii) that the Overview and Scrutiny Commission monitors the anticipated success of the BID over the coming years.

3.0 Introduction

3.1 At its meeting on 5th August, 2004, the Overview and Scrutiny Commission considered and approved a proposal for scrutiny in respect of the Business Improvement District power of veto. The proposal had been submitted by Councillor Evans on behalf of Cabinet.

3.2 On 22nd October, 2004, the Overview and Scrutiny Commission met to review the Business Improvement District proposals with a view to making a recommendation to the City Council regarding the power of veto. The Members involved were –

- Councillor Mrs. Aspinall (Chair)
- Councillor Kerswell (Vice-Chair)
- Councillor Fletcher
- Councillor Vincent
- Councillor Fry
- Councillor Stark (substitute for Councillor Savery)

3.3 During the course of the meeting the Commission –

- (i) considered reports of the Director of Development, Nigel Pitt;
- (ii) received a presentation from David Draffan, City Centre Manager, on the Plymouth Bid proposals and consultation procedure;
- (iii) received a presentation from Malcolm Gilbert, Bevan Ashford, on the regulations and power of veto.

3.4 The Commission was supported in their review by Nicola Kirby, Scrutiny Manager, Katey Johns, Democratic Support Officer, Nigel Pitt, Director of Development and Malcolm Gilbert, legal consultant, Bevan Ashford.

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4.0 Findings

4.1 Plymouth Business Improvement District

- 4.1.1 Business Improvement Districts are a partnership between local authorities and local businesses to provide additional services or improvements to specific areas. They are funded in whole or in part by a levy additional to the non-domestic rates.
- 4.1.2 Plymouth has been selected as one of only 22 BID pilots in England. The boundaries of Plymouth's Business Improvement District are defined by the city centre inner ringroad.
- 4.1.3 It has been estimated that there is £1bn of available expenditure per annum in the City Centre catchment area of which only £600m is currently being spent in Plymouth. Plymouth's renaissance will critically depend on the future performance of its City Centre and it is therefore envisaged that the BID will maximise city centre retail potential and complement the redevelopment of the City Centre and the Mackay vision by improving the visitor experience and attracting shoppers who currently go elsewhere.
- 4.1.4 Plymouth's BID is one of the most ambitious in the UK. It is also only one of three out of the 22 pilots which is ready to go to ballot and this will be undertaken within the next 3-4 months. The process of establishing the BID has involved –
- March 2003: All retailers consulted on whether they wanted to participate in the BID pilot, through face to face meetings with almost every business in the BID area
 - April 2003: Selection of 40 BID champions who have agreed to act as representatives of the BID to their peers and help shape the proposal
 - September 2003: Retail BIDs consultation survey conducted. 87% of the retailers who responded to the survey (30%) supported the BID concept
 - January 2004: Residents were surveyed (1000 sample) for their perceptions of the City Centre. Resident (shopper) perceptions closely mirrored retailer perceptions
 - February 2004: BID business planning event. 50 potential projects reviewed by 40 BID champions and prioritised to shortlist of 25 firm projects

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- May 2004: Plymouth City Centre Company created
- September 2004: Consultation on draft Business Plan with all eligible businesses in the BID area

4.1.5 The BID proposals have been developed in close partnership with the City Council and all projects have been developed to meet the needs identified by retailers. Projects total an estimated £2m over the 5 years of the BID with 51% of funding coming from the retail sector. The money is strictly ringfenced to BID projects with contributions being proportionate to the size of the retailer. In addition, staff will project manage or deliver a wide range of activities that use council assets to generate a commercial income worth approximately £2.25m. Consequently, the BID Business Plan represents a 5 year investment total of £4.25m in the improvement of the City Centre.

4.1.6 The 25 projects include –

- Marketing (£250,000 for first 2 years)
- Entertainment
- Events
- Cleanliness (£365,000 for rapid response team)
- Attractive city (Christmas lights, floral displays, continental squares)
- Improved transport links (free shoppers bus)
- Signage
- Safer City Centre (£370,000 towards provision of accredited safety wardens, cctv)

4.2 Legislation

4.2.1 The BID legislation provides all local authorities with the power to veto BID proposals. This power exists as a means of providing a final review of the BID proposals so as to ensure that the proposals do not run counter to any existing plans and strategies of the Council, or adversely and unfairly affect particular parts of the community within the BID area.

4.2.2 Any single or group of non-domestic rate payers can put forward BID proposals. These proposals will, however, have a greater chance of success when made in partnership with the local authority.

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4.2.3 Regulation 12 of the Business Improvement District (England) Regulations 2004 provides as follows –

12(1) for the purposes of Section 51(2) of the Act, 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 other non-domestic rate payers 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

12(2) for the purposes of Section 51(2) of the Act the prescribed period is 14 working days from the day of the ballot

12(3) for the purposes of Section 51(3) of the Act the prescribed matters to which the relevant billing authorities shall have regard in deciding whether to exercise its veto are:

(a) the level of support (as evidenced by the result of the BID ballot or re-ballot of a BID ballot, as the case may be) for the BID proposal;

(b) the nature and extent of the conflict referred to in paragraph (1) (a);

(c) in relation to paragraph (1) (b) the structure of the proposed BID levy and how the financial burden of the BID is to be distributed among rate payers in the geographical area of the BID;

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- (d) the extent to which the BID proposer discussed the proposals with the Authority before submitting the BID proposals to the Authority under Regulation 4; and
- (e) the cost incurred by any person up to the end of the period prescribed in paragraph (2) in developing the BID proposals and canvassing in relation to the BID proposals.

(NB Regulation 4 provides that, before submitting BID proposals to ballots the BID proposer shall inform the local authority of the content of the BID proposals).

5.0 Recommendations

5.1 The Overview and Scrutiny Commission, having considered -

- (a) the reports and advice of Officers and external legal consultants;
- (b) the statutory grounds upon which the power of veto may be used;

supports for the BID Proposals, and wishes the BID Company every success in establishing and implementing them. It therefore recommends to Council –

- (i) that the power of veto is not exercised subject to there being no significant change(s) to the current BID proposals which would impact on the factors which influence the use of the power of veto as identified in Regulation 12 of the Business Improvement District (England) Regulations 2004;
- (ii) in the event of there being no significant change(s) as indicated above, the Monitoring Officer be permitted, at the appropriate time after the BID Ballot, to confirm that the Council will not be exercising the power of veto;
- (iii) the Overview and Scrutiny Commission monitors the anticipated success of the BID over the coming years.