

	<p>Policy and Resources Committee</p> <p>19 July 2018</p>
<p style="text-align: center;">Title</p>	<p>Saracens Loan Agreement</p>
<p style="text-align: center;">Report of</p>	<p>The Leader</p>
<p style="text-align: center;">Wards</p>	<p>Mill Hill</p>
<p style="text-align: center;">Status</p>	<p>Public with a separate exempt report</p>
<p style="text-align: center;">Urgent</p>	<p>Yes</p>
<p style="text-align: center;">Key</p>	<p>Yes</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix A –</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Cath Shaw, Deputy Chief Executive, 020 8359 4716, cath.shaw@barnet.gov.uk</p>

<p>Summary</p>
<p>The report seeks agreement in principle to make a loan of £22.9 million to Saracens at a commercial rate for a period of 30 years to enable the construction of a new West Stand as part of their Allianz Park stadium at Cophall. It outlines the benefits of the project for the council and the wider Barnet community, and summarises the findings of a preliminary due diligence exercise. The report sets out the further due diligence and assurances required in order for the council to satisfy itself that it is prudent to make the loan. It seeks authority for the Deputy Chief Executive to oversee this work and subject to its satisfactory conclusion to enter, in consultation with Members, into a loan agreement with Saracens Ltd.</p>

Officer Recommendations

That the Committee:

1. Delegate authority to the Deputy Chief Executive to undertake due diligence (at Saracens' cost) and seek further assurances in accordance with the recommendations of the accompanying exempt report and finalise appropriate securities to ensure the council is meeting its prudential obligations.
2. Delegate authority to the Deputy Chief Executive to take all reasonable steps to prepare to enter into a loan agreement with Saracens Limited for the provision of a new West Stand as part of their Allianz Park stadium at Copthall, in accordance with the exempt report.
3. Subject to satisfactory progress with the work outlined in recommendations 1 and 2, delegate authority to the S151 officer to propose a revision to the Treasury Management Strategy Statement (TMSS) to Council, that allows the loan to progress, for consideration and approval.
4. Subject to satisfactory completion of the work outlined in recommendations 1 and 2, and approval of a revised TMSS, to delegate authority to the Deputy Chief Executive in consultation with the Leader, The Deputy Leader and the Leader of the Opposition to complete the loan agreement, lending £22.9m to Saracens for the construction of a replacement west stand as part of their Allianz Park stadium at Copthall.
5. Subject to 1-4 above, delegates authority to the s151 officer to add the loan to the capital programme.

1. WHY THIS REPORT IS NEEDED

- 1.1 Saracens have approached the council seeking support, in the form of a £22.9m loan at a commercial rate, to facilitate the construction of a replacement West Stand at Copthall.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Saracens' contribution to Barnet was recently recognised by Council in its decision to award the freedom of the borough to the club. As well as being a highly successful locally based sporting team, Saracens have transformed Allianz Park (formerly Copthall Stadium) into a thriving community sports and education facility, providing approximately 40 hours per week of community access across a wide range of activities. Allianz Park plays host to many school and inter-school sports competitions and events each year, including over 30 School Sports Days, inter-school rugby tournaments and a series of borough athletics competitions that help identify Barnet's emerging athletics talent. The Saracens Sports Foundation has developed a specialist series of sports programmes that provide young people with learning disabilities opportunities to participate and be part of a

club.

- 2.2 Through the Saracens Multi-Academy Trust, Saracens is opening the Saracens High School in September 2018, serving the community of Grahame Park and Colindale. With the opening of the Saracens Primary School in September 2020, and collaboration with the Goldstar Federation, the Multi-Academy Trust will consist of three primary schools and one secondary school and will support the educational attainment of circa 3,500 children and young people in Colindale when full.
- 2.3 Saracens are seeking to build a new west stand to replace the existing, inadequate stand dating from the 1960s, bringing it up to the standard of the more modern east stand. The new stand has already received planning consent and will make a material improvement to the visual amenity of the area.
- 2.4 Planning consent for the new stand also includes the development of a community garden. As well as further enhancing the biodiversity of the site, the garden will provide a platform from which to support some of the community's most vulnerable groups, including adults with learning disabilities, adults with poor mental health and older people.
- 2.5 The West Stand will incorporate a new state-of-the-art media centre to be used as a 'Learning Zone' outside of match days. The Saracens Sport Foundation will work with Barnet Council and other partners to identify gaps in the local educational sector and look to create bespoke educational offerings that help fill these gaps. Focus is likely to be on those young people who are currently failing through mainstream education. Building on current health and wellbeing projects, the Saracens Sport Foundation will gain the capacity to offer GP referral programmes supporting the improved health of local people with more chronic health issues.
- 2.6 Furthermore, Saracens have entered into agreement with Middlesex University, another important partner organisation in the borough, to lease the space created within the curtilage of the building. This will allow the university to locate its London Sports Institute and Health Department at the stadium.
- 2.7 London Borough of Barnet owns the Copthall site, leasing it to Saracens on a 99 year lease (96 years remaining).
- 2.8 Saracens sought bank funding to construct the West Stand, but were unable to raise sufficient investment at an appropriate price. Consequently, Saracens approached the council as an alternative funder.
- 2.9 The council is keen to work with Saracens because of the wider benefits to the borough from the delivery of the West Stand scheme. However, the recommendation is that the terms of the loan should be justifiable on a purely commercial basis, so that the council receives a proper return and there is not State Aid to the club, and subject to appropriate security. Accordingly, the council commissioned a preliminary due diligence report, which is attached as an appendix to the exempt report.
- 2.10 The key findings of the report are:
 - Saracens made an operating loss of £2.73m in 2016/17.
 - The loss has been declining over recent years, and the club has a clear

business plan to move to a profit position. The assumptions in the business plan are reasonable.

- At the time of writing the due diligence report, the club had total net liabilities of £45.1m in the form of intercompany loans. The club has since confirmed that these were restructured as at 30 June 2018 to leave the club in a position of having net positive assets. This will be verified during the next stage of due diligence.
 - The security offered is independent of the success of the club but the council should test further its robustness through due diligence, and should consider asking for additional security.
- 2.11 A preliminary discussion with the principal shareholder suggests that there are options for providing additional security which will be explored as part of the next phase of due diligence.
- 2.12 Saracens propose to draw down the loan in Autumn 2018, to meet their project timescales.
- 2.13 At the June meeting of Policy and Resources Committee, the Leader undertook that this report would consider the experiences of Coventry City Council and Northampton Borough Council in supporting development of facilities at, respectively, the Ricoh Area and the Sixfields stadium. A summary of these two cases is attached at Appendix A. It should be noted that in the case of the Ricoh Arena, Coventry City Council's loan was repaid early by Wasps Rugby Club in 2014; and that all legal challenges were found in favour of the council. In the case of Northampton, criminal investigations are ongoing, however it appears that the full loan sum was paid up front, and then not spent on the intended purpose. This risk would be mitigated in this proposal by providing that loan is drawn down quarterly upon evidence of progress.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The council could choose not to make the loan to Saracens. This would put in doubt the delivery of the West Stand, causing a delay to – and potentially the loss of – the community benefits of the West Stand. The council would also lose an income stream from the loan repayments. However, should further due diligence and work with the club not result in adequate assurances for the council to rely on, officers would recommend not proceeding with the loan.

4. POST DECISION IMPLEMENTATION

- 4.1 The Deputy Chief Executive will commission due diligence from independent professional advisors, at Saracens' cost, and will instruct lawyers to draw up appropriate legal documentation.
- 4.2 In accordance with the recommendations in the first stage due diligence report, this will focus on the need for greater security as well as more detail on, and stress testing of, the Business Plan and. Standard legal due diligence will also be undertaken in relation to the company's ownership, assets and liabilities.

- 4.3 The current Treasury Management Strategy Statement (TMSS) requires revision to the investment strategy to be fully compliant with regulations to allow progression to making the loan. The s151 officer will, therefore, propose to Council appropriate revisions to the TMSS to facilitate the council's approach to such loans.
- 4.4 Subject to successful completion of these activities, the Deputy Chief Executive will consult Members of the Urgency Committee prior to entering into the loan agreement.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The granting of this loan helps to meet Corporate Plan 2015-20 strategic objectives in ensuring that Barnet is a place:

- Of opportunity, where people can further their quality of life: Cophall will provide a major centre of sport and recreational activities for residents and visitors to the Borough. It will provide a combination of public and competition based sports facilities for active users and spectators. By the promotion of sport – active or as a spectator – the council is seeking to encourage a more active lifestyle and sport take up. This in turn will help with the long-term sustainability of sports local clubs and the long-term investment in facilities.
- Where people are helped to help themselves: recognising that prevention is better than cure, Cophall as part of wider Sports and Physical Activity strategy as well as the Open Space Strategy, will assist local residents to enjoy the benefits of sport and recreation. Improved access, way finding and the range of formal and informal activities in one location, and as part of a borough wide network, ensures that the needs and capabilities of all residents are met, breaking down some of the barriers to participation.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The council anticipates borrowing the sum of money from the Public Works Loan Board, and on-lending it to Saracens. This is in accordance with the Statutory Guidance from MHCLG on Local Government Investments (3rd Edition) which came into effect on 1st April 2018.

5.2.2 Projected revenue income from loan repayments would be expected to commence during the 2019/20 financial year, but for reasons of prudence has not yet been factored into the MTFS.

5.2.3 The loan will only be entered into if due diligence confirms that the council's borrowing costs will be fully met with an appropriate margin for risk management and appropriate security.

5.2.4 Due diligence will be at Saracens' cost.

5.3 Comments of the Chief Financial (s151) Officer

5.3.1 The Chief Financial Officer (CFO) has been involved in the discussions with Saracens since December 2017 and commissioned the due diligence report by the independent consultants.

5.3.2 The CFO is content that the council moves to the next stage of due diligence but will not recommend agreement to the loan unless the key assurances referred to in the accompanying exempt report have been met in full, but specifically, and not limited to, that guarantees are in place to ensure the repayments are made in full and thus that council's capital is secure.

5.4 Social Value

5.4.1 Social benefits will be secured through opportunity to increase participation in sport and physical activity in the Borough. This includes the health benefits, but also to benefits of participation.

5.4.2 Economic benefits will be delivered through the promotion of Barnet as a place for sport in North London. Businesses are attracted to locate to and stay in areas which offer staff a good range of sport and social activities. The continued presence of national teams such as Saracens Rugby Union Club and Barnet and Shaftesbury Harriers Athletics Club in the Borough is a major promotional tool for attracting business investment.

5.4.3 Environmental benefits will be delivered through enhancing the parkland setting of Cophall, which links to the Parks and Open Spaces Strategy.

5.5 Legal and Constitutional References

5.5.1 The land upon which the stadium is to be built is held under a lease dated 3 July 2015 for 99 years granted to Saracens Cophall LLP from Barnet Council. Article 7 of the council's constitution sets out the functions of Policy and Resources Committee. This includes:

- Strategic policy and finance including recommending capital and revenue budget, Medium-Term Financial Strategy and Corporate Plan to Full Council.
- Finance including: treasury management; local taxation; insurance; corporate procurement; grants; writing off debt; virements; and effective use of resources.
- If any report appears to come within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee.

5.5.2 A key decision is defined as one which:

- will result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates; or

- is significant in terms of its effects on communities living or working in an area comprising two or more wards.

5.5.3 This decision is considered urgent for the reasons set out in paragraph 2.12.

5.5.4 The council have the power to invest under s12 of the Local Government Act 2003 and any loan would need to be in accordance with the council's investment strategy. It would also have to comply with the rules on State Aid.

5.6 Risk Management

5.6.1 Stage 1 due diligence has identified key risks in relation to Saracens and its ongoing ability to make loan repayments over a thirty year period. Other risks to be addressed at the next stage include:

- The loan must be offered at an appropriate commercial rate so that the Council does not fall foul of EU regulations around State Aid.
- The loan to Saracens will be at a fixed rate. The Council will therefore need to manage interest rate risk. The initial view is that this is relatively easy to do through effective Treasury Management, however this will be further tested during due diligence.
- If the club's corporate strategy changes, for example through a change in ownership, there could be fewer community benefits from the loan and/or a less collaborative approach to resolving any future challenges.
- The experience of Northampton Borough Council suggests that it is important to have arrangements in place to ensure that the loan is spent for the intended purpose. This risk will be managed by making the loan available to draw down quarterly on evidence that works have been delivered as anticipated.

5.7 Equalities and Diversity

5.7.1 Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. Consideration of the duties should precede the decision. It is important that Policy and Resources has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:

5.7.2 A public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.7.3 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.7.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

5.7.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- Tackle prejudice, and
- Promote understanding.

5.7.6 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race,
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

5.7.7 The aim of Copthall is to create a fully inclusive location for sport and recreation within the Borough. The range of sport possible on the site means that all people, including those with disabilities, can use the facilities, or and visit the area as part of the Borough's extensive green spaces network.

5.8 Consultation and Engagement

5.8.1 No public consultation or engagement has taken place in respect of this proposal.

5.9 Corporate Parenting

5.9.1 No specific implications. We are working with Saracens on a number of initiatives to benefit children in care and care leavers.

6 BACKGROUND PAPERS

6.1 [Cophall – Planning Brief](#) September 2016