

THE HIGHLAND COUNCIL

PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE

6 NOVEMBER 2013

Agenda Item	12
Report No	PED 74/13

INVERNESS & LOCH NESS TOURISM BUSINESS IMPROVEMENT DISTRICT

Report by Director of Planning and Development

Summary

This report offers a formal assessment of the Inverness & Loch Ness 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 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 Over the past year a business led steering group drawn together by Destination Loch Ness has been active in developing a BID proposal for the Inverness and Loch Ness area (excluding the existing Inverness BID area). This process is still under way and it is proposed that a BID ballot will take place on 13th March 2014.
- 1.3 The Council will have the opportunity to consider the merits of the BID proposal and determine whether it wishes to support the BID or not, even though in this instance the Council will not be a BID levy payer. It is anticipated that consideration of this aspect will take place at the Highland Council meeting on 19th December 2013.
- 1.4 However, in advance of this 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.

- 1.5 The final date for submission of the BID proposal as prescribed in the legislation is 5th December 2013. However, the Council's timetable of Committee meetings does not fit conveniently with the legislative timetable as the Council is also obliged to notify the BID proposers as to whether or not the Council will exercise its right of veto by 2nd January 2014. Consequently the BID proposers have submitted their proposal for assessment at this time with an indication there will be no substantive changes to the proposal prior to the 5th December deadline. While it is not anticipated that the final BID proposal will alter significantly and therefore affect the assessment made, it is prudent to recognise that if any changes are made that do so, then this matter may require to be referred to full Council in December 2013.
- 1.6 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. Experience with the previous Inverness BID and the Lochaber Tourism BID proposals, has demonstrated the benefit of dealing with these two matters separately.

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.
- 2.2 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 Once the final BID proposal is received a further assessment will be required to review any changes made. Where any changes exist and they materially affect the assessment made and the Tourism BID team are unwilling or unable to amend them, this matter will require to be considered again at Council in December 2013. If this is the case then the Council's consideration of the merits of the BID proposal and its determination as to whether it wishes to endorse the BID or not, may need to be deferred until it meets again in the New Year.

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.

5. Recommendation

5.1 The Committee is recommended to:

- (i) Approve the assessment made in Appendix 1 relative to the Inverness & Loch Ness Tourism BID Proposal and agree not to exercise the Council's right of veto, subject to the final BID Proposal not materially affecting the assessment made.

If upon receipt of the final BID proposal, it is considered that changes have been made which affect the assessment made in Appendix 1;

- (ii) Delegate authority to the Director of Planning and Development in consultation with the Chair of PED to seek the necessary amendments to the final BID Proposal, failing which a further report is brought back to the Council meeting in December 2013.

Signature:

Designation: Director of Planning and Development

Date: 24 October 2013

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

APPENDIX 1:

**Inverness & Loch Ness 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 Inverness & Loch Ness BID proposal this must be by Thursday 2nd January 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 Inverness and Loch Ness BID complement the development policies of the Highland-wide Local Development Plan and none of the actions proposed in the draft BID business plan conflict with this plan.</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)	<p><i>‘to lead to a significantly disproportionate financial burden being imposed on- (i) any person entitled to vote in the ballot on the proposals</i></p>

	<p><i>(ii) any class of such person, 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 2017). All businesses within the defined area with a rateable value of £2,000 or more will be liable to pay the BID levy with the levy paid by the occupier or the property owner where a property is vacant. Only those businesses that fall within the following sectors as defined on the Valuation roll will be included:- accommodation, visitor attractions, outdoor activity providers, restaurants, water based activity providers, leisure and entertainment providers, culture and heritage centres and the airport.</p> <p><u>Levy threshold</u> The levy threshold of £2000 is low in comparison with other BIDs across Scotland but is consistent with the threshold selected for the Lochaber Tourism BID and reflects the nature of the area with many micro businesses particularly in the tourism sector.</p> <p>The scale of charges proposed, and in particular the broad range of bands included (10) recognises variations in the size of businesses and ability to pay. The total annual levy varies from £160 for the smallest businesses to £3000 for the largest. While it is difficult for the Council to determine if these charges 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>
<p>Business Improvement Districts (Scotland) Regulations 2007</p>	
<p>The prescribed matters to which the local authority shall have regard in deciding whether to exercise its veto are:-</p>	
<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. As of 22nd October 2013, steering group members have had one to one discussions with 100 businesses of which 62 (17% of the total electorate) had indicated they would vote yes. Further canvassing by steering group members 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 no 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 while the range of activities included in the draft business plan will provide benefits to all areas so costs are considered proportional.</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>An early presentation on the proposed BID was given to the City of Inverness Area Committee on 15th April 2013. The Council's City Manager, Ward 13 Manager, Tourism Coordinator and staff from the elections and assessors teams have all been involved in regular meetings with the BID proposers in the development of the BID proposal.</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 BID proposal has been put forward by the BID steering group which includes both a geographic and sectoral spread of business representatives. The Steering group has agreed that Destination Loch Ness undertake the financial management and as such the cost of developing the BID proposal has been borne by Destination Loch Ness - with grant aid from BIDs Scotland, The Highland Council and Highlands and Islands Enterprise.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>

