

Agenda Item	17
Report No	HC/47/22

HIGHLAND COUNCIL

Committee: Highland Council

Date: 8 December 2022

Report Title: Inverness Business Improvement District

Report By: Executive Chief Officer Infrastructure, Environment & Economy

1 Purpose/Executive Summary

- 1.1 This report outlines for Members a formal assessment of the Inverness Business Improvement District (BID) 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 Inverness BID Proposal and agree not to exercise the Council's right of veto.

3 Implications

- 3.1 **Resource** - No implications. However, a separate report is also being presented to The Highland Council on 8 December 2022 which addresses the issue as to whether the Council as a potential BID levy payer wishes to vote in favour or not of the BID Proposal.
- 3.2 **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.

3.3 **Community (Equality, Poverty and Rural)** - No implications.

3.4 **Climate Change / Carbon Clever** - No implications.

3.5 **Risk** – No implications.

3.6 **Gaelic** - No implications.

4 Background

4.1 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.

4.2 Members will be aware that a Business Improvement District (BID) has operated in Inverness since 2008 and it is the intention of the BID Directors to seek a fourth five-year BID for Inverness.

4.3 The Council has a statutory role to play in this process in addition to its involvement as an affected tenant and property owner. For the avoidance of doubt, Members should be clear that the assessment they make in this report 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 in paying a BID levy. A separate report elsewhere on Council agenda has been prepared and addresses this matter.

4.4 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.

5 Assessment

5.1 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**.

5.2 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.

6 Conclusion

6.1 It is considered that on the basis of the 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.

Designation: Executive Chief Officer Infrastructure, Environment & Economy

Date: 22 November 2022

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**Inverness 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 BID proposal this must be by 12 January 2023) 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 BID complement and help to deliver the strategy, policies and proposals set out in the Development Plan.</p> <p>Highland-wide Local Development Plan (HwLDP) (2012) sets a positive framework for the proposals which maintain and strengthen the vitality and viability of the City Centre (Policies 2 and 3). The Inner Moray Firth Local Development Plan (IMFLDP) (2015) builds on this position, highlighting the City Centre as a Priority Action Area and the introduction of Policy 1 Promoting and Protecting City and Town Centres. The review of IMFLDP is at an advanced stage and it again recognises the importance of the City Centre and the introduction of Policy 6 Town Centre First seeks to strengthen its role as the economic and social focal point of Inverness.</p> <p>Inverness City Centre Development Brief (2018) sets out a more detailed framework for opportunities for development, regeneration and enhancement of Inverness city centre.</p> <p>None of the actions proposed in the proposed 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>Other than the Council's Development Plan policy framework outlined above, there are no policies formally adopted by the Council which are directly relevant to the Inverness BID proposal.</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> <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 for Year 1 the levy will be 1.11% on the rateable value of the property as at the date of ballot i.e., 23 March 2023. With rateable values being updated from 1 April 2023, the BID proposer's intention in setting the ballot date rather than the start of the financial year is to ensure a higher level of certainty for levy payers. Any changes arising from the updated rateable values will apply from Year 2 onwards.</p> <p>If the rateable value for a property changes as a result of the updated rateable values a new BID levy amount will be calculated on the (new) assessed rateable valuation from 1 April for that year. There will be no adjustments to the levy charged during a year to reflect changes in individual rating values due to revaluation following an appeal.</p> <p>For Year 2 (2024-25) and subsequent years, it is proposed that the BID Board will have the discretion to increase the levy by the annual rate of inflation (CPI), but any such increase will be limited to a maximum increase of 2% per annum.</p> <p>Payment of the levy will be shared (equally) between property owners and property occupiers. An owner occupier pays the full levy.</p> <p>The exceptions are as follows and remain unchanged from the previous term:-</p> <ul style="list-style-type: none"> • properties with rateable value of less than £10,000; • empty properties do not pay the levy for the first three months; • 35% relief for Eastgate tenants and 30% relief for Victorian Market tenants; • Churches and other established places of worship are exempt; and • non-retail charities and non-commercial charities will be exempt <p><u>Eastgate and Victorian Market discounts:</u> Eastgate and Victorian Market businesses already pay a Service Charge or part of their rent for marketing, safety and cleanliness. Hence a discount is to be offered as they will not be requiring all of the BID services. Such discount is acceptable and will not through its application disproportionately impose a financial burden on others who need to pay the full levy.</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:–

14 (2)(a)	<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 an existing BID, the BID proposers already engage regularly with their members / levy payers through newsletters and business events.</p> <p>To inform the preparation of the Business Plan for the next BID term, formal consultation was undertaken with businesses by way of issuing 700 questionnaire surveys (some received two due to head office and local manager being contacted). Of the 80 responses received, 86.5% were supportive of Inverness BID continuing for a further 5 years, 9.5% were not supportive and 4% were unsure.</p> <p>At present, 523 of those sent the questionnaire were eligible voters. Of the 43 responses received from eligible voters, 37 were in favour of BID continuing (around 7%) and 6 not. This satisfies the need for the proposer to demonstrate support from at least 5% of local ratepayers before the proposal goes forward to a ballot.</p> <p>In addition to the questionnaire survey, further engagement and consultation was undertaken via Business Focus Group Sessions and 1-1's over the period August 2022 to October 2022. This allowed for a wider discussion as to issues, priorities and opportunities and the feedback received helped to shape the BID Business Plan.</p> <p>While the ultimate test for the BID proposal will come when the re-ballot takes place, the proposers have demonstrated sufficient business support to merit the holding of a ballot.</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 remains largely unchanged from the previous term and 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>

<p>14 (2)(d)</p>	<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>There are not considered to be any conflict arising from as a result of the selection of the geographic area which remains unchanged from the previous term. Adjustments specifically for the Eastgate Centre and Victorian Market are already established and accepted.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>
<p>14 (2)(f)</p>	<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. The cost of the preparation of the BID proposal is being funded through the existing BID levy and therefore is not being funded and driven forward by any vested interest.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>