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Your reference: CSD/017/2011/SK

Our reference:

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Dear John,

Officials are scheduled to brief the Committee at its meeting of 30th June 2011 on the Business Improvement Districts consultation.

Please find attached detailed paper on the responses to the Business Improvement Districts consultation (Annex A), a synopsis of the key points (Annex B), and some background information on BIDs (Annex C).

Yours sincerely,



HENRY JOHNSTON
Urban Regeneration Strategy Directorate



Business Improvement Districts

Summary of responses to consultation

(June) 2011

1. Introduction

The Department for Social Development issued for public consultation its proposals in relation to Business Improvement Districts (BIDs) together with proposals for Licensing of Pavement Cafés.

Both initiatives are aimed at the local business community and will prove useful in supporting town centres to recover from the current economic downturn. In addition to improving the commercial environment it is expected that these proposals will bring wider benefits and help make our town centres more attractive, safer, cleaner and more enjoyable for all.

This document sets out a summary of responses in relation to the questions and proposals for **Business Improvement Districts** made in the consultation document. A separate summary of responses in relation to the proposals for the licensing of pavement cafés will also be published in due course.

2. Conducting the consultation exercise

The consultation was launched on 1 December 2010 and closed over 12 weeks later on 28 February 2011. The consultation document was published on the Department's website and responses were invited by post, fax and email. A notice advertising the consultation was also placed in the Belfast Telegraph, Irish News and Newsletter.

In addition, DSD officials held meetings prior to and during the consultation period with a range of interested parties including, Ballymena Borough Council, the Chairs of the Town Centre Partnerships, Belfast City Centre Management, the Federation of Small Businesses, Alliance Boots, Newry & Mourne District Council, Belfast City Council and Craigavon Borough Council. The proposals and questions on **Business Improvement Districts** attracted 37 responses, 18 of which were from local councils, 15 from other

organisations, 3 from public bodies and one from a political party. Not all respondents commented directly on each of the questions asked and, where this has happened, it has been reflected in the summary.

We would like to thank all those who responded to the consultation. The responses received will help inform the decision making process with regard to the implementation of Business Improvement Districts (BIDs) in Northern Ireland. A list of the respondents is attached at **Annex A**

3. Consultation Proposals

The consultation paper set out proposals for the operation of Business Improvement Districts (BIDs) in Northern Ireland and asked specifically for comment on the following:

- The roles of local councils and the Department;
- The degree of prescription in the scheme to be applied in secondary legislation;
- The non-inclusion of landlords;
- The voting system to be applied;
- Areas to be covered by legislation and those left to local discretion;
and
- The level of guidance and support to be provided by the Department.

4. General comments

It is clear from responses received that there is an overwhelming support for the introduction of Business Improvement Districts (BIDs) in Northern Ireland. Of the 37 responses received, 35 (95%) were very supportive, feeling that the BID model would facilitate local businesses to work in partnership with local government in addressing issues impacting on the viability and vitality of town

centres and would bring us into line with GB and ROI where legislation is already in place. However, it was made clear that BIDs would only work if there was a clear need for additional services in the area and that the benefits to the businesses paying the levy were clearly identifiable. Only 2 respondents (5%) were more cautious of the introduction of BIDs feeling that it may be difficult to justify additional levies on businesses in the current economic climate where trading conditions remain challenging.

5. Analysis of the responses

This next section provides an analysis of the main issues raised during the consultation.

Question 1: Are the respective roles of local councils and the Department considered appropriate?

The Department proposed that the role of local councils would include:

- Provision of ratings and baseline service information to BID partnerships;
- Organisation of formal BID ballots; and
- Billing, collection and enforcement of BID levy.

While the Department would fulfil a central guidance and oversight role, with responsibility for:

- Monitoring the implementation of BIDs;
- Development of written guidance; and
- Provision of support to BID partnerships and local councils.

Consultation responses:

In general, respondents felt that the proposed roles of local councils and the Department were about right. However, a number of issues arose.

There was clear opposition to the proposed role that councils would be responsible for the billing, collection and enforcement of the BID levy. The majority of respondents (75%) felt that this role did not sit naturally with local councils. They felt that that it would be more cost effective for the levy to be collected by the Rates Collection Agency of Land and Property Services, which already carries out this function for non-domestic rates bills and have systems in place, rather than introduce a new administrative role for councils at a time of efficiency savings and budget cuts.

A number of respondents (32%) felt that the Department needed to take on a more proactive role of BIDs Champion, similar to central government's role in

Scotland, promoting the concept of BIDs and providing best practice and education to businesses and councils across Northern Ireland. In addition, and to assist in getting the concept off the ground, they felt that the Department should make funding available to cover the development cost of the BID proposals.

32% of respondents felt that it was essential for local councils to provide transparency about the existing baseline services they offer to businesses. They felt that this would allow businesses to differentiate between baseline services and potential BID services, which would be essential in ensuring that well informed ballots can take place. There was also a suggestion that other statutory agencies should also have to provide details of existing baseline services

DSD response

The Department recognises the significant concerns around the proposal that councils should collect the levy. This proposal was based on the arrangements in other jurisdictions where local authorities calculate and collect the levy. Councils here will have a key role in the development of the BID, in working with the BID partnership and in the determination of the levy. However, it is recognised that there are key differences between the current functions of local authorities in England Scotland and Wales and councils in N Ireland. The Department will address this issue further as the arrangements are being developed.

The Department, in its proposals, envisaged a fairly light touch for central government. The point about the Department taking on the role of BIDs champion will be considered further along with any potential for funding set up costs, as the arrangements are being developed.

The question of how baseline service information can be provided will be considered further as the arrangements are being developed.

Question 2: Most of the detailed regulation of BIDs will be covered by secondary legislation and will therefore be the subject of another consultation. However, we would be interested to hear at this stage about the degree of prescription which stakeholders feel should be applied to the procedures for this element of the BID process, i.e. the development of proposals, consultation on proposals etc.

Following agreement on primary legislation proposals, the Department will undertake the development of secondary legislation which will cover much of the detailed regulation of BIDs operation. This will cover areas such as content of BID proposals, rules for BID Ballots, operation of the BID revenue account, veto of BID proposals etc.

The Department was keen to hear from stakeholders about the degree of prescription to be applied to the procedures for this element of the BID process.

Consultation responses:

In general most respondents felt, that while there are certain elements of the BID process that do require consistency and therefore need to be prescribed by law, there should remain flexibility for local decision-making in relation to relevant local matters. Many respondents favoured comprehensive guidance from the Department which BID partnerships could use as a reference tool which would allow flexibility and ensure that they were aware of best practice elsewhere.

The most common areas that respondents considered needed to be prescribed in legislation were:

- the initial consultation process;
- the format or process for submitting BID proposals;
- the detail of the voting system and balloting arrangements

- the broad circumstances under which a council may veto a BID proposal, appeals, and the financial and governance arrangements in respect of the BID partnership.

A number of respondents felt that the implementation of a BID process should follow a methodical and structured process and suggested that the Department consider the UK BIDs Advisory Service's "10 step guide to creating a successful BID" when developing departmental guidance.

DSD response

DSD welcomes comments on the degree of prescription to be applied to the detailed procedures of the BID process. The Department agrees with the suggestion that any secondary legislation should not be overly prescriptive and should be flexible enough to take account of the difference in size and scale of urban centres across Northern Ireland. The Department also acknowledges support for a need for a degree of prescription in areas such as content of BID proposals, operation of BID revenue accounts, rules on ballots and veto by a council of a BID proposal, to ensure a degree of consistency in the process. All these elements will be covered in more detail by secondary legislation and supported by comprehensive guidance from the Department which will be developed and consulted on separately.

The Department will make appropriate use of specialist expertise from other jurisdictions to ensure high quality guidance is available to all.

Question 3: Do you agree with the proposal not to require landlords to become involved in the operation of BIDs?

The Department proposes that entitlement to vote (and therefore liability to pay the levy) should be restricted to non-domestic ratepayers. This means that in most instances the business tenant, not the landlord, would be entitled to vote and liable for payment of the levy.

Consultation responses:

There was overwhelming agreement with the Department's proposal not to formally include landlords in the operation of BIDs. Respondents felt that the inclusion of landlords in the scheme could result in the landlord's portion of the levy being passed on to the business tenant through an increase in rent. Other concerns raised by respondents related to:

- Making vacant or derelict properties owners contribute to the levy; and
- Encouraging landlord involvement on a voluntary basis because of the indirect potential benefits which can be derived from the outworking of a successful BID.

DSD response

DSD welcomes the overwhelming support shown for its legislative approach. Restricting entitlement to vote, and therefore liability to pay the levy to non-domestic ratepayers provides greater clarity and minimises administrative complexity. The nature of the relationship between landlord and tenant at a commercial level is such that costs incurred by the landlord tend to be passed on to the tenant. The Department therefore supports the view that the inclusion of landlords could result in the unintended consequences of business tenants paying the levy twice. The approach proposed by the Department would also ensure that those running local businesses would be empowered to establish a

BID partnership to deliver the service businesses themselves want which will make a positive impact on trading conditions in the area.

The Department accepts that concerns exist around the issue of vacant or derelict properties. Respondents felt that BIDs could help tackle the problem of long-term vacancies and could act as an added incentive for the landlord to let the property. Currently, rates on such properties are reduced by 50%. In terms of legislative clarity, the same approach applies, i.e. whoever is liable for the payment of non-domestic rates, whether the property is vacant or derelict would also be liable to pay the full levy. Once the non-domestic property is let, liability for the payment of the levy would shift to the business tenant, unless they are non-trading charities, which are exempt from paying non-domestic rates.

In terms of landlord involvement on a voluntary basis, legislative flexibility proposed by the Department would not prohibit voluntary contributions. Some partnerships may wish to actively encourage voluntary financial contributions, or utilise skills, knowledge, connections or experience of landlords to assist the BID Partnership. However, the payment of a voluntary contribution, or the provision of assistance in kind to a BID partnership would not confer any voting rights on the landlord.

Question 4: Is it reasonable to frame the voting system in terms of votes cast, rather than eligible votes? Should a minimum turnout be specified in order to validate a ballot?

In order to protect the interests of both large and small businesses the Department proposes that the voting system should require a simple majority in both votes cast and rateable value of votes cast in order to be successful. This means that neither a large number of small businesses nor a small number of large businesses can carry the vote on their own. This is in line with the approach adopted in other jurisdictions in GB and ROI.

In addition, the Department wanted to gauge whether the legislation should specify a minimum turnout in order to validate a ballot. For example, the Scottish legislation has specified that there must be a minimum 25% turnout of the eligible voters to validate a ballot.

Consultation responses:

The majority of respondents supported the Departments proposed voting system as being a fair means of ensuring that the interest of small and large businesses were equally protected.

The majority of respondents also supported the approach of specifying a minimum turnout to validate a ballot with some suggesting that we adopt the Scottish approach of 25%.

DSD response

The Department is encouraged by the strong support for the adoption of the voting model used by Scotland where a simple majority of votes cast and rateable value of votes cast are required to be successful. The Department proposes to go with this system of voting which it believes will protect the

interests of large and small businesses. The Department acknowledges the desire by some respondents for flexibility and it therefore proposes that the legislation will provide flexibility to BID proposers in a given area to specify that they wish to set higher thresholds for approval.

The Department also intends to set a minimum turnout level of 25%.

Question 5: Is this a reasonable balance between areas to be covered by legislation and those which will be left to local discretion?

The Department considers that there are a number of important elements in the operation of BIDs which should not be subject to legislation but decided upon locally, depending on individual circumstances. These include:

- the scope of the BID;
- partners in the BID;
- coverage of the BID;
- duration of the BID;
- funding of the BID; and
- rate of the levy.

Consultation responses:

The vast majority of respondents (72%) felt that the Department's proposals provide a reasonable balance between the areas of the BID to be covered by legislation and those to be left to local discretion. Many respondents felt that as there are a number of diverse urban areas within cities and towns, each with their own particular set of issues and problems, there would need to be sufficient flexibility within the legislative framework to allow different solutions and initiatives to be developed locally and managed locally. It was considered vitally important that local discretion be allowed to enable the BID to be successful with local areas deciding what initiatives will best address their needs.

A few concerns were raised regarding the Power of Veto being given solely to Councils and it was suggested that other statutory bodies should also be given the same Power of Veto. One Council also enquired if the grounds on which it could veto a BID would be detailed by DSD.

DSD response

DSD acknowledges the support for its proposals around what should be legislated for and what should be left to local discretion in relation to BIDs. The Department will provide legislation and produce guidance on the development and operation of the BIDS scheme in order to ensure that the scheme works successfully. However, the Department also recognises that BIDs will provide an opportunity for local areas to deal with local issues and to this end it will leave the main elements of the operation of the scheme to local discretion.

Most of the detailed regulation of the BIDs operation will be covered by the development of secondary legislation and this will include arrangements around the Power of Veto. The Department considers that the local council is best placed to be able to reflect the views of other statutory bodies in the consideration of BID proposals. On that basis the Department does not intend to extend the Power of Veto to other statutory bodies.

Question 6: What degree of guidance and support would be welcome from the Department?

The Department proposes that it will provide a central guidance and oversight role for the operation of BIDs in Northern Ireland. In order to do this it will be responsible for:

- monitoring their implementation;
- provision of support to BID partnerships; and
- development of written guidance.

Consultation responses:

The majority of respondents (62%) felt that the provision of strong support and guidance from the Department would be required. They stated that assistance from the Department would be needed in the area of:

- dissemination of Best Practice;
- promotion of successful BIDs from the other jurisdictions; and
- provision of specific NI guidance on the process of developing a BID (similar to the Association of Town Centre Managers (ATCM) 10 step BID plan).

In terms of support, a number of respondents (46%) felt that the Department should provide an element of funding to help with the initial stages of BID development as happens in Scotland where a BIDs development Grant of £20k is available.

As well as clear and unambiguous guidance, some respondents (14%) would wish the Department to have in place a central point of contact that can provide support and guide businesses and councils in the development of their BID proposals.

DSD response

DSD proposals were centred on the desire to put in place arrangements which would enable local businesses, working closely with local councils, to come together to improve their area. A Business Improvement District would allow businesses within a defined area to vote for collective investment in specific additional services in order to improve the commercial environment within that area. The operation of a successful BID can bring benefits to everyone in the community.

On that basis DSD is proposing to put in place a fairly straightforward piece of enabling legislation which would allow BIDs partnerships to be set up and operate successfully. DSD recognises the need for some central guidance but is also keen to ensure that it gets the balance right between what is provided for in guidance and what can be decided locally.

There was a degree of support for the idea that government should provide an element of funding to help with the initial stages of the BID development. The Department will consider this issue further when arrangements are being developed.

The Department recognises the need to have in place adequate information, advice, guidance and support as BIDs are being developed and will ensure that these are put in place.

List of respondents to the proposals on Business Improvement Districts

Antrim Borough Council	Ballymena Town Centre Development Company
Ards Borough Council	Bangor & Holywood Town Centres Limited
Armagh City Council	Belfast Chamber of Trade & Commerce
Ballymena Borough Council	Belfast City Centre Management
Ballymoney Borough Council	BOOTS Alliance
Banbridge Council	British Retail Consortium
Belfast City Council	Coleraine Town Partnership
Coleraine Borough Council	Confederation of British Industry (CBI)
Cookstown District Council	Dungannon Regeneration Partnership
Craigavon Borough Council	Federation of Small Businesses (FSB)
Down District Council	Larne Traders Forum
Fermanagh District Council	Northern Ireland Federation of Housing Associations (NIFHA)
Lisburn City Council	Northern Ireland Housing Executive (NIHE)
Magherafelt District Council	Northern Ireland Tourist Board
Moyle District Council	PSNI
Newry & Mourne District Council	Roe Valley Chamber of Commerce
Newtownabbey Borough Council	
North Down Borough Council	
Alliance Party	
Armagh City Centre Management	
Association of Town Centre Managers	

Synopsis of Key Points – Business Improvement Districts (BIDs)

Consultation Briefing

- The Department issued for public consultation its proposals for the introduction of BIDs legislation in Northern Ireland on 01 December 2010. A summary of the proposals is attached. The consultation closed over 12 weeks later on 28 February 2011 and attracted 37 written responses.
- The consultation paper set out proposals for the operation of BIDs in NI and asked specifically for comment on; the roles of local councils and the Department; prescription in secondary legislation, non-inclusion of landlords, the voting system, areas for local discretion and Departmental support and guidance.
- In summary, there was overwhelming support from respondents for the introduction of BIDs legislation in Northern Ireland. However there were a few issues raised that will require further consideration as the arrangements are being developed.
 - **The billing, collection and enforcement of the BID levy;**
 - Respondents would prefer that LPS take on this role.
 - **The Departments role in promoting BIDs in Northern Ireland;**
 - Respondents would like the Department to be a “BID Champion”, similar to central government’s role in Scotland.
 - **Funding of BID proposals.**
 - Respondents would like the Department to fund the development costs of the BID proposals.
- We hope to seek Executive agreement in September to proceed to draft the Primary Legislation for BIDs and have it in place in 2012, with the necessary Secondary Legislation to follow.

Background - Business Improvement Districts (BIDs)

1. A Business Improvement District (BID) allows businesses within a defined area to vote for collective investment in specific additional services in order to improve the commercial environment within that area. Additional services or projects are funded by a local business levy and all businesses within a potential BID have the opportunity to vote on proposals before the levy is imposed. Proposals are developed by local business-led partnerships, usually in co-operation with the local council. The BID levy offers a sustainable source of finance to fund additional services or projects required by the local business community.
2. The BID levy is best understood as an investment which businesses collectively make in their area in order to fund services which they feel will directly benefit the local economy. It is not an additional tax and is not intended to replace public investment in the area. The BID model is very flexible and has been used elsewhere to support diverse services and projects ranging from additional cleansing and security measures to marketing campaigns or collective bargaining for shared services.
3. Legislation to allow Business Improvement Districts (BIDs) is already in place in England, Wales, Scotland and the Republic of Ireland. The previous Social Development Committee had recommended the introduction of BIDs legislation in Northern Ireland in its enquiry into Town Centre Regeneration.
4. BIDs can currently operate in Northern Ireland on a voluntary basis. This means that businesses can opt to pay a levy, but those who refuse may still reap the benefits of the additional services delivered in their area. Putting legislation in place to enable statutory BIDs would mean that all

businesses within the defined BID area would be balloted over whether a BID should be in place, and would then be legally required to pay the levy if the BID proposal was successful.

5. In summary it is proposed that primary legislation should:
 - Allow a local council to define a BID within their council area or in cooperation with a neighbouring council;
 - Require a council to set up a ring-fenced BID revenue account to hold funds raised by the local levy;
 - Require that BID proposals be formally compiled and put to a vote via an official ballot;
 - Specify those entitled to vote in the ballot (non-domestic rate payers within the proposed BID area);
 - Specify the conditions for approval of a ballot. The interests of large and small businesses are to be protected by a voting system which requires a simple majority in both votes cast and rateable value of votes cast in order to be successful. BID proposers in a given area may specify that they wish to set a higher threshold;
 - Allow a local council to veto BID proposals in certain exceptional circumstances (e.g. if proposals are considered to significantly conflict with existing council policy or if they are likely to impose a disproportionate financial burden. In the event of a council exercising this veto the BID proposers would be able to appeal to the Department;
 - Specify the maximum timeframe (five years) for a BID to operate before needing to be resubmitted to a ballot.

6. The Department will be developing secondary legislation covering, for example, procedures governing the development of BID proposals and rules governing ballots. The intention however is to ensure that the legislation remains flexible enough to allow local discretion and the

development of local solutions. For example questions about the rate of the proposed levy and the purpose to which it will be put are entirely a matter for the local BID partnerships.