

Any more BIDs?



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Introduction

Business Improvement Districts (BIDs) are partnerships between local businesses and local authorities which aim to improve defined commercial trading areas by providing additional services funded collectively by business rate payers. A North American import, the UK's first BID was put into operation with much fanfare in 2004 and there are now more than 240 operational BIDs across the UK. But how successful has the scheme proved to be in terms of regeneration in the UK?

Born in the USA... or Canada

BIDs have been used in various guises to focus regeneration efforts on specific 'business neighbourhoods' in North America since the 1960s. The first BID was established in Ontario, but arguably those launched in New York City, such as in Times Square, Harlem and the 14th Street-Union Square neighbourhood, have had the highest profile, and many argue that all have resulted in significant regeneration of the local environment. BIDs have since been established worldwide, including in Germany, New Zealand, Australia, South Africa and Japan.

BIDs in the UK

Central Government in this country has seen BIDs as an attractive 'import' – a way of fostering co-operation between local authorities and local businesses for the good of local communities.

Following the announcement in 2001 to legislate the creation of BIDs in the UK, a pilot scheme was run in 22 locations in England and Wales between 2002 and 2005. The intention was to follow the US model by allowing individual BIDs to be flexible and 'tailor-made' to focus resources on the specific needs of the particular business community and to encourage autonomy, but with local authority 'back-up' to ensure that the schemes would 'self-fund' improvements.

Given the US experience, introducing BIDs in Britain was seen as a relatively tried-and-trusted method of attracting private-sector funding for improvements in the public realm and promoting opportunity for general business growth.

Envisaged enhancements included:

- Regeneration of commercial districts that have become rundown or would benefit from focused, area-specific and needs-specific improvements
- Marketing and promotion for the BID area, including programmes of special events (e.g. food tasting, discount schemes, town centre vouchers)
- Better transport and access, for example by funding and promoting existing Park and Ride schemes

- Higher business profile, increased visitor/customer numbers and economic growth
- Effective management of public spaces in commercial areas (e.g. a Bristol BID developed and built a new street)
- The establishment of lasting improvement schemes run by a business community for that business community, with the added bonus of benefits for the wider community
- A cleaner environment and improved rubbish collection services
- Safer streets thanks to crime-deterrent measures, the installation of CCTV, night watchers and better lighting.

The bare necessities

The Local Government Act 2003 gave local authorities in England and Wales the power to approve the formation of a BID (if local businesses agree) and to collect the 'BID levy' that will fund improvements. The Business Improvements District (England) Regulations 2004 (as amended by the Business Improvement Districts (England) (Amendment) Regulations 2013) set out the requirements for establishing BIDs in England. There are several key points to consider:

1. Who can set up the BID?

The BID can be proposed by any non-domestic ratepayer, property owner, local authority or other "stakeholder" with an interest in the BID area.

2. The purpose of the scheme

The BID must aim to carry out specified projects for the benefit of the BID district or those who live, work or carry on any activity in it. Its primary focus will be on business in its area.

3. The scheme proposal

The 'BID Proposal' or 'Business Plan', which is drawn up by a BID board, must identify the area and the issues and must include:

- The suggested projects that will be undertaken and the services to be performed (e.g. recycling, business support, better infrastructure)
- The delivery targets the BID must meet and the performance indicators against which it will be



judged

- The 'vehicle' through which it will operate
- The management structure

Once it has been drawn up, the proposers must hold a consultation on the 'BID Proposal' or 'Business Plan' to seek the views of the non-domestic ratepayers in the BID area, who would be liable to pay the levy. It will then become legally binding once a ballot has been held and won, and it will form the framework within which the BID will operate.

4. The ballot

A proposed BID scheme can only be established if it is approved by a ballot of those non-domestic ratepayers in the BID district who will be liable to pay the BID levy. Certain small businesses and charities can be excluded from paying the levy and therefore from voting in the ballot. This ballot is run by the local authority, which may alternatively outsource it to a third party. There is no minimum turnout threshold. In order to get the go-ahead, a BID must clear two hurdles, which have been put in place to protect the interests of both large and small business:

- A simple majority of those voting must be in favour
- The aggregate of the rateable values of the premises of those voting in favour must exceed the aggregate of the rateable values of those voting against.

The enabling local authority may, in prescribed circumstances, veto BID proposals, for example if the BID scheme conflicts with other plans formally adopted by the local authority or other council policy. There is then a right of appeal to the Secretary of State for Communities and Local Government within 28 days of the result of the ballot being published.

5. The BID levy

The legislation is very flexible so that, while projects must be financed (in whole or in part) by a BID levy imposed on the non-domestic ratepayers (or a class of them) in the district, the local authority and land owners may make financial or other contributions. Usually, BIDs charge a levy rate of between 1% and 4% of rateable value, but there is no fixed rate. Some

BIDs, for example, have opted for higher levies, especially those locations with lower rateable values, such as industrial areas, and some have started using a banded system, whereby businesses are grouped together according to their rateable value and the levy will be a percentage of that rateable value.

The levy is paid to the 'enabling' local authority and 'ring-fenced' into an account called the 'BID Revenue Account' for spending only on the BID. Detailed regulations set out precisely how the local authority goes about collecting the levy.

6. Establishment of the BID and Collection of the Levy

Following a successful ballot, the levy becomes mandatory for all eligible businesses and is treated as a statutory debt. The BID enters into what is known as an 'Operating Agreement' with the local authority. The local authority will manage how the levy monies are collected, administered and passed over to the BID.

Local authorities' powers to secure payment of the BID levy are broadly in line with those applying to the collection of non-domestic business rates. Ultimately, if the levy is not paid, the council may take recovery action through the Magistrates Court.

7. Start date

The start date will be specified in the BID proposal. The enabling local authority must ensure that all necessary arrangements are made to meet the start date.

8. Duration

BID schemes operate for a maximum of five years, but a renewal ballot process can be undertaken to secure another term of up to five years. This operates under broadly the same system as the original BID ballot, but there is scope to amend a BID at the renewal stage if necessary (e.g. by altering the BID area or amending who amongst the non-domestic ratepayers is liable for the levy).

9. Delivery

The organisational and management structure of the BID will be central to the BID proposal. The regulations do not require BIDs to adopt a particular structure. They do, however, require BID proposals to indicate the type of body that will be

providing the services. Of the BIDs that have so far been established, the most common structure is a company limited by guarantee. This has several advantages:

- In the event of insolvency, the liability of members is limited to a nominal amount
- They can be established as non-profit-distributing, or can make profits that must be reinvested in the company
- They operate in a modern statutory framework that the private sector is familiar with.

Further regulations?

The Secretary of State has a wide discretion to make further regulations concerning the establishment and operation of BIDs. The level of further regulatory control will no doubt depend on the success of the fledgling BID schemes and the suitability of the original legislative framework generally.

Who benefits and who has the power?

When the legislation was introduced the Government said that "those businesses that benefit from the improvements will contribute to the cost", i.e. even if they may not have been in favour of establishing the BID.

However, the question of who benefits depends on the particular BID and, arguably, it is those with the greatest power to establish and control a BID who really take the benefits, as they can decide and direct what they want for the area in question. Improving an area might marginalise smaller businesses and residents (especially those excluded from the BID) who may be forced to move to non-gentrified areas as rents and house prices rise.

In addition, commercial landlords who contribute to a BID (they can't be compelled, as explained below) are likely to want plenty of say in its running. Landlords contributing directly to a BID often have seats on the BID Board, while those who contribute by subsidising their tenants' levy payments can influence the BID arrangements by having a say in the tenants' vote. As you would expect, the extent to which the vote is ceded to the landlord often reflects the extent of the subsidy.



Who foots the bill?

BIDs provide an opportunity for businesses to improve their community and their profits through self-funding. Additionally, local authorities may choose to make a direct contribution to individual BID schemes from their existing resources, either through expenditure or grants, or by the provision of services. There is nothing to stop others contributing on a non-mandatory basis.

A key difference to note between BIDs in England and Wales and certain BIDs elsewhere is that it is imposed on business occupiers and not property owners - i.e., commercial landlords. Diluting the funding potential of BIDs in this way may deter those who might want to bring forward BID proposals and leave others to press on regardless under-funded.

Many, not least many property investors themselves, argue that the "stakeholder" concept should extend to all those who benefit from the establishment of BIDs. Commercial landlords are a key group who stand to gain if an area is upgraded and can take a long term view on increases in property values flowing from regeneration.

In terms of improvements to the BID schemes, some argue that the involvement of commercial landlords in BID arrangements is desirable in respect of the expertise they could bring to the project. Legislation in England and Wales has not specifically tackled this, but the involvement of landlords can nonetheless be secured through practical measures such as voluntary financial contributions and involvement from landlords, either directly to the BID or to the occupiers' payments.

Another "stealth tax"?

Many businesses argue that the lack of flexibility around raising revenue means that, for many, the levy will represent nothing more than a further financial thorn in their side.

Although BID initiatives are a means of providing "special" services, which must be additional to those provided by the local authority, detractors have argued that certain services should be provided by the local authority in any event.

Recent developments

Business Rate Supplements and BRS-BIDs

Upper-tier local authorities in England and Wales are empowered by the Business Rate Supplements Act 2009 to levy a supplement to business rates in order to fund big infrastructure projects. A notable example of this is the Business Rate Supplement (BRS) levied by the Mayor of London as part of the financing of Crossrail.

During the passage of the 2009 Act, concerns were raised about the potential damage to funding for BIDs because BID members who were not exempt from the supplement would not wish to contribute to both. A new type of BID, known as a BRS-BID, was hence introduced via amendments to the BRS Bill. BRS-BID arrangements may be set up in areas of England which have both a BRS and a BID and enable a levy to be additionally imposed on property owners. The BRS-BID payments may be used as further income for the BID project or, alternatively, levying authorities can at their discretion offset a BID liability against the BRS. In its white paper on rate supplements, the Government stated that this decision should be taken locally.

Scotland and Northern Ireland

BIDs are part of a devolved subject area. The Planning etc. (Scotland) Act 2006 constitutes the primary legislation for the introduction for BIDs in Scotland and the Business Improvements Districts (Scotland) Regulations 2007 provide much of the detail. In Northern Ireland, the Business Improvement Districts (General) Regulations (Northern Ireland) 2014 came into force on 1 July 2014. These are very similar to their English and Welsh counterparts.

Consultation for further BIDs

On 25 March 2015, the government launched a consultation on its proposal for strengthening BIDs. The consultation closed on 19 June 2015 and the government is currently analysing feedback.

Evaluating the success of BIDs in Britain

Since their introduction, UK BIDs have generally been regarded as a success, broadly managing to attract additional investment and achieve their individual objectives. Currently, there are over

240 BIDs in operation in the UK. The total BID levy income across the UK and Ireland in 2014-15 was £80.1 million. BIDs are also reported to have raised a further £62 million in this period from other sources.

A briefing paper issued by the House of Commons on 7 November 2016 reports that the national association of BIDs, British BIDs, ran its annual survey in 2015 of 203 BIDs, of which 166 provided a response. The survey revealed that:

- 87% of levy rates are 2% or less.
- 202 BIDs have a five-year term and one, Lancaster, has a three-year term.
- 50% of BIDs provide a charity discount.
- 39% of BIDs provide a shopping centre discount.
- Average annual levy income is £314,704. The lowest is £34,000 and the highest is £3.6 million.

BIDs were initially established as economic drivers rather than philanthropic projects, but a case has been made for more socially conscious BIDs. The BID in Reading town centre, for example, has developed an economically viable programme that works alongside the local community in order to make the area more inclusive of new immigrant groups, the disabled and pensioners, while London Bridge BID has a small grants fund used to foster connections between the community (particularly youth groups) and local business members. Also, the BID Loan Fund scheme was launched on 14 October 2013, making £500,000 available to help communities and business groups to establish BIDs.

The scheme is run by British BIDs and offers loans of between £10,000 and £50,000. Sixteen areas have been awarded loans so far.

BIDs continue to be encouraged by the current Government. With the recent Government spending cuts, the finite resources of local authorities have become even more limited, which suggests it is likely that responsibility for maintaining the quality of local commercial space will fall increasingly upon the shoulders of local businesses and the BID programme will continue for some time.

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