

Agenda Item	13
Report No	EDI/74/18

HIGHLAND COUNCIL

Committee: Environment, Development and Infrastructure Committee

Date: 8 November 2018

Report Title: Visit Inverness Loch Ness Tourism Business Improvement District

Report By: Director of Development and Infrastructure

1. Purpose/Executive Summary

- 1.1 This Report offers a formal assessment of the Visit 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.

2. Recommendations

2.1 Members are asked to:

- approve the assessment made in **Appendix 1** relative to the Visit Inverness Loch Ness Tourism Business Improvement District draft final Proposal and agree not to exercise the Council's right of veto; and
- if, upon receipt of the final BID Business Plan, it is considered that changes have been made which affect the assessment made in **Appendix 1**, delegate authority to the Director of Development and Infrastructure in consultation with the Chair of EDI Committee to seek the necessary amendments to the final BID proposal, failing which, a further report will be brought to Council on 13 December 2018.

3. Introduction

- 3.1 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. A BID is only introduced once it has been put to a democratic vote involving all eligible businesses, 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.
- 3.2 In March 2014, a range of tourism businesses in the Inverness and Loch Ness area voted in favour of the creation of a dedicated Tourism BID (TBID) for the area – the first of its kind in the UK. The TBID, known formally as ‘Visit Inverness Loch Ness’, was formed on 1 April 2014 for a fixed 5 year period. The TBID is therefore now required to undertake a ballot of its members if it is to have a second term and continue beyond March 2019. Over the last few months, the business led Board of Directors of Visit Inverness Loch Ness has been active in developing proposals for a second term. This process is still under way and it is proposed that a BID ballot will take place on 7 March 2019.
- 3.3 The Planning etc. (Scotland) Act 2006, Part 9 – Business Improvement Districts, gives the Council the Power of Veto over a BID proposal and therefore determine whether a ballot shall be held or not. The Council is required to consider a BID proposal within a prescribed period 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.

- 3.4 The final date for submission of the BID proposal to the Local Authority as prescribed in the legislation is 29 November 2018 (98 days before the day of the ballot). The last day the Local Authority can veto BID Proposals is 26 December 2018 (70 days before the day of the ballot). Visit Inverness Loch Ness have already submitted their draft final proposal for assessment and no changes are anticipated prior to the final date for submission. However, it is prudent to recognise that if any substantive changes are made to the proposal that could influence the assessment made, then this matter may require to be referred to full Council on 13 December 2018.
- 3.5 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. No Council properties are included in the BID proposal and the Council will not be a levy payer and as such does not need to consider the merits of the BID proposal in order to determine whether it wishes to

support the BID or not.

4. Assessment

- 4.1 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 detailed in **Appendix 1**.
- 4.2 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.

5. Conclusion

- 5.1 It is considered that on the basis of the draft final 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.

6. Implications

- 6.1 Legal: The process for the development of a BID and the statutory role of the Local Authority are prescribed in the Planning etc. (Scotland) Act 2006, Part 9 – Business Improvement Districts. The legislation gives the Council the Power of Veto over a BID proposal and requires the Council to consider a BID proposal within a prescribed period and give notice that it is or is not going to veto the proposal and set out its reasons why. Consideration of this report and taking a decision on whether or not to use its right of veto will ensure the Council's compliance with the legislation.
- 6.2 There are no Resource, Community, Climate Change / Carbon Clever, Risk or Gaelic implications arising from this report.

Designation: Director of Development and Infrastructure

Date: 29 October 2018

Author: Colin Simpson, Principal Officer – Europe, Tourism and Film

APPENDIX 1:

Visit 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 ensure 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 Tourism BID proposal this must be by Wednesday 26th December 2018) 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 & Loch Ness Tourism BID complement the development policies of the Highland-wide Local Development Plan and the Inner Moray Firth Local Development Plan and none of the actions proposed in the draft BID business plan conflict with these 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>The Council has published an Inner Moray Firth Local Development Plan which sets out the policies and land allocations to guide development in the Inner Moray Firth area over the next 20 years. The Council is also a contributing partner to the Highland Tourism Action Plan which the Council has adopted as the strategy that should guide tourism development until 2020. The BID proposals do not conflict with either plan and indeed will help deliver a number of the actions contained within these plans.</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> <i>(i) any person entitled to vote in the ballot on the proposals</i></p>

*(ii) any class of such person,
as compared to other such persons or classes*

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. All businesses within the defined area with a rateable value of £3,500 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.

Levy threshold

For its first term the levy threshold was £2000. However, following the rates revaluation in 2017 many small businesses who had previously fallen below the £2,000 threshold have found their rateable value increased to above the £2,000 and were thus automatically included as levy paying businesses. The Board of VILN have therefore decided in the interest of continued fairness, the entry level rateable value will be raised to £3,500 for the second 5 year term of the BID commencing 1st April 2019.

The scale of charges proposed, and in particular the broad range of bands included (10 bands as in the first BID term) 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 and this will be fixed for the 5 year term. While it is difficult for the Council to determine if these charges have been fixed at the right level, the BID have proposed a levy structure that recognises and reflects the issues of varying business size and affordability. 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.

Accordingly, there is no reason to exercise the Council's right of veto.

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:-

14 (2)(a) *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;*

As an existing BID, Visit Inverness Loch Ness already engage regularly with their members / levy payers through newsletters and business events. The consultation process for 2019 began in November 2017 when the TBID sent out a survey asking members for their initial thoughts on what new and existing initiatives should be pursued. 80 questionnaires were returned representing 15% cent of membership. A further more detailed survey was undertaken with 51 returned - a response rate of 14% cent. A summary document was sent out to all members. In a questionnaire asking whether-or-not they would support continuation of the Tourism BID for a further 5 year term 30 (59%) said Yes, 17(33%) Don't know and only 4 (8%) No.

Further to this survey the TBID also held 7 open meetings and conducted a further 70 face to face meetings with businesses. Of these 76% said they would vote Yes, 16% Don't Know and 8% No. Further engagement by Board members

	<p>and TBID staff is under way at present and while the support demonstrated to date does not indicate whether or not a ballot would be successful, the level of engagement to date suggests 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 or plans.</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 with the exception of central Inverness which is excluded as businesses in that area already pay a levy to the Inverness City Centre BID. This is considered an appropriate arrangement to avoid any business having to pay multiple levies. The range of activities included in the 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>As an existing BID Visit Inverness Loch Ness already have significant engagement with the Council. One elected member – the provost of Inverness represents the Council on the BID Board and presentations on BID activity are made periodically to the City of Inverness & Area Committee. Visit Inverness Loch Ness also host quarterly stakeholder group meetings and quarterly networking events for their membership both of which are regularly attended by Council officers. The stakeholder group meetings and networking events have included updates on the work being undertaken in connection with a second BID term.</p>

	<p>In addition, the Council's City Manager, Ward Manager and Principal Tourism and Film Officer and staff from the finance, elections and assessors teams have all been involved in meetings or discussions 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 Board which includes a sectoral spread of business representatives. Visit Inverness Loch Ness has received income from its existing levy payers as well as grant aid from a variety of partners including The Highland Council. Some of this funding will go towards the cost of developing the BID proposal but no individual business or person has had to incur any additional costs related to developing the BID proposals.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>