



Cookstown DISTRICT COUNCIL

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20 September 2012

Committee Clerk
Room 412
Parliament Buildings
Ballymiscaw
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BELFAST
BT4 3XX

Dear Sir/Madam

Re: Business Improvement Districts (BIDs) Bill (Bill 9/11-15)

I attach herewith consultation response from Cookstown District Council to the Business Improvement Districts (BIDs) Bill number 9/11-15.

If you have any queries, please do not hesitate to contact Council's Economic Development Manager, Fiona McKeown on 028 867 62205, Ext 215.

Yours faithfully

ADRIAN McCREESH
CHIEF EXECUTIVE (ACTING)

**Business Improvement Districts (BIDs) Bill
(9/11-15)**

**Response from Cookstown District Council
20 September 2012**

CONSULTATION RESPONSE TO BUSINESS IMPROVEMENT DISTRICTS BILL

Clause 1 : Arrangements with respect to business improvement districts

Council welcomes the introduction of legislation that will enable District Councils to make arrangements for business improvement districts. We particularly support the flexibility of the Bill which allows BIDs to be linked thematically or be located near to one another without being wholly adjacent to each other. Such legislation will create and add value to the existing and ongoing work of Local Councils and other partners such as the Department for Social Development, to reinvigorate and regenerate our town centres, which play a pivotal role in determining the economic health of our economy.

Clause 2 : Joint arrangements

Council welcomes this Clause which permits the Department to make regulations outlining the procedure for when a BID proposal covers an area lying within the boundaries of two or more District Councils. This provision is very timely as Local Government approaches RPA given that we are entering an era of partnership working and shared services. Additionally, it may also prove beneficial in maximising the amount of revenue generated in delivering a joint BIDs scheme.

Clause 3 : Additional contributions and action

Again Council would support the flexibility this Clause offers in allowing District Councils, and any other person identified in the 'BID arrangements', to make voluntary financial contributions towards funding a BID project. Whilst there are already immense pressures upon local government funding, it is recognised that in some instances, an element of partner funding may be required, to make a BID proposal, an economically viable proposition.

Clause 4 : Duty to comply with arrangements

This Clause places a duty on a District Council to comply with the BID arrangements, once these are in force. The key ingredient to ensuring this process is successful will rely on developing close collaborative relationships with local government. The legislation places an enormous responsibility upon local government but lacks sufficient information on the delivery mechanisms involved and the liability risks.

Clause 5 : BID proposals

This Clause ensures that a BID project will only go ahead if the BID proposals have been approved by a ballot of those ratepayers identified in the BID proposals, hence the need to ensure that all eligible ratepayers are clearly outlined from the outset so they can partake in the ballot. Furthermore, this Clause also allows the Department to set out in regulations the persons who can draw up BID proposals; the procedures for consultation, including who can be consulted on the proposals; the procedures which a person taking forward a BID arrangement should follow when drawing up BID proposals; what should be outlined in the BID proposals; when the BID arrangements would commence; the circumstances in which disclosure of relevant information must be made by DFP; the purpose(s) for which this information may be used; and provides for the creation of offences and penalties in relation to the unauthorised disclosure of any data provided by DFP. Council welcomes that BIDs proposals developed under the new legislation will ensure a strong uniform delivery structure across Northern Ireland. Cognisance however should be focused on the volume and extent of work involved in the BIDs process, and therefore, it is absolutely critical that close working arrangements are established at an early stage with local government to consider the content and feasibility of BIDs proposals.

Clause 6 : Entitlement to vote in ballot

This Clause requires the BID proposer to provide a statement to the District Council that lists all those who will be eligible to vote in the BID ballot. The choice of who can vote is ultimately determined by the names appearing in the statement prepared by the BID proposers and the decision of who appears on the list is vested in the BID proposers. A person will be eligible to vote if he is chargeable to rates in respect of a property on the Net Annual Valuation list within the BID area. Council concurs with the content of this Clause as it establishes a clear process on how entitlement to vote is determined.

Clause 7 : Approval in ballot

This Clause sets out the conditions that must be met before a BID ballot can be regarded as approved, which are;

- a) A majority of the votes cast are in favour of the BID proposal
- b) At least 25% of those entitled to vote have done so
- c) Those who vote in favour represent a great aggregate of net annual value than those who vote against
- d) At least 25% of the aggregate of the net annual values of all hereditaments in respect of which an eligible ratepayer is entitled to vote, have done so.

Council welcomes the clear and transparent structure which sets out the conditions to be met for a BID ballot to be approved. This represents good practice, and is fitting with how the legislation has been implemented across the United Kingdom.

Clause 8 : Approval in ballot – alternative conditions

At this juncture, Council would not be in favour of introducing alternative conditions to secure the approval of a ballot, given that BIDs are a relatively new phenomenon in Northern Ireland and any attempt to add further procedures to an already complex process may only serve in complicating the process.

Clause 9 : Power of veto

This Clause sets out the right to veto Bid proposals on a District Council. It requires the District Council to notify the BID proposers whether or not it will use its veto, and to provide reasons for that decision, including where the veto has not been applied. Clause 9 also provides that the circumstances in which the District Council may veto a BID proposal may be prescribed by the Department and that the Department may also prescribe the matters which the District Council must consider before it may veto a BID proposal. Where a veto is applied, the ballot will not take place. District Councils are also required to inform the person drawing up the BID proposals that he has the right of appeal against the veto to the Department. The District Council must also notify the BID proposer of the details of that right of appeal. In this instance, Council is in favour of having provision included for 'power of veto' which could be exercised, should a unique set of circumstances arise.

Clause 10 : Appeal against veto

This Clause allows any person who was entitled to vote in the BID ballot to appeal to the Department against a District Council's decision to veto BID proposals. The Department will be able to make further provision via regulations as to the process behind an appeal. Council concurs that in developing the legislation, there is a need also make provision to permit appeals against a veto, however, it is essential that the regulations surrounding such are developed in partnership with local government.

Clause 11 : Commencement of BID arrangements

This Clause provides for the BID arrangements to come into force on the day detailed in the BID proposals. It also places a duty on the District Council to ensure the BID arrangements commence on the relevant day. With regard to the last sentence, it is Council's opinion, that BID arrangements commencing on a given day, is the responsibility of the BIDS company which has been formed, and not the responsibility of Council.

Clause 12 : Imposition and amount of BID levy

This Clause provides that a BID levy can only be raised while BID arrangements are in force, and provides that the levy is to be calculated in accordance with the arrangements. The BID levy is not limited to being calculated on the basis of rateable value. It could for example be a flat rate levy. This clause also allows a BID levy to be different for different classes of ratepayer, which means relief(s) could be provided from BID levy. Subsection (5) requires

BID proposals to state whether the costs of developing the BID proposals and holding of the ballot are to be recovered through the BID levy.

Careful consideration needs to be given to the amount of the levy to be applied. In Northern Ireland the towns are quite small in scale in comparison to the larger BID towns and cities across the UK, which currently have schemes operating. Additionally, many provincial towns in NI have high concentrations of independent retailers and imposing a further substantial levy on them may result in them 'closing up shop'. Some flexibility may need to be applied as a 'one size is not likely to fit all'. Finally, when BID companies/teams are developed, options should also be explored to determine if other 'added value opportunities' could arise from such clusters of businesses working together as a cohesive group. This would not only help to cement the core BID team but also assist in underpinning the sustainability of businesses in the medium/long term.

Clause 13 : Liability and accounting for BID levy

This Clause provides that BID proposals must specify who is liable for the BID levy, and that a person's liability is to be determined in accordance with the BID arrangements. It further specifies that all levy monies be paid directly to the District Council which made the BID arrangements in question. Council highly recommends that cognisance is given to existing local arrangements already established in terms of town centre regeneration. In many instances throughout NI, Town Centre Forum's already exist, which deliver a range of urban regeneration initiatives in conjunction with local Councils. Some form of flexibility needs to be embedded into the BID legislation to take account of these excellent working arrangements already in place.

Clause 14 : BID Revenue Account

The Clause requires a District Council to open an account which is exclusively used to hold all revenues pertaining to a particular BID arrangement. This clause also gives the Department powers to make further provision relating to the BID account by regulations. Council has much experience in managing and administering funding from a variety of sources and the requirement to hold a separate account/budget for different revenue streams. Again, as in Clause 13, attention needs to be paid to existing local arrangements already in place which are working well. Further consultations should take place with Councils to ensure an optimum solution is achieved which is acceptable to all.

Clause 15 : Administration of BID levy etc

This Clause provides that the Department may make regulations governing the imposition, administration, collection, recovery and application of the BID levy. First and foremost, Council believes that further discussions need to take place with the local government sector to ensure that the arrangements are fitting both now and in the future, as we approach RPA.

Clause 16 : Duration of BID arrangements etc

This Clause sets a maximum time limit for BID projects of five years. It also provides for BID arrangements to be renewed, but only where a further ballot is approved under the same conditions as outlined in Clause 7 or Clause 8, if alternative conditions used. This Clause also allows the Department to make regulations setting out the procedure for alteration and termination of BID arrangements. Council considers the five year time scale to be reasonable, however, would suggest that perhaps a one year extension can be added (where required) to allow projects which are nearing completion to be finalised. This may be appropriate, given that new RPA arrangements will also be introduced during the first BIDs tenure in NI, and some flexibility should be built-in to take account of this.

Clause 17 : Regulations about ballots

This Clause allows the Department to make regulations governing the ballot process, particularly, but not exclusively, in relation to;

- a) The timing of ballots
- b) The persons entitled to vote
- c) The question to be asked in a ballot
- d) The allocation of votes to those eligible ratepayers entitled to vote in a ballot
- e) The form that ballots may take
- f) The persons who are to hold ballots
- g) The conduct of ballots
- h) Allowing the Department to declare ballots void in cases of material irregularity
- i) Enabling a District Council to recover the costs of a ballot

Council believes the proposed regulations governing the ballot process needs to be developed in conjunction with local Councils, as this will be key in determining its success.

Clause 18 : Power to make further provision

This Clause allows the Department to make consequential and transitional provisions where necessary. Council understands the need for such provisions but again would urge that early consultations are held with the local government sector to ensure their acceptability and operational practicality.

Clause 19 : Further provision as to regulations

This Clause provides that any regulations made in the Bill are subject to negative resolution procedures in the Assembly, other than regulations under Clause 9. Draft affirmative procedure is required for regulations under;

- Clause 2 (1) (where they contain provision which modifies other legislation)
- Clause 5 (2)(f)(iii) (the creation of offences and penalties in connection with any unauthorised disclosure of such information)
- Clause 9 (3) (circumstances in which the District Council veto may be exercised) and
- Clause 18 (1) (where they contain provision amending any other statutory provision).

Again, Council cites the need for early co-operation and consultations with the local government sector in pursuance of the above Clauses.

Clause 20 : Crown application

This Clause provides that the Bill applies to the Crown. Council has nothing further to add regarding this Clause.

Clause 21 : Interpretation

This Clause provides definitions of the terms used in the Bill. Council has nothing further to add regarding this Clause.

Clause 22 : Short title

This Clause provides that the new legislation shall be known as the Business Improvement Districts Act (Northern Ireland) 2012. Council agrees with this Clause.