

CABINET

15 February 2016

Title: Youth Zone Development - Lease and Rent Arrangements	
Report of the Leader of the Council	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Director: Anne Bristow , Deputy Chief Executive and Strategic Director for Service Development & Integration	
Summary By Minute 25 of its meeting on 21 July 2015, the Cabinet agreed to support the development of a Youth Zone in Parsloes Park and provide a £3m capital grant subject to planning approval. Cabinet also agreed to delegate authority to approve the final details of the project in respect of the grant funding agreement, lease, facility mix, connection to other Parsloes Park refurbishment proposals and operational detail to officers. However, as negotiations have developed, officers consider it necessary to seek specific Cabinet approval to make provision for a rent subsidy grant equivalent to the market value of the site for the duration of the lease as the request from Onside for a peppercorn rent is contrary to Council policy. This is a fundamental issue in the proposed development of the Youth Zone as a long lease and peppercorn rent are key elements of the standard Youth Zone model.	
Recommendation(s) The Cabinet is recommended to: (i) Agree to provide a grant to the Barking & Dagenham Youth Zone equivalent to the annual rental of £5,800 that would be paid for the duration of the 125 year lease with RPI (or successor indicator) linked reviews at 25-year intervals, providing the conditions of use are upheld, as detailed in Option 3 in the report; and (ii) Note that the annual rental grant shall be subject to the Youth Zone securing planning approval.	
Reason(s) The proposed Youth Zone development can make a significant contribution to making the Borough a better place to live and offers a potentially good fit with the themed Corporate Priorities of: Encouraging Civic Pride; Enabling Social Responsibility and Growing the Borough.	

1. Introduction and Background

- 1.1 On 21 July 2015 (Minute 25), Cabinet agreed to support the development of a Youth Zone in Parsloes Park as a priority project and provide a £3m capital grant for the development matched by external investment.
- 1.2 Whilst Cabinet agreed to delegate authority to Officers to progress and approve the final details of the project in respect of the grant funding agreement, lease etc. Specific approval for a grant equivalent to the rental value could not be sought at the time as the rental value was unknown.
- 1.3 In order to be consistent with the Cabinet decision taken on 22 October 2013 (Minute 51) re: leases with third parties; approval for a rent subsidy applicable specifically to the Youth Zone is now sought.

2. Proposal and Issues

- 2.1 The Onside proposal to develop a Youth Zone in the borough included the requirement for a 125 year lease at peppercorn. Whilst Officers advised Onside that Council policy is not to offer a peppercorn (as set out in 1.3 above), there was the potential to seek approval for an equivalent rent subsidy.
- 2.2 Negotiations over the lease have taken place between Onside and the Council Officers over several months and an 'in principle' agreement has been reached on the main terms of the lease and potential review periods. The lease and rent subsidy are considered by both parties to be a potential 'deal breaker'.
- 2.3 In all six of the previous Youth Zone developments elsewhere in the country, the local authority has agreed a 125 year lease at peppercorn without review. Given that this was the first Youth Zone in London to be agreed, the OnSide Board have agreed to depart from their normal terms in recognition that London presents a unique set of circumstances that require some flexibility from both parties in order to progress and deliver London's first Youth Zone.
- 2.4 A valuation report was commissioned from Bowyer Bryce that recommended an annual rental value of £5.5k, based on a 120 term with 20 year RPI linked reviews. In negotiation, Onside subsequently requested a 125 year lease with 25 year RPI linked reviews. Bowyer Bryce has subsequently confirmed that the revised terms would only have a marginal impact, resulting in a revised annual rental value of £5.8k. This amendment makes no material difference to the proposal, therefore on that basis Officers are recommending to proceed with the 125 year term with 25 year reviews in order to progress the project.
- 2.5 Cabinet agreed on 16 December 2014 (Minute 74) to provide a rent subsidy grant to Barking & Dagenham College in respect of the Broadway theatre for the duration of the lease provided shared outcomes could be delivered. Although the Broadway was an existing Council owned building as opposed to a piece of underused open space in the case of the Youth Zone, the principal of a rent subsidy grant for the duration of the lease is similar.

- 2.6 The principal lease terms are that the use of the site is for promoting the wider community use of the premises and engaging, helping and educating children and young people up to the age of nineteen years and twenty five years for young people with a disability and/or a learning difficulty. The lease contains further provisions dealing with alienation, charging, sub-letting and assignment in order to support the intent of the Youth Zone and protect the Council's interests.

3. Options Appraisal

- 3.1 The standard Onside Youth Zone proposal to local authorities seeks a 125 year lease at peppercorn. As detailed in Section 2 above, negotiations with OnSide have been on-going in order to reach a pragmatic solution acceptable to OnSide whilst protecting the Council's interest.
- 3.2 A long lease is a prerequisite to the OnSide proposition and of the external funder requirements. In negotiation it has become clear that a long lease and a net neutral rent are potential 'deal breakers'. There are obviously multiple variant options, but essentially limited to the options detailed below:

Option 1

Seek full rental value and only offer a 30 year term. This option would not be accepted by OnSide and would effectively terminate the Youth Zone proposal.

This option is not recommended

Option 2

Seek to enter further negotiations on the term and review periods. This option would inevitably delay progression of the project and/or completion/opening of the Youth Zone. There is also considerable risk that agreement would not be reached, resulting in the termination of the Youth Zone proposal.

This option is not recommended

Option 3

Agree to 125 year term with restricted use clauses that protect the Council's interest; 25 year RPI (or successor indicator) linked rent reviews with a full rent subsidy grant for the duration of the lease linked to the restricted use clauses. This option offers a pragmatic solution in order to progress a priority project for the Council.

This option is recommended

4. Consultation

- 4.1 Consultation has taken place with representatives from Onside and Council officers via the joint governance structure put in place to progress the Youth Zone and the proposal has also been endorsed by the Council's Assets and Capital Board and the Portfolio Holder for Finance.

5. Financial Issues

Financial Implications provided by Carl Tomlinson, Group Manager – Finance.

- 5.1 The Council has agreed a £3m contribution towards the capital construction costs of the Youth Zone. This constitutes 50% of the overall cost and includes up to £250k 'at risk' capital to develop the project to the planning stage. If either Option 1 or 2 are selected a proportion of the 'at risk' capital would be lost. The granting of a rental subsidy equal to the value of the annual rent (£5.8k pa for the duration of the 125 year lease with RPI linked reviews at 25 year intervals) would be cost neutral to the Council as the commercial rent income will fund the rent subsidy payment.

6. Legal Issues

Legal Implications provided by Evonne Obasuyi, Senior Lawyer.

- 6.1 Under s123 of the Local Government Act 1972, local authorities have a duty to obtain the best consideration reasonably obtainable upon disposal, and this includes the grant of a lease. A local authority may dispose land at undervalue if transaction will contribute to the social and economic well-being of its area. Following an independent valuation the initial rent has been set at £5,800 representing open market value. Thereafter rent will be reviewed every 25 years on an RPI basis.
- 6.2 The report seeks authority for Council to fully subsidise rent for duration of the lease term of 125 years. The report details the need for Council to subsidise rent to support the delivery of the scheme by Barking and Dagenham Youth Zone which will promote the social and economic well-being of the area. The lease will include provisions to enable the Council forfeit the lease should the tenant materially breach the lease terms or fail to achieve the conditions of use or community use.

Other Issues

- 7.1 **Risk Management** – Negotiations with OnSide have been based on the premise that securing the Youth Zone is a Council priority and as such a pragmatic and balanced approach has been taken to negotiating the lease and protecting the Council's interests. It should however be borne in mind that the Council retains the freehold of the land and other terms in the lease would allow the Council to regain the land and building in the (albeit unlikely) event of Onside being unable to deliver the Youth Zone Service due to lack of demand or funding for running costs.
- 7.2 **Contractual Issues** – OnSide are leading and responsible for the construction and associated procurement issues. The Operational Agreement is being developed alongside the lease.
- 7.3 **Staffing Issues** – None, the Barking & Dagenham Youth Zone will be operated by an independent charitable company established specifically for the Youth Zone.
- 7.4 **Corporate Policy and Customer Impact** – The newly established Barking & Dagenham Youth Zone company will be responsible for ensuring compliance with all equality legislation and promoting diversity.

- 7.5 **Safeguarding Children** - The newly established Barking & Dagenham Youth Zone company will be responsible for ensuring compliance with all relevant legislation and safeguarding policies.
- 7.6 **Health Issues** – The Youth Zone philosophy is based around community development, inclusion and positive youth work through a range of activities, including sport, fitness, dance, arts, music, media and self improvement. The approach supports the outcomes and priorities of the joint Health and Wellbeing Strategy.
- 7.7 **Crime and Disorder Issues** – Other Youth Zones have had a positive impact on the reduction of local crime and anti-social behaviour issues.
- 7.8 **Property / Asset Issues** - The proposal would positively enhance the existing open space. It is proposed to offer a full repairing lease to Onside thus not increasing the Council's asset liability except in the event of project failure in the future or forfeiture whereby the asset would be returned to the Council.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None