

# Public Document Pack



**Assistant Director, Governance and  
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Friday 17 March 2017

## Notice of Meeting

Dear Member

### **Cabinet**

The **Cabinet** will meet in the **Leadership Meeting Room - 1st Floor, Civic Centre 3, Huddersfield, HD1 2TG** at **3.30 pm** on **Monday 27 March 2017**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Assistant Director of Legal, Governance and Monitoring**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Cabinet Members are:-**

### **Member**

Councillor David Sheard

Councillor Shabir Pandor

Councillor Peter McBride

Councillor Naheed Mather

Councillor Musarrat Khan

Councillor Erin Hill

Councillor Viv Kendrick

Councillor Masood Ahmed

Councillor Graham Turner

### **Responsible For:**

Leader / Strategy and Strategic Resources, New Council & Regional Issues

Deputy Leader / Strategy and Strategic Resources, New Council & Regional Issues

Economy, Skills, Transportation & Planning

Housing & Enforcement Management

Highways & Neighbourhoods

Family Support & Child Protection

Adults, Health & Activity to Improve Health

Community Cohesion & Schools

Asset Strategy, Resources & Creative Kirklees

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

To receive apologies for absence of Members who are unable to attend this meeting.

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**2: Interests**

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

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**3: Admission of the Public**

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

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**4: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

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**5: Public Question Time**

The Committee will hear any questions from the general public.

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**6: Member Question Time**

To consider questions from Councillors.

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**7: Kirklees Stadium Development Ltd (KSDL) request to vary existing Council financial security arrangements**

3 - 6

A report seeking approval for the Council to alter the financial arrangements for promoting delivery of the HD ONE scheme.

Officer: Paul Kemp: 01484 221000

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**8: Exclusion of the Public**

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business, on the grounds that they involve the likely disclosure of exempt information, as defined in Part 1 of Schedule 12A of the Act.

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**9.**

7 - 12

**A Private Report in Relation to Item 7 Above.**

This report is recommended to be considered in private as it contains information as classified under Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that it would not be in the public interest to disclose the information contained in the report as disclosure could potentially adversely affect overall value for money and could compromise the commercial confidentiality of the bidding organisations and may disclose the contractual terms, which is considered to outweigh the public interest in disclosing information including, greater accountability, transparency in spending public money and openness in Council decision-making.

Officer: Paul kemp: 01484 221000

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<b>KIRKLEES COUNCIL</b>			
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>			
<b>DECLARATION OF INTERESTS</b>			
<b>Name of Councillor</b>			
<b>Item in which you have an interest</b>	<b>Type of interest (eg a disclosable pecuniary interest or an "Other Interest")</b>	<b>Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]</b>	<b>Brief description of your interest</b>

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



**Name of meeting:** Cabinet  
**Date:** March 27<sup>th</sup> 2017  
**Title of report:** Kirklees Stadium Development Ltd (KSDL) request to vary financial security arrangements relating to the John Smith's Stadium site, Huddersfield

**Purpose of report**

The report considers a request from KSDL to give a second charge, ranking behind the Councils existing charge, on land at the John Smith's Stadium. The request is due to the security requirements of a third party lender who is proposing to advance loan finance to a subsidiary of KSDL to allow the purchase of a site near the Stadium. Proceeding with this purchase will be highly beneficial to early delivery of the HD ONE scheme which will create a regional leisure destination on land at the Stadium site.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	No
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	Yes – 28 February 2017 - The Chair of Overview & Scrutiny Management Committee has been advised of the entry in the Forward Plan and of the need to make this an urgent entry in relation to this issue.
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	No - The Chair of Overview & Scrutiny Management Committee waived the right to call in due to the need for urgent action to be taken to ensure the offer of sale of the Gasworks Street site is not withdrawn.
<b>Date signed off by <u>Director</u> &amp; name</b>	Joanne Bartholomew, Assistant Director for Physical Resources & Procurement, 16 March 2017
<b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>	Debbie Hogg, 16 March 2017
<b>Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?</b>	Julie Muscroft, 16 March 2017
<b>Cabinet member <a href="#">portfolio</a></b>	Cllr Graham Turner Asset Strategy, Resources and Creative Kirklees Arts

**Electoral wards affected:** Not applicable  
**Ward councillors consulted:** Not applicable

**Public Report with Private Appendix**

This report is being taken in public but there is a separate Appendix referred to below which is recommended to be taken in private session as the information contained in it is considered to be exempt information under Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006. The Appendix contains commercially sensitive information about third parties. The Appendix is recommended for consideration in private because it contains commercially sensitive information relating to the activities of KSDL and their prospective third party lender.

The public interest in maintaining confidentiality of the information, which if made public would contravene data protection legislation, outweighs the public interest in disclosing the information for reasons of open governance.

## **1. Summary**

- 1.1 This report is to consider a request from KSDL for the Council to consent to a third party lender taking a financial charge on land at the Stadium site in Huddersfield. The charge would rank second in security terms behind the Council's existing charge on the land and assets of KSDL. The third party lender is providing finance to facilitate the purchase of land. Securing this site would be significant in reducing the costs of and reducing the technical complexities of delivering the HD ONE scheme on land at the Stadium site thus promoting early delivery of the HD ONE scheme.

## **2. Information required to take a decision**

- 2.1 The Council has an existing charge over the land and other assets of KSDL. This is to reflect the fact that the Council guarantees the commercial loan that was taken out by KSDL to fund the initial development of the Stadium complex in the mid to late 1990's. The balance outstanding on this loan and therefore the Council's potential exposure has reduced over time to £2.181m and the loan is scheduled to be repaid in full by early 2021. The valuation of KSDL's assets as per the company's Statutory Accounts for the year ending 31.7.16 is £18m. There is therefore considerable headroom between the Council's potential exposure under the guarantee and the value of KSDL's assets.
- 2.2 Further information is contained in the Private Commercial Appendix.

## **3. Implications for the Council**

### **3.1 Early Intervention and Prevention (EIP)**

There will be no impact.

### **3.2 Economic Resilience (ER)**

The HD ONE will create a regional leisure destination in Kirklees which will increase visitor numbers to the district and expenditure in the local economy. There will be a substantial increase in the Business rate yield and both the construction phase and the completed development will offer employment and training opportunities for Kirklees residents.

### **3.3 Improving Outcomes for Children**

There will be no impact.

### **3.4 Reducing demand of services**

There will be no impact.



### **3.5 Legal/Financial or Human Resources**

Legal input will be required to agree and approve the necessary documentation to allow a second charge to be given over the existing Stadium site and the interest in the shares of the subsidiary to be released. It is requested that delegated authority be given to the Assistant Director Legal and Governance to agree and enter into such documentation as may be necessary.

### **4. Consultees and their opinions**

4.1 The relevant Portfolio holder, Cllr Graham Turner, has been consulted and is in agreement with the officer recommendations.

4.2 Cllr Julie-Stewart Turner, Chair of Overview and Scrutiny Management Committee has been consulted about the reasons why this report needs to be considered urgently in private and why a request for call-in to be waived has been made. As a result of this she has agreed that the report be considered without the usual notice for commercially confidential matters being given and has agreed that call-in can be waived

### **5. Next steps**

4.1 The required legal documentation will be agreed and consent given on behalf of the Council to allow a second charge to be put in place.

### **6. Officer recommendations and reasons**

For the reasons set out in the appendix it is recommended that Cabinet:

- (i) Agree to the request from KSDL to give a second charge on the John Smith's Stadium site;
- (ii) Give to the Assistant Director Legal and Governance the delegated authority to enter into and execute all necessary legal documentation required to give effect to (i) above.

### **7. Cabinet portfolio holder's recommendations**

The Cabinet Portfolio Holder recommends that Cabinet:

- (i) Agree to the request from KSDL to give a second charge on the John Smith's Stadium site.
- (ii) Give to the Assistant Director Legal and Governance the delegated authority to enter into and execute all necessary legal documentation required to give effect to (i) above.

### **8. Contact officer**

Paul Kemp Assistant Director Place

### **9. Background Papers and History of Decisions**

None

### **10. Assistant Director responsible**

Paul Kemp, Assistant Director for Place.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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