

THE HIGHLAND COUNCIL

PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE

18 SEPTEMBER 2013

Agenda Item	8
Report No	PED 57/13

LOCHABER TOURISM BUSINESS IMPROVEMENT DISTRICT

Report by Director of Planning and Development

Summary

This report offers a formal assessment of the Lochaber Tourism Business Improvement District proposal relative to the Council's right of veto in accordance with the Planning etc (Scotland) Act 2006 and the Business Improvement Districts (Scotland) Regulations 2007.

1. Introduction

- 1.1 A Business Improvement District (BID) is a business led initiative where businesses work together and invest collectively in local services and improvements in their business environment. A BID is funded by businesses through a levy calculated on their respective non-domestic rates valuation. The resulting improvements and services are additional to those provided by public sector organisations such as the local authority, enterprise agency or VisitScotland. A BID is only introduced once it has been put to a democratic vote involving all eligible businesses and when at least 50% of all businesses involved are in support of it and they in turn represent more than 50% of the rateable value of the BID area.
- 1.2 Living Lochaber – a business led organisation, has initiated a BID process and has over the past year been active in developing a BID proposal for the Lochaber area. It is proposed that a BID ballot will take place on 28th November 2013. The Council will, as an affected tenant and property owner, have the opportunity to consider the merits of the BID proposal and determine whether it wishes to support the BID or not. A report outlining the BID process and summarising the BID proposal was presented to the Lochaber Area Committee on 26th August 2013 and a follow up briefing to Lochaber members was scheduled for 9th September 2013. Formal consideration as to whether the Council is in support or not for the BID will be considered by the Highland Council on 24th October 2013.
- 1.3 However, the Planning etc (Scotland) Act 2006, Part 9 – Business Improvement Districts, gives the Council the Power of Veto over a BID proposal and hence determine whether a ballot shall be held or not. The Council is required to consider a BID proposal within a prescribed period (70 days before the day of the ballot) and give notice that it is or is not going to veto the proposal.
- If exercising a veto, the local authority must set out the reason why and give details of the right of appeal.
 - If not exercising a veto, the local authority must set out its reasons for not doing so.

The circumstances when a local authority can exercise its veto are prescribed in the Act and the Business Improvement Districts (Scotland) Regulations 2007.

- 1.4 For the avoidance of doubt, Members should be clear that the assessment they are being asked to make at this Committee relates to the Council's right of veto as per the legislative 'prescribed circumstances' and does not relate to the merits or otherwise of the BID proposal and whether the Council is supportive or not of paying a BID levy. Experience with the two previous Inverness BID ballots, has demonstrated the benefit of keeping and dealing with these two matters separately.
- 1.5 For Members' information however, the BID will, if businesses vote to introduce it, deliver the following services:
 1. Enhance our infrastructure. Examples include:
 - a major digital entertainment venue (cinema) in Fort William
 - new marine launching sites across Lochaber
 - joining up walking routes and extending the path/cycle track from Glencoe to Kinlochleven.
 - making the most of iconic assets through signage and interpretation
 2. Promote local events. Examples include:
 - a full-time Lochaber Events Co-Ordinator
 - development of new events
 - expanding the range of events to include heritage, musical and sporting events.
 3. Provide dedicated marketing support. Examples include:
 - Market research
 - A planned and consistent programme of e-mail marketing
 - creating an interactive on-line itinerary planner
 - creating and supporting a series of marketing initiatives which highlight the range of natural environments
 - building a resource of high quality stock images and videos of Lochaber
 4. Create a better business environment. Examples include:
 - harnessing the collective purchasing power of BIDs to deliver savings
 - networking and collaboration
 - lobbying on behalf of business
 - undertaking research

2. Assessment

- 2.1 An assessment of the BID proposal against the prescribed circumstances as set out in the Planning etc (Scotland) Act 2006 and associated Business Improvement Districts (Scotland) Regulations 2007 is set out in Appendix 1. At the time of writing this report the Council has consulted with both the Scottish Government and BIDs Scotland. If any comments are received which impact on the assessment made, they will be reported verbally to Committee.

- 2.2 Consideration of the proposal submitted to the Council did raise points which the BID will require to address prior to a ballot but which do not relate directly to the Council's right of veto, namely:
- Further updating of some of the records in the ballot database is required.
 - There is a need to get baseline services agreements from other relevant public sector organisations.

Accordingly the Council has raised these issues with the steering group but they do not form part of or impact on the assessment set out in the appendix.

- 2.3 When undertaking this assessment the Council must remain impartial and ensure that the BID proposal is applied in a fair and non discriminatory manner and does not undermine established Council policies as they apply to the area.

3. Conclusion

- 3.1 It is considered that on the basis of the BID proposal submitted, there are no grounds for the Council to exercise its veto. The assessment made in Appendix 1 sets out, as required by the Planning etc. (Scotland) Act 2006, the reasons as to why this is the case.

- 3.2 It can be anticipated however, that some businesses may have concerns or queries that have not been addressed by this assessment and the conclusions reached. Such concerns or queries are for the BID proposers to answer and as such for the Council's part as a potential levy payer, will be considered at the Council meeting on 24 October 2013.

4. Implications

- 4.1 There are no Resource, Legal, Equalities, Climate Change/Carbon Clever or Risk implications arising directly as a result of this report.

Recommendation

Members are recommended to approve the assessment made in Appendix 1 relative to the Lochaber BID proposal and agree not to exercise the Council's right of veto.

Signature:

Designation: Director of Planning and Development

Date: 2 September 2013

Author: Andy McCann, Economy & Regeneration Manager
Colin Simpson, Tourism Co-ordinator

APPENDIX 1:

Lochaber Tourism Business Improvement District Proposal Assessment of Proposal against the Council's Power of Veto

The Planning etc (Scotland) Act 2006, Part 9 – Business Improvement Districts, gives the Council the Power of Veto over a BID proposal and ensures that no ballot shall be held. The local authority is required to consider a BID proposal within the prescribed period - 70 days before the ballot date (in the circumstances of the Lochaber BID proposal this must be by Thursday 19th September 2013) and give notice that it is or is not going to veto the proposal.

- If exercising a veto the local authority must set out the reason why and give details of the right of appeal.
- If not exercising a veto then the local authority must set out its reasons for not doing so.

The circumstances when a local authority can exercise its veto are prescribed in the Act and the Business Improvement Districts (Scotland) Regulations 2007. This assessment is structured around these prescribed circumstances.

Planning etc (Scotland) Act 2006	
The prescribed circumstances are that the local authority consider that the BID proposals are likely:-	
42 (4)(a)	<p><i>'to conflict with any structure plan, local plan, strategic development plan or local development plan which has been approved or adopted under the principal Act and which applies to the proposed business improvement district or any part of it'</i></p> <p>The ambitions of the Lochaber BID complement the development policies of the Highland-wide Local Development Plan and the retained elements of the West Highlands and Islands Local Plan and none of the actions proposed in the BID business plan conflict with these development plans.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
42 (4)(b)	<p><i>'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 are under a statutory duty to prepare such a document)'</i></p> <p>While there is a national Tourism Strategy in place and a Highland Tourism Action Plan in production, there has been no formal adoption of these by the Council. However, the Council has published its Programme for 2012-17 which commits it to maximising the tourism potential of the area through working with private sector partners and through destination tourism. The development of a Tourism BID and the activities proposed in the BID Business Plan support rather than conflict with this aim.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
42 (4)(c)	<i>'to lead to a significantly disproportionate financial burden being imposed on-</i>

	<p><i>(i) any person entitled to vote in the ballot on the proposals</i> <i>(ii) any class of such person,</i> <i>as compared to other such persons or classes</i></p>
	<p>The BID proposal states that the levy rate will be a fee structure based on the rateable value of the property at the time of the ballot and throughout the 5-year term of the BID (there will be no increase in the levy amount as a result of the revaluation of the non-domestic rates in 2015). All businesses within Lochaber with a rateable value of £2,000 or more will be eligible for the BID levy with the levy paid by the occupier or the property owner where a property is vacant.</p> <p><u>Discounts</u> In recognition of the fact that this is an all sector BID and therefore not all sectors get the same level of benefit from the tourism industry or will do so from the BID, it is proposed that a levy discount is applied for non-tourism businesses. Discounts will be made in two categories:</p> <ol style="list-style-type: none"> 1. 'Commercial' for non-tourism businesses. Businesses will pay 75% of the levy for their rateable value band. 2. 'Education and Wellbeing' for businesses identified as having a public service role. Businesses will pay 50% of the levy of their rateable value band. <p><u>Levy threshold</u> The levy threshold of £2000 is low in comparison with other BIDs. However, this reflects the nature of the area with many micro businesses particularly in the tourism sector.</p> <p>The scale of charges and the sector discounts proposed recognise the variation in ability to pay and the differences in the value of the tourism sector to all businesses and the benefit the BID will bring. While it is difficult for the Council to determine if these charges and discounts have been fixed at the right level, the BID proposers have proposed a levy structure that recognises and reflects these issues. Accordingly, it is fair to conclude that the levy structure proposed does not seek to impose a significantly disproportionate financial burden on any person, business or sector.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>

Business Improvement Districts (Scotland) Regulations 2007

The prescribed matters to which the local authority shall have regard in deciding whether to exercise its veto are:–

<p>14 (2)(a)</p>	<p><i>the level of support (as evidenced by the result of the BID ballot or re-ballot, as the case may be) for the BID proposals, where this information is available;</i></p> <p>As no ballot has yet taken place support cannot be evidenced by the result of a BID ballot. However, the evidence provided in the form of consultation undertaken and the support demonstrated from a cross section of businesses suggests there is a degree of support for the formation of a tourism BID. Further</p>
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	<p>canvassing by members of the steering group is under way at present and while the support demonstrated to date does not indicate whether or not a ballot would be successful there are insufficient grounds for the Council to prevent the proposal going to ballot by use of its power of veto.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
14 (2)(b)	<p><i>'the nature and extent of the conflicts mentioned in 42(4) of the 2006 Act' (i.e. with any policy formally adopted by and contained in a document published by the authority)</i></p> <p>As outlined above there are not considered to be any conflicts with Council policies</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
14 (2)(c)	<p><i>'the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed amongst ratepayers and other eligible persons in the geographic area of the business improvement district'</i></p> <p>As outlined above the BID proposers have proposed a levy structure that is not expected to impose a disproportionate financial burden on any person, business or sector.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
14 (2)(d)	<p><i>'how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers and the other eligible persons as a result of the selection of the geographic area or areas of the business improvement district'</i></p> <p>The scale of levy charges is to be applied equally across the whole area with no geographic variation. However, the choice of a low levy threshold means a greater number of rural businesses are included. Consequently the split of voters between the urban area of Fort William (roughly defined as Fort William, Caol, Banavie & Corpach) and the rest of Lochaber is approximately, 51% Fort William / 49% Rest of Lochaber. The split based on rateable value is higher with 56% Fort William, 44% Rest of Lochaber. Since a successful ballot requires a majority both of votes cast and by combined rateable value of those voting in favour, and the evidence provided which demonstrates support across Lochaber, neither the Fort William area or the Rest of Lochaber is therefore likely to be able to dominate the ballot to the extent that the levy would be applied in one area despite that area largely voting against the proposals.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
14 (2)(e)	<p><i>'the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority ...,'</i></p> <p>A presentation on the proposed BID was given to Lochaber Members on 15th April 2013 and a report on the BID process was submitted to the Lochaber Area</p>

	<p>Committee on 26th August 2013. The Council's Senior Ward Manager, Ross Skye and Lochaber, Professional Assistant and Tourism Coordinator have all been involved in the Steering Group for the BID and have been active in helping the group develop the business plan.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
14 (2)(f)	<p><i>'the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals'</i></p> <p>The cost of developing the BID proposal has been borne by the proposers - Outdoor Capital of the UK and the Fort William Chamber of Commerce with grant aid from BIDs Scotland, The Highland Council and Highlands and Islands Enterprise. It is therefore not funded or driven forward by any one vested interest.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>