

**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 Council's 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to call in due to the need for urgent action to be taken to ensure the offer of sale of the Gasworks Street site is not withdrawn.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>  <b>Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?</b>  <b>Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?</b>	Joanne Bartholomew, Assistant Director for Physical Resources & Procurement, 16 March 2017  Debbie Hogg, 16 March 2017  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.