

The Highland Council

Agenda Item	9
Report No	ECI/36/2024

Committee: Economy and Infrastructure

Date: 22 August 2024

Report Title: Fort William Business Improvement District (BID)

Report By: Assistant Chief Executive - Place

1 Purpose/Executive Summary

1.1 This report outlines for Members a formal assessment of the Fort William 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 2 relative to the Fort William BID Proposal and 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 **Risk** - No implications.

3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – No implications.

3.5 **Gaelic** - No implications.

4 Impacts

4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.

4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.

4.3 Integrated Impact Assessment - Summary

4.3.1 An Integrated Impact Assessment screening has been undertaken on 29 July 2024. The conclusions have been subject to the relevant Manager Review and Approval.

4.3.2 The Screening process has concluded that there are positive impacts on poverty and socio-economic factors due to the BID proposal aiming creating a more thriving town centre and deliver a wider regenerative programme by improving the trading environment of the BID area.

4.3.3

Impact Assessment Area	Conclusion of Screening
Equality	Children and Young People – <i>no impact</i> Children affected by disability – <i>no impact</i> Older adults – <i>no impact</i>
Socio-economic	<i>Positive</i>
Human Rights	<i>No impact</i>
Children's Rights and Well-being	<i>No impact</i>
Island and Mainland Rural	<i>No impact</i>
Climate Change	<i>No impact</i>
Data Rights	<i>No impact</i>

5 Background

5.1 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.

5.2 The Local Authority has a statutory role to play in this process but unlike other BIDS, The Highland Council is not an eligible levy payer. 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 Lochaber Committee on 27 August 2024.

5.3 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.

6 Assessment

6.1 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**.

6.2 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.

7 Conclusion

7.1 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: Assistant Chief Executive - Place

Date: 24 July 2024

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

**Fort William 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 Fort William BID proposal this must be by 29 August 2024) 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 matters to which the local authority shall have regard in deciding whether to exercise its veto are:–	
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 Fort William 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 West Highland & Islands Local Development Plan (WestPlan) (2019) reflects this, with Fort William being identified as a Main Settlement. Certain Placemaking Priorities identified for Fort William reflect the objectives of the BID. The BID also aligns with Policy 1 ‘Town Centre First’ of WestPlan (Fort William 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> <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 structure is based on the rateable value of the property at the time of the ballot (planned for 21 November 2024) and will remain the same throughout the 5-year term of the BID unless there is a non-domestic rates revaluation during the BID term.</p> <p>All businesses within the defined area with a rateable value of over £3,000 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>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 8 progressive bands proposed, recognises variations in the size of businesses and ability to pay. The annual levy rates vary from £200 for the smallest businesses to £3,066.67 for the largest. It will be voluntary for businesses of £2,999 and under to contribute.</p> <p>The BID proposal identifies certain properties which will be exempt from paying the levy, including places of worship, non-retail charitable organisations, health care centres etc. The Nevis Centre (run by Linnhe Leisure Limited) was given exemption from the levy on the basis that their work is vital for the community.</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>

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. This work included a dedicated Fort William BID questionnaire which was distributed to all businesses in the BID area which received an 11% return rate. This was supported by a series of one-to-one consultations with 79 (23%) of businesses together with wider promotion via press and local radio coverage.

As set out in the BID Business Proposal, following the surveys to businesses it was confirmed the number of eligible persons (those eligible to vote in the ballot) 20.0% by number and 22.1% by rateable value were in favour of the BID. 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.

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.

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

14 (2)(b)

'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)

As outlined above there are not considered to be any conflicts with Council policies or plans.

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

14 (2)(c)

'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'

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.

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

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 was identified through one-to-one consultations. It is generally focused on the Fort William area as it was identified that there were common issues crossing different sectors. The BID team have calculated that this equates to circa 345 properties, the eligible person of which will be entitled to vote on 21/11/2024.</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>There has been regular contact between the Council's Ward Manager, and members of the Elections, Revenues and Tourism teams with BID Manager during the preparation of the proposed 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 Business Proposal has been put forward by the BID Steering Group, which includes a sectoral spread of business representatives.</p> <p>None of the costs associated with the development of the BID will be recovered through the levy income generated.</p> <p>Accordingly, there is no reason to exercise the Council's right of veto.</p>