

Report for: Special Overview and Scrutiny Committee
29th March 2018

Title: Monitoring Officer's Report on the Call-In of a Decision taken by the Cabinet Member (Leader) on 19th March 2018 to approve the location of the Youth Zone and the capital and revenue funding.

Report authorised by : Bernie Ryan, Monitoring Officer

Lead Officer: Stephen Lawrence-Orumwense, Deputy Monitoring Officer

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** N/A

1. Describe the issue under consideration

To advise the Overview and Scrutiny Committee on the call-in process and whether the decision taken by Cabinet Member (Leader) on 19th March 2018 to approve the location of the Youth Zone at Woodside High School and the capital and revenue funding is within the budget and policy framework.

2. Cabinet Member Introduction

N/A

3. Recommendations

That Members note:

- (a) The Call-In process;
- (b) The advice of the Monitoring Officer and Chief Finance Officer that the decision taken by the Cabinet Member was within the Council's budget and policy framework.

4. Reasons for decision

N/A

However, when considering what action to take in relation to the called-in decision, the Overview and Scrutiny Committee (OSC), having considered the advice of the Monitoring Officer and the Chief Finance Officer, is expected to make its own determination as to whether the called-in decision is within the budget and policy framework.

5. Alternative options considered

N/A

6. Background information

Call-in procedure rules

- 6.1 Once a validated call-in request has been notified to the Chair of OSC, the Committee must meet within 10 working days to decide what action to take. In the meantime, all action to implement the original decision is suspended.
- 6.2 If OSC Members determine that the original decision was within the policy/budget framework, the Committee has three options:
- (i) to not take any further action, in which case the original decision is implemented immediately
 - (ii) to refer the original decision back to Cabinet as the original decision-maker. If this option is followed, the Cabinet must reconsider their decision in the light of the views expressed by OSC within the next five working days, and take a final decision
 - (iii) to refer the original decision on to full Council. If this option is followed, full Council must meet within the next 10 working days to consider the call-in. Full Council can then decide:
 - to either take no further action and allow the decision to be implemented immediately, or
 - to refer the decision back to the Cabinet for reconsideration. The Cabinet's decision is final.
- 6.3 If the Overview and Scrutiny Committee (OSC) determine that the original decision was outside the budget/policy framework, the Committee must refer the matter back to the Cabinet with a request to reconsider it on the grounds that it is incompatible with the policy/budgetary framework.
- 6.4 In that event, the Cabinet would have two options:
- (i) to amend the decision in line with OSC's determination, in which case the amended decision is implemented immediately.
 - (ii) to re-affirm the original decision, in which case the matter is referred to a meeting of full Council within the next 10 working days. Full Council would have two options:
 - to amend the budget/policy framework to accommodate the called-in decision, in which case the decision is implemented immediately, or
 - to require the decision-maker to reconsider the decision again and to refer it to a meeting of the Cabinet, to be held within five working days. The Cabinet's decision is final.

The Policy Framework

6.5 The Policy Framework is set out in the Constitution at Article 4 of Part Two (Articles of the Constitution) which I reproduced as follows:

“Policy Framework

These are the plans and strategies that must be reserved to the full Council for approval:

- *Annual Library Plan*
- *Best Value Performance Plan*
- *Crime and Disorder Reduction (community safety) Strategy*
- *Development Plan documents*
- *Youth Justice Plan*
- *Statement of Gambling Policy*
- *Statement of Licensing Policy*
- *Treasury Management Strategy*

Any other policies the law requires must be approved by full Council.

Such other plans and strategies that the Council agrees from time to time that it should consider as part of its Policy Framework:

- *Housing Strategy”*

6.6 The budget framework is the 2017/18 budget and Medium Term Financial Strategy (MTFS) Report approved by Full Council at its meeting on 26th February 2018.

6.7 The policy and budget framework is intended to provide the general context, as set by Full Council, within which executive decision-making occurs. The general premise is that executive decisions must be within the scope of the policy and budgetary framework and should not be wholly inconsistent with it.

6.7 In an executive model of local authority governance, the majority of decisions are taken by the executive – in Haringey’s case this being the Cabinet/Leader/Cabinet member. It is not expected that every executive decision taken should satisfy every individual aspect of the framework, but they should not be outside the framework. Case law also makes it clear that it would not be a proper use of a full Council approved plan or strategy to seek to make it a means for full Council to micro-manage what ought to be executive decisions.

7. Current Call-In

7.1 On 26th March 2018, two valid call-in requests were received in relation to the Cabinet Member (Leader) decision of 19th March 2018 to approve the location of the Youth Zone at Woodside High School and the capital and revenue funding for the project (“the decision”). The first call-in was signed by Cllr Bob Hare and counter signed. The second call-in by Cllr Mark Blake and counter signed.

7.2 A copy of the public report to Cabinet is reproduced at Appendix 1 to this report. A copy of the published draft minutes of the Cabinet Member Signing is

reproduced at Appendix 2. A copy of the first call-in requests is reproduced at Appendix 3 and the second call-in at Appendix 4.

- 7.2 The first call-in request claims that the decision was outside the budget framework because: a) “There is no explicit allocation in the MTFS to the Youth Zone project on the £3m capital required”; and b) “There is no source identified for the annual revenue cost of the Youth Zone. Further, the decision is outside of the policy framework because; a) the use of the general exception notice procedure; b) the decision is not based on the agreed youth strategies; c) the three way arrangement between the Council, OnSide and Woodside School; d) the lack of a draft contract; e) no tender for service and strategy; f) location of the youth zone, g) equalities impact assessment; h) Bruce Grove Youth space and i) lack of police support.
- 7.3 The second call-in requests claim that the decision made is outside the budget framework because: a) “..it involves taking up over 40% of the future youth work revenue budget for three years, without this ever having being discussed by elected members ...” and b) “There is no reference to this in the MTFS”. Further, that the decision is outside of the policy framework because it flouts proper process as referred to under the heading “Objections to the Process”.

8. Monitoring Officer’s Assessment

- 8.1 The Monitoring Officer having conferred with the Chief Finance/Section 151 Office is of the view that the Youth Zone project is within the budgetary framework. The MTFS/budget provides for a Responsiveness Fund of £3.5m over 2 years in the capital programme to respond to in year request and new initiatives. The funds are to support request for match funding. The Cabinet meeting in March 2018 approved the use of the responsiveness fund for the Youth Zone. The purpose and scope of the Responsiveness Fund is broad and can include the Youth Zone. The Monitoring Officer agrees with the Chief Finance Officer views on these points and the revenue funding and as set out in Section 9 below.
- 8.2 The notion that a decision is outside the policy framework approved by Full Council usually means outside the scope of the policy and strategy in the documents identified in Paragraph 6.5 above. It is important to note that these are broad and high level policies and strategies and within which the executive has some flexibility to deliver the identified outcomes. The relevant policy framework documents are the current - Community Safety Strategy 2013-17 (which the Community Safety Partnership has formally agreed to extend to 2018) and the Youth Justice Plan 2017-18.
- 8.2.1 The first, the Community Safety Strategy, which has as one of its principles (in Section 5 Vision) an approach of early intervention and prevention. Of the six outcomes in the current Strategy, (set out in full in Section. 6 Priorities, Outcomes and Activities), there are three with a focus on prevention and minimisation of gang related activity and victimisation, reduction of re-offending for young people and prevention and reduction of acquisitive crime and anti-social behaviour. The Strategy makes specific reference to the need to develop projects designed to prevent young people becoming involved in gangs and other anti-social behaviour and criminal activities. Extending activities in areas such as leisure

including sports, health and wellbeing and support into education, employment and training are core business for a Youth Zone and will become part of the Youth Zone offer in Haringey.

8.2.2 The current Youth Justice Plan 2017-18 key priorities include interventions to reduce levels of youth violence and knife crime in the borough as a means of increasing community safety and reducing the safety and well-being concerns relating to young people and also, to improve the mental health and emotional well-being needs of young people in the borough. The Youth Justice Plan mentions the importance of an early help and early intervention approach to youth offending. Again, Youth Zone has a clear role to play in this regard being able to ensure that a safe space for prevention through diversionary activities is delivered.

8.3 The Youth Zone gives effect to the aspirations, priorities and outcomes for young people in the borough set out in the Community Safety Strategy and the Youth Justice Plan. The provision is intended to offer various diversionary activities to young people to prevent them becoming involved in criminal activities and to improve their wellbeing and opportunities. Therefore, the decision as to the establishment, location and funding is within the policy framework documents. Alternatively, the decision is not inconsistent with the priorities and outcomes in the policy framework documents.

8.4 The call-ins also advance the following reasons why the decision is outside the policy framework – ‘the use of the general exception notice procedure’ ‘the three way arrangement between the Council’ ‘OnSide and Woodside School’ ‘the lack of a draft contract’ ‘no tender for service and strategy’ ‘location of the youth zone’ ‘equalities impact assessment’ ‘Bruce Grove Youth space’ ‘lack of police support’ and ‘it flouts proper process’. These reasons do not form part of the policy framework documents, in particular, those referred to above. The decision is therefore within policy framework.

8.5 The use of the General Exception Notice procedure as part of the decision making process is appropriate and justified. The Council was soon to enter the Purdah period and there were no Cabinet meetings until June 19th 2018. There was concern that decision sought would be subject to additional, avoidable delays due to the statutory electoral process, increasing the risk and potential loss of capital and revenue investment currently committed by Onside and funding partners. Any further delay could put this at risk and therefore jeopardise the whole project. The circumstances were such the proposed decision needs to be taken without further delays and it has not been reasonable practicable to give the usual 28 days notice.

8.5 Therefore the decision taken by the Cabinet Member is compliant with the Council’s Budget and Policy Framework as set out in Part Four Section E of the Constitution and are within the Cabinet’s powers and terms of reference.

9. The Chief Finance Officer’s Response

9.1. It is the Interim Chief Finance Officer’s view that the decision is within the budgetary framework, on the basis that the recommendations within the report

are in line with the Council's Budgetary and Policy Framework Procedure Rules set out in Part 4 Section E of the Council's Constitution.

9.2 With regard to the capital cost of the scheme, the 19 March 2018 report (using the paragraph numbering of that report) says:

8.2 *The exact details of the contractual relationship with OnSide and the associated construction contract have yet to be agreed and these matters are as recommended to be delegated to the Director of Children & Young People Services after consultation with after consultation with the Strategic Director of Regeneration, Planning and Development, the Section 151 Officer and the Cabinet member for Corporate Resources.*

8.3 *The Council at its budget setting meeting of the 26th February 2018 agreed to the establishment of a Responsiveness Fund within the capital programme. The fund is there to allow timely responses to be made to in-year requests for funding and is primarily intended to support in-year match funding requests. The report is recommending that the Responsiveness Fund is used to provide the capital funding for the Youth Zone project, subject to the final terms and documentation being agreed with OnSide.*

This is consistent with the Budget and MTFs Report presented to Cabinet in February 2018 that dealt with the proposed capital programme:

Priority X

13.19 *This priority now contains a Responsiveness Fund of £3.5m per annum for two years. The fund is there to allow timely responses to made to in year requests and new initiatives. It is primarily to support in-year bids for match funding requests. The allocation of funds from the Responsiveness Fund will be undertaken by Capital Board (in line with the current authority levels contained within Standing Orders).*

This capital budget head was subsequently approved as part of the capital programme by Full Council on 26th February 2018.

9.3 With regard to the revenue costs of the scheme the 19 March 2018 report (using the paragraph numbering of that report) says:

8.4 *The report is also recommending approval of revenue funding of £250,000 per annum for the first three years that the facility is operated by OnSide, subject to final terms and documentation being agreed.*

8.5 *In the Cabinet report of the 14th March 2017, it was noted that there was a three year £250k per annum commitment to the scheme and that in order to meet this commitment that existing budgets in this service area would be used to leverage additional third-party contributions.*

8.6 *Currently the service budget is £596k (excluding corporate overheads) and the commitment to provide £250k per annum of funding from existing budgets would represent a significant proportion (42%) of the current service budget. Dependent upon what would have to be foregone to meet this commitment, there may well be other financial implications arising from the entering into of the contractual arrangements to create the Youth Zone.*

The revenue consequences of Council's contribution to the scheme, within the existing service budget are clearly laid out

10. Contribution to strategic outcomes

N/A

11. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

The Chief Finance Officer's comments are set out above.

Legal

The Monitoring Officer's comments are set out above.

Equality

N/A

12. Use of Appendices

Appendix 1 Cabinet report dated 19th March 2018

Appendix 1.1 EQIA.

Appendix 2 Published minutes of the Cabinet Member Signing

Appendix 3 Copy first call-in request

Appendix 4 Copy second call-in request

13. Local Government (Access to Information) Act 1985

N/A