

Agenda Item	9
Report No	ECI/38/2023

The Highland Council

Committee: Economy and Infrastructure

Date: 17 August 2023

Report Title: Dornoch Business Improvement District (BID)

Report By: Interim Depute Chief Executive

1 Purpose/Executive Summary

1.1 This report outlines for Members a formal assessment of the Dornoch 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:-

- i) **Approve** the assessment made in Appendix 1 relative to the Dornoch BID Proposal; and
- ii) **Agree** not to exercise the Council's right of veto.

3 Implications

3.1 **Resource** – No implications as the BID covers the one-off costs of the postal ballot (which is outsourced) and the ongoing costs of the Council's Revenues team for collecting the levy.

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 for the decision. 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, Rural and Island)** - No implications

- 3.4 **Climate Change / Carbon Clever** - No implications
- 3.5 **Risk** - No implications
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** - No implications
- 3.7 **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 can only be introduced when 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 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. A separate report which addresses this matter will have been considered at the Sutherland County Committee on 8 August 2023.
- 4.3 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.

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: Interim Depute Chief Executive

Date: 24 July 2023

Author: Douglas Chisholm, Tourism and Inward Investment Team Leader

Background Papers: None

Appendices: Appendix 1 - Assessment of Proposal against the Council's Power of Veto

**Dornoch Business Improvement District (BID) 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 Dornoch BID proposal this must be by 7 September 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 Dornoch BID complement and help to deliver the strategy, policies and proposals set out in the Development Plan.</p> <p>At a national level, the National Planning Framework 4 (2023) now forms part of the Development Plan. It sets out a range of policies which help to promote the regeneration of town centres, particularly ‘Policy 27 City, town, local and commercial centres’.</p> <p>At a regional level, the Council’s Highland-wide Local Development Plan (HwLDP) (2012) sets out support for growing and regenerating our communities. The Caithness and Sutherland Local Development Plan (CaSPlan) (2013) reflects this, with Dornoch being identified as a Main Settlement. Certain Placemaking Priorities identified for Dornoch also reflect the objectives of the BID such as environmental improvements at The Square and assisting, promoting and creating additional tourist facilities. The BID also aligns with Policy 1 ‘Town Centre First’ of CaSPlan (Dornoch being one of the designated town centres) which aims to help regeneration and enhance the vibrancy of our town centres.</p>

	<p>None of the actions in the BID Business Proposal 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>‘Our Future Highland’ (2022) sets out the Council’s agreed vision and key strategic priorities for the next five years. Although this is a strategic programme with high level priorities, certain priorities relating to ‘Place’ and ‘Economy’ in the ‘Resilient and Sustainable Communities’ section are relevant.</p> <p>None of the actions in the BID Business Proposal conflict with these priorities.</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></p> <p><i>(i) any person entitled to vote in the ballot on the proposals</i></p> <p><i>(ii) any class of such person,</i></p> <p><i>as compared to other such persons or classes</i></p> <p>The BID proposal states that the levy structure is based on the rateable value of the property at the time of the ballot (planned for 16 November 2023). All businesses within the defined area (post code area IV25) with a rateable value of over £1,000 will be liable to pay the BID levy with the levy paid by the occupier or the property owner where a property is vacant.</p> <p>The levy threshold of £1,000 has been chosen to take account of the nature of the area which has many small or micro businesses. Businesses falling under the threshold can pay a voluntary levy and become an “associate member.” Whilst this threshold is low in comparison with other BIDs across Scotland, it is consistent with Nairn BID and considered appropriate.</p> <p>Self-catering holiday accommodation which is not the sole or main residence of any person, and which is available (or intended to be available) for letting on a commercial basis will be included and liable to pay the levy.</p>

	<p>The scale of charges proposed, and in particular the 11 progressive bands proposed, recognises variations in the size of businesses and ability to pay. The annual levy rates vary from £100 for the smallest businesses to £3,000 for the largest and this will be fixed for the 5-year term.</p> <p>The BID proposal identifies certain properties which will be exempt from paying the levy, including places of worship, charitable organisations, Council operational properties, care homes, educational establishments.</p> <p>Accordingly, it is considered that the levy structure proposed does not 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>
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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;*

Evidence is provided which shows a wide range of consultation has been undertaken with businesses and local stakeholders to gauge the levels of support for the BID and to inform the preparation of the Business Proposal for the next term. This work included a dedicated Dornoch BID survey which was distributed to all businesses in the BID area, a series of in-person and online consultation events, one-to-one consultations and press coverage. This was followed up by emails, phone calls, and 1-2-1 meetings to discuss the survey and the plans for the BID.

The BID proposer also highlights that consultation is ongoing and, in the lead up to the ballot date, they plan to visit as many businesses as possible to engage further and discuss the proposed projects and services they would like the BID to deliver.

As set out in the BID Business Proposal, 47 eligible voters were in favour of the establishment of the Dornoch BID. This equates to 27% of total local levy payers and collective rateable value of the sample equates to 65% of the total within the BID boundary. 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>While the ultimate test for the BID proposal will come when the 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 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 BID area extends to the whole of the IV25 post code area and was identified through one-to-one consultations, consultation events and the survey. The BID proposer sets out how it emerged via the consultation that there were many common issues crossing different sectors in the postcode area of IV25.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>

14 (2)(f)	<i>'the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals'</i>
	<p>The BID Business Proposal has been put forward by the BID Steering Group, a subgroup of the Dornoch Area Community Interest Company (DACIC), which includes a sectoral spread of business representatives. The cost of the preparation of the BID proposal is being funded by seed corn grants and therefore is not being funded and driven forward by any vested interest.</p> <p>None of the above costs will be recovered through the BID levy.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>