

<b>Agenda Item</b>	<b>6</b>
<b>Report No</b>	<b>ECI/20/2023</b>

## HIGHLAND COUNCIL

**Committee:** Economy and Infrastructure

**Date:** 4 May 2023

**Report Title:** Nairn Business Improvement District (BID) Renewal

**Report By:** Depute Chief Executive

### 1 Purpose/Executive Summary

- 1.1 This report outlines for Members a formal assessment of the Nairn 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 Nairn 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 Nairnshire Committee on 15 May 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 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 Members will be aware that a Business Improvement District (BID) has operated in Nairn since 2018 and it is now the intention of the BID Directors to seek a second five-year BID for Nairn.

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 will be presented to Nairnshire Committee on 15 May which 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: Depute Chief Executive

Date: 11 April 2023

Authors: Douglas Chisholm, Tourism and Inward Investment Team Leader

**Nairn 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 Nairn BID proposal this must be by 15 June 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.

<b>Planning etc (Scotland) Act 2006</b>	
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 Nairn 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 a positive framework for proposals which maintain and strengthen the vitality and viability of our town centres. The Inner Moray Firth Local Development Plan (IMFLDP) (2015) builds on this position, with Policy 1 Promoting and Protecting City and Town Centres seeking to protect town centres and, within the Nairn section, specific reference to the regeneration of Nairn town centre being a high priority. The review of IMFLDP is at an advanced stage and seeks to strengthen both these references.</p> <p>Nairn Community Town Centre Plan (2015) sets out a more detailed framework for opportunities for development, regeneration and enhancement of Nairn town centre.</p>

	<p>None of the actions in the BID Business Proposal conflict with these plans.</p> <p><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></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. Whilst this is a strategic programme with high level priorities, certain ones relating to 'Place' and 'Economy' in the 'Resilient and Sustainable Communities' section are particularly relevant.</p> <p>None of the actions in the BID Business Proposal conflict with these priorities.</p> <p><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></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 24/08/23). All businesses within the defined area with a rateable value of £1,000 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.</p> <p>The levy threshold of £1,000 is low in comparison with other BIDs across Scotland but has been chosen to take account of the nature of the town which has many small or micro businesses.</p> <p>The scale of charges proposed, and in particular the 10 progressive bands proposed, recognises variations in the size of businesses and ability to pay. The annual levy rates remain unchanged from the existing term and vary from £125 for the smallest businesses to £4,000 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, schools, non-retail &amp; non-membership charitable organisations.</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>

	<b>Accordingly, there is no reason to exercise the Council’s right of veto.</b>
<b>Business Improvement Districts (Scotland) Regulations 2007</b>	
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>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 issuing questionnaire surveys, one-to-one consultations with a cross section of businesses, and several public meetings with levy payers between November 2022 and March 2023. New businesses to the BID area received personal visits to inform them about the BID and the renewal process. As an existing BID, it is also noted that they engage regularly with their members/levy payers through newsletters and business events, and this has allowed for ongoing updates and feedback to be shared.</p> <p>As set out in the BID Business Proposal, 19 eligible voters were in favour of Nairn BID continuing into another term. This equates to 6.5% of total local levy payers and collective rateable value of the sample equates to 15% 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> <p>A number of questions posed as part of the consultation also indicate suitable levels of support for the activities of the Nairn BID. For example, of the 53 responses received, 64.2% felt Nairn had improved as a place to live and do business since the BID came into operation in 2018. In addition, 76% of respondents were also in support of the activities under the Promote Nairn banner.</p> <p>While the ultimate test for the BID proposal will come when the ballot for renewal takes place, the proposers have demonstrated sufficient business support to merit the holding of a ballot.</p> <p><b>Accordingly, there is no reason to exercise the Council’s right of veto.</b></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>

	<b>Accordingly, there is no reason to exercise the Council's right of veto.</b>
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><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></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 boundary remains unchanged from the previous term except for a minor retraction around the Househill area as the BID Board believe the small number of businesses located there are largely non-levy payers and are less associated with the objectives of the BID. There are not considered to be any conflicts arising as a result of the selection of the geographic area.</p> <p><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></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 BID manager held regular meetings and had close communication throughout the preparation of the BID Business Proposal with the Council's Ward Manager, Tourism and Inward Investment Team Leader and staff from the Finance and Elections teams. The BID manager also has regular communication with elected Ward Members. An early email notification was sent to each of the Ward Members highlighting the beginning of the renewal process and Ward Members are invited to attend all BID Board meetings where there is opportunity to raise concerns.</p> <p><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></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 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><b>Accordingly, there is no reason to exercise the Council's right of veto.</b></p>