

Agenda item	13
Report no	EDI 12/17

HIGHLAND COUNCIL

Committee: Environment, Development and Infrastructure Committee

Date: 8 November 2017

Report Title: Inverness Business Improvement District

Report By: Director of Development and Infrastructure

1 Purpose/Executive Summary

1.1 This Report outlines for Members a formal assessment of the Inverness 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.

2. Recommendations

2.1 Members are asked to approve the assessment made in **Appendix 1** relative to the draft Inverness 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.

2.2 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 14 December 2017.

3. Background

- 3.1 Members will be aware that a Business Improvement District (BID) has operated in Inverness since 2008. A 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. A BID is only approved 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.
- 3.2 It is the intention of the BID Directors to seek a third five year BID for Inverness and therefore they are currently working to finalise their Business Plan before they put it to the vote in March 2018.
- 3.3 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 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 and whether the Council is supportive or not in paying a BID levy. A further opportunity will be given to Members at the 30 November, 2017, meeting of the City of Inverness Area Committee and the 14 December 2017 Council meeting in to discuss the merits of the BID and to determine whether it should vote or not in favour of the BID levy.

4. Assessment

- 4.1 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 (70 days) 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; and
 - if not exercising a veto then the local authority must set out its reasons for not doing so.
- 4.2 The circumstances when a local authority can exercise its veto are prescribed in the Act and the Business Improvement Districts (Scotland) Regulations.
- 4.3 The Council is required to assess the BID proposal by 11 January 2018. Given the timetable with the production of the final BID proposal and the meeting of this Committee, it has naturally not proven possible to undertake an assessment of the final BID proposal document. While it is not anticipated that the final BID proposal will alter and therefore affect the assessment made, it is prudent to recognise that if any changes are made that do so, then this assessment may require to be reconsidered and reported to Council on 14 December 2017.
- 4.4 **Appendix 1** offers an assessment of the draft BID proposals against the prescribed circumstances as set out in the Planning etc. (Scotland) Act 2006 and associated Business Improvement Districts (Scotland) Regulations. It is considered that, on the basis of the draft 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.

- 4.5 Once the final BID Business Plan is received a further assessment will be required to review any changes made to the draft BID proposal. Where any changes exist and they materially affect the assessment made and the BID team are unwilling or unable to amend, this matter will require to be considered by Council at its meeting on 14 December 2017.

5. Implications

5.1 Resource – No implications

5.2 Legal – This assessment of the Inverness Business Improvement District proposal relative to the Council's right of veto is in accordance with the Planning Etc. (Scotland) Act 2006 and the Business Improvement Districts (Scotland) Regulations.

5.3 Community (Equality, Poverty and Rural) – No implications

5.4 Climate Change/Carbon Clever – No implications

5.5 Risk – No implications

5.6 Gaelic – No implications

Designation: Director of Development and Infrastructure

Date: 20 October 2017

Author: Alan Webster, Regeneration Team Leader

APPENDIX 1:

Inverness: Business Improvement District Re-ballot Proposal Assessment of draft proposal against the Council's Power of Veto

It must be recognised that this is an assessment of Draft Proposals and therefore once the final Business Plan is received a further assessment will be required to review any changes made to the draft BID proposals. Where any changes exist and they materially affect the assessment made and the BID team are unwilling or unable to amend, this matter will require to be considered again by Council on 14 December 2017.

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) (in the circumstances of the Inverness BID proposal this must be by 3rd January 2012) 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	
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>There is no proposed change to the boundary of the Inverness BID area.</p> <p>The City Centre area defined in the Highland-wide Local Development Plan and that identified in the City Centre Development Brief differs slightly from the BID area, as the BID area includes properties on Castle Street and those on Millburn Road immediately opposite the Morrison supermarket but excludes properties off Chapel Street/north of Friars Lane and west of the River Ness. While immediately outwith the core City Centre area, the Castle Street and Millburn Road areas relate to and form part of the City Centre and merit inclusion. Those properties off Chapel Street/north of Friars Lane and west of the River Ness do so to a much lesser degree and therefore their exclusion can be justified.</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>

	Not Applicable.
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>There is a proposed change to the levy from the 1% that was applied previously.</p> <p>The draft BID proposal states that the levy will be based on April 2017 rateable values (no amendment will be made for the proposed revaluation in 2022) and set at 1.03% of the rateable value on all commercial properties in the BID area.</p> <p>For Year 2 (2019-20) and subsequent years, 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>If after the date of going to ballot the 2017 rateable value for a property changes retrospectively because of an appeal, a new BID levy amount will be calculated on the (new) assessed rateable valuation.</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>Exceptions to this are proposed:</p> <ul style="list-style-type: none"> • 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 • non-retail charities and non-commercial charities will be exempt • properties with rateable valuable of less than £10,000 <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	
14 (2)(a)	<p><i>'the level of support for the BID proposals ... where this information is available'</i></p> <p>Before proceeding with the preparation of a Business Plan for the next BID, a questionnaire was sent to businesses and property owners within the BID area. Of the 136 businesses (20%) who replied, 95% were 'in principle' in</p>

	<p>favour of the Inverness BID continuing for a further 5 years. Further questions on the performance of the BID demonstrated a high level of support for the work undertaken.</p> <p>While clearly the ultimate test for the BID proposal will come when the rebalot takes place, there is clearly 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></p> <p>None beyond those addressed above.</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>None beyond those addressed above.</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>None beyond those addressed above.</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>The Inverness City Manager, is in regular contact with BID and has been active in developing the proposed Business Plan as they impact on the Council.</p> <p>Accordingly, 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 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, no reason to exercise the Council's right of veto.</p>