

BIRMINGHAM CITY COUNCIL

RESOURCES O&S COMMITTEE – PUBLIC MEETING

1400 hours on Tuesday 25 August 2020 (On-line Meeting)

Present:

Councillor Sir Albert Bore (Chair)

Councillors: Muhammed Afzal, Meirion Jenkins, Yvonne Mosquito, Paul Tilsley and Lisa Trickett.

Also Present:

Councillor Robert Alden

Councillor Tristan Chatfield, Cabinet Member, Finance and Resources

Councillor Ewan Mackey

Councillor Waseem Zaffar, Cabinet Member, Transport and Environment

Stephen Arnold, Head of Clean Air Zone

Will Brown, Senior Project Manager, Infrastructure – Project Management, Turner & Townsend

Philip Edwards, AD, Transport & Connectivity

Alison Jarrett, AD, Development & Commercial

Siobhan McDonald, Interim Procurement Manager

Rajesh Parmar, Senior Solicitor

Nicholas Richards, Transport Delivery Specialist

Mike Smith, Head of Commissioning & Procurement

Richard Tibbatts, Head of Contract Management

David Waddington, ICT Category Manager, Procurement

Jayne Bowles, Scrutiny Officer

Emma Williamson, Head of Scrutiny

1. NOTICE OF RECORDING/WEBCAST

The Chairman advised the meeting to note that this meeting will be webcast for live and subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2. DECLARATIONS OF INTERESTS

None.

3. APOLOGIES

Apologies were received from Councillors David Barrie and Brett O'Reilly.

4. REQUEST FOR CALL IN: BIRMINGHAM CLEAN AIR ZONE (CAZ): IMPLEMENTATION OF MAIN CAZ INFRASTRUCTURE – CIVIL ENGINEERING AND CAMERAS SOLUTION – FULL BUSINESS CASE (FBC)

(See documents 1, 2 and 3)

Cllr Robert Alden stated the following call-in criteria applied:

- 3. The decision appears to be inconsistent with recommendations previously made by an Overview and Scrutiny body (and accepted by the full Council or the Executive);*
- 5. The Executive appears to have overlooked some relevant consideration in arriving at its decision;*
- 8. There is a substantial lack of clarity, material inaccuracy or insufficient information provided in the report to allow the Overview and Scrutiny Committee to hold the Executive to account and/or add value to the work of the Council; and*
- 9. The decision appears to give rise to significant legal, financial or propriety issues.*

The key reasons for the request for call-in were summarised by Cllrs Alden and Mackey, and responded to by the Cabinet Members and officers, as follows:

- 3 – It is not clear how this report relates to the call-in on the CAZ mitigation software back in February, which has not yet returned to Cabinet.
It was made clear during the meeting that this was a separate procurement matter and a further report would be brought, and so this reason for call-in was withdrawn;
- 5 – The report relies on the over-arching full business case agreed by Cabinet, and therefore the correct route for this decision is to return to Cabinet.
The Senior Solicitor explained that the December 2018 Cabinet decision delegated these additional business cases to the Cabinet Member;
- 8 – There is a lack of clarity regarding the procurement process.
Officers and the Cabinet Members explained the background to the decision, in particular the evolving nature of the context for this decision;
- 9 – The report refers to governance issues which reveals a serious failing in relation to the procurement and echoes issues discussed by scrutiny elsewhere.

It was felt that the lack of clarity regarding the procurement process was relevant here.

The risk register (which forms part of the business case) appears to be out of date – as it still refers to a July start for the CAZ.

There was also discussion on the status of the voluntary ex ante transparency (VEAT) notice on 17th June 2020, to which no formal challenges were received from the market;

Members asked about the legality of the contracts listed in Appendix A and the Senior Solicitor acknowledged that although governance processes had not been followed, procurement regulations had not been breached.

Members noted and welcomed the honesty of the report in acknowledging errors and noted that the report addressed those errors in terms of governance and set out how such failures would be avoided in future.

The fast moving context of decisions in relation to the CAZ was also noted, and that the situation was very fluid, based on evolving guidance from the Joint Air Quality Unit.

In reaching its decision on the request for call-in, the Committee considered each of the criteria in turn (with the exception of 3, which had been withdrawn) and agreed:

5 – not to call in the decision for this reason, by a vote of 5 members to 1;

8 – not to call in the decision for this reason, by a vote of 4 members to 2;

9 – to call in the decision for this reason, by a vote of 4 members to 2.

The Committee expressed concern that yet again it has seen an instance of the processes not being followed and as a result exposing the Council to financial challenge and risk. It was felt by members that it was necessary to bring this to Cabinet's attention. Whilst procurement protocols have been followed, there have clearly been governance issues – namely the incorrect reliance on previous approvals on delegated authority to Cabinet Members and officers without a further full business case being produced, as stated in paragraph 3.6 of the Cabinet Member report – that need to be understood and acted upon.

RESOLVED:

The Committee resolved to call in the decision for reconsideration by Cabinet by a vote of 4 members to 2. The relevant criteria is:

9 – the decision appears to give rise to significant legal, financial or propriety issues.

5. REQUEST(S) FOR CALL IN/COUNCILLOR CALL FOR ACTION/PETITIONS RECEIVED (IF ANY)

None.

6. OTHER URGENT BUSINESS

None

7. AUTHORITY TO CHAIRMAN AND OFFICERS

RESOLVED:

That in an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1556 hours.