



CABINET REPORT

Report Title	Northampton Town Football Club and Northampton Saints Rugby Club – expansion plans
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	17th July 2013
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	No
Directorate:	Regeneration, Enterprise & Planning and Chief Executive
Accountable Cabinet Member:	Leader of the Council – Cllr David Mackintosh
Ward(s)	St James

1. Purpose

1.1 The purpose of this report is to seek the authority of Cabinet, in principle, to proposed Council approaches to supporting the growth of Northampton Saints plc and Northampton Town Football Club Limited, including associated financial arrangements, to help promote the wider economic and social wellbeing of Northampton.

2. Recommendations

2.1 That Cabinet approve the principle of providing loan finance to Northampton Saints plc (“Saints”) and Northampton Town Football Club Limited (“NTFC”) to support stadia expansion and associated development on land presently within their control.

2.2 That Cabinet delegates to the Chief Executive the authority, in consultation with the Section 151 Officer and the Leader of the Council, to approve the amounts and terms of any loan finance arrangements on a basis that takes into full account the matters set out at 3.2.1 of this report.

- 2.3 That Cabinet supports the principle - pursuant to a previous Cabinet authority given to enter into a collaboration agreement with Homes & Communities Agency (“HCA”) - of this Council entering into a Joint Venture (“JV”) Agreement with a private company, HCA (as necessary) and NTFC for the development of that land forming part of Sixfields Stadium (shown edged red upon the attached plan at Appendix 1), together with other adjoining HCA land, on the basis that an agreement relating to a disposal at nominal initial value of the freehold interest (in the land edged red) to the private party concerned may be required to be completed prior to the commencement of physical development.
- 2.4 That Cabinet delegates to the Director of Regeneration Enterprise and Planning the authority, in consultation with the Leader of the Council, to agree the terms of transfer of the land referred to at 2.3 and to contract generally with JV partners, on the basis that:
- (i) this Council is first satisfied that the proposed comprehensive development scheme will be viable and generate a positive value for the land owners
 - (ii) that this Council is not exposed to any risk of financial loss or liability from its participation within the JV Agreement
 - (iii) that adequate arrangements are made to re-provide suitable athletics facilities at an appropriate location as part of an overall approach to development.
- 2.5 That Cabinet supports in principle, subject to the legal considerations set out in clause 4.3.3. of this report, that the net value generated for this Council from any Joint Venture Agreement that may be entered into (consistent with 2.4 above), may be used in whole or part to reduce any the levels of debt owed by NTFC to this Council (pursuant to 2.1 and 2.2 above), in support of the promotion of the wider economic and social benefits that would be generated for the Town.
- 2.6 That Cabinet delegates to the Chief Executive the authority, acting in consultation with the Section 151 Officer and the Leader of the Council, to agree the basis of any reduction of debt owed to this Council by NTFC in the potential circumstances envisaged at 2.5 above.
- 2.7 That Cabinet supports the principle of varying the existing lease of Sixfields Stadium to NTFC to permit the sharing of the facility by NTFC with another professional sports club and delegates to the Director of Regeneration Enterprise and Planning the authority, in consultation with the Cabinet Member for Regeneration Enterprise and Planning, to agree the terms of any lease variation.
- 2.8 That Cabinet, subject to the final loan agreements, delegates to the Section 151 Officer, in consultation with the Cabinet Member for Finance and Resources, authority to incorporate the loans into the Council’s Capital Programme and notes the potential impact of the loans on the Council’s Affordable Borrowing Limit.

- 2.9 That Cabinet welcomes the proposed partnership between the Saints and Northampton Borough Council to promote the town to visitors, in order to enhance the economic well-being of the Borough and delegates to the Chief Executive in consultation with the Leader of the Council the completion of this agreement.

3. Issues and Choices

3.1 Report Background

- 3.1.1 This Council wishes to support the growth of the Saints and NTFC. It has sought to work with both clubs to identify financially sustainable ways for them to expand their existing stadia and to develop additional facilities. The Football Club wish to expand the Stadium and to construct a hotel facility on immediately adjacent land, within their leased area. The lease granted to NTFC in April 2004 by this Council specifically permits the sub-letting of certain identified land for hotel and conference facilities. In January 2008, the Cabinet of this Council also agreed to a varied methodology of how this transaction might be achieved commercially, to assist the Club. That envisaged the grant of a long lease of land for hotel development by others and the receipt of a capital payment by NTFC. However, the structure of the hotel market in the UK has changed in recent years and NTFC's aspiration is now to construct and own a hotel/ conference facility, generating revenue income through an agreement with a branded operator. NTFC have indicated that they would like to have an agreed facility with this Council for loan finance of up to £12 million to support these stadium and hotel/ conference centre plans.
- 3.1.2 The Saints considerable sporting success has led to the need for additional spectator capacity to enable them to continue to compete at the very highest levels. Their present plans include the expansion of Franklins Gardens. This Council has worked closely with Saints and HCA in the last eighteen months to help facilitate forms of enabling development on land that the Club owns or already leases from others. Agreements between the Saints and suitable third party developer/ occupiers have not yet been achievable. The Saints have indicated that they like to have an agreed facility with this Council for loan finance of up to £5 million to support these plans.
- 3.1.3 The revenue that could be generated from such increased spectator capacity together with ancillary developments such as hotel and conference facilities, could help to underpin both clubs operational income and support their success in the future. Consequently, whilst also aiming to promote the wider growth and employment objectives within the Northampton Waterside Enterprise Zone, Cabinet agreed on 11 July 2012 to support a collaboration agreement approach with HCA. This approach included, amongst other things, the development of land within this Council's freehold ownership, already let to Northampton Town Football Club Limited, which is presently laid out and used as an athletics facility.
- 3.1.4 A developer has been identified that wishes to both work with NTFC in relation to their stadium plans and to take forward the development of land edged red on the attached plan, in combination with larger areas of HCA owned land.

Further detailed work needs to be completed to ensure that this company's projections of value are judged to be deliverable and that the forms of physical development are acceptable in broad planning policy terms.

- 3.1.5 A Joint Venture Agreement could deliver value for HCA and for this Council, on a basis that does not expose this Council to development risk and provides a cost efficient way of NTFC completing their stadium works and hotel scheme as part of a broader package of development. The value generated from such development, could help to support the costs of stadium improvements. That would require this Council to agree, after first sharing appropriate value with NTFC to reflect their legitimate long leasehold interest in the land edged red, to use its residual proceeds of development to reduce the club's debt associated with the stadia expansion. Similarly, HCA could choose to apply its larger pro rata share of development proceeds to effectively support investment in Stadia improvements.
- 3.1.5 NTFC and Saints would both wish to fund their own development proposals with loan finance from this Council. The Council is able to access funding on more favourable terms than those obtainable in the general market. The market for development funding is, in any event, very restricted at present save for certain limited commercial building types in London and in prestige locations in a few major cities. The expansion of the stadia and ancillary facilities of both clubs would provide an important short term and longer term boost to the local economy, within the Northampton Waterside Enterprise Zone. It would help to generate new employment and stimulate and sustain wider economic activity in the Town. The expansion of the stadia and the enhanced facilities would also have positive social benefits, resulting from the improved sporting facilities created and the associated opportunities that they can generate for community sport in Northampton.
- 3.1.6 NTFC may wish to agree a basis with another professional sports club to share the use of sporting facilities at Sixfields Stadium. This could provide benefits for NTFC, the other Club and support additional economic activity in the Town over an agreed period. Importantly, it would generate additional revenue income for NTFC.
- 3.1.7 Alongside these important physical developments, proposals have been developed to connect the "Love Northampton" brand, developed to promote Northampton to residents, county residents, and visitors, with the internationally recognised brand of Northampton Saints. It is proposed to enter into a one-year agreement. This partnership involves the provision of a series of significant promotional opportunities and benefits which will be used to promote Northampton to visitors (whether visiting supporters or from the county and the region), to inward investors and to town residents who are Saints supporters.
- 3.1.8 This programme, detailed at Appendix 2, will give a considerable boost to the promotion of the town and thereby the economic well-being of the Borough. The agreement contains the option to renew this agreement in 2014. A fee of £100,000 has been agreed with Northampton Saints for this innovative partnership, possibly the first of its kind. This fee and any other associated

costs will be met from reserves earmarked for the economic development of Northampton.

3.2 Issues

- 3.2.1 The loan sums sought by the two clubs are significant. The Council would need to ensure that it is satisfied, before advancing funding to either club, that:
- (i) There would be no net initial or later costs to the Council of setting up, administering and servicing any borrowing it in turn makes, whether via the Public Works Loans Board or from any other external source, to in turn provide loan finance to the clubs.
 - (ii) There is sufficient tangible security offered by the clubs to the Council from the time of taking loan finance until full repayment is made. In the case of the Saints this could be through the Council being granted a legal charge on Franklins Gardens. In the case of NTFC this may be via legal charges on a combination of assets or other appropriate arrangements.
 - (iii) The length of the loan and its repayment are linked to the timing of additional revenue generated by both clubs from the expansion, with the principle being any monies loaned should be repaid in the shortest possible time.
 - (iv) The income projections from additional revenue generated by both clubs as a result of expansion is sufficient to service debt owed to the Council, after taking into account any capital sums that are, objectively, judged very likely to become available to the clubs in the short to medium term.
 - (v) In the case specifically of NTFC's proposed hotel development, there are robust contractual arrangements in place between NTFC and a financially sufficient third party concerning certainty of minimum levels of income for a suitable minimum period of years.
- 3.2.2 Land at Sixfields was subject to many years of tipping and landfill. Whilst waste material was removed from the area of the Stadium complex prior to its construction in the early 1990's, surrounding land owned by HCA has only being subject to very limited remediation. The resulting abnormal ground conditions create additional challenges and costs for development. The Council and HCA would need to be sufficiently confident that any development proposals would be deliverable in practice, prior to entering into any formal JV arrangement.
- 3.2.3 The relocation of the athletics facilities and the availability of alternative facilities during development stages would need to be addressed, as part of any comprehensive development scheme. There are existing contractual rights in favour of Rugby and Northampton Athletics Club enforceable against NTFC in respect of the facilities within the land edged red upon the attached plan.

- 3.2.4 The potential issues associated with “State Aid” within European law would need to be properly considered in the context of (i) the Council providing loan finance to private and public companies and (ii) any financial support that the Council may choose to provide by way of using its development proceeds from any Joint Venture Agreement at Sixfields to reduce the quantum of debt owed by NTFC to the Council. There may be limitations on the amounts that may be made available in both situations.
- 3.2.5 This Council owes a duty to the many supporters of both clubs resident in the Town to avoid providing finance arrangements to either Club that they are not objectively able to repay. Due to the stringent rules of the relevant governing bodies of the clubs any financial insolvency would lead to significant detrimental penalties, this could in turn lead to the risks of relegation and associated negative impacts.
- 3.2.6 The existing Lease of Sixfields Stadium dated 13 April 2004 made between this Council and NTFC contains restrictions on sub-letting or sharing possession of the sporting facilities, save in relatively limited circumstances and for particular purposes. A variation of the lease would be required to permit NTFC to complete any ‘ground share’ agreement with another professional sports club.

3.3 Choices (Options)

3.3.1

(a) This Council could choose not to make loan finance available to one or both clubs. This would avoid or limit any financial risk being taken by the Council. It would though similarly limit the scope of expansion plans, by one or both clubs, to only the funding/ enabling developments they could attract in the private market.

(b) This Council could choose not to enter into any JV Agreement with HCA, private developer and NTFC. Rationally it would not do so nor agree to transfer land at nominal initial value, if the projections from development were not judged to be realisable and/or the types of development were not supported in general terms.

(c) This Council could choose not to agree the principle of using any development proceeds it would receive from a viable JV Agreement to reduce the balance of any loan debt owed to the Council by NTFC. This would provide the Council, in those circumstances, with additional capital receipts to invest in other priorities in the Town. It would not however, help to generate the wider economic and social benefits arising from less indebted clubs and their consequent ability to generate employment and opportunities of different kinds for local people.

3.3.2

(a) This Council could choose to make loan finance available to the clubs on suitable, prudent terms to protect the position of this Council and the clubs. This would help support stadium expansion plans, create construction and permanent jobs and support wider benefits within the Enterprise Zone.

(b) This Council could choose to enter into JV arrangements with HCA, private developer and NTFC, provided it considered that the terms were acceptable and the prospect of generating positive returns were sufficiently strong to justify the transfer of freehold land at the outset at nominal value. Participation in a

successful JV would deliver significant development within the Sixfields area. This would not only generate value for this Council, but would support the expansion of employment and other opportunities within this part of the Town.

(c) This Council could choose to agree, subject to any legal restrictions, the principle of using any proceeds from a successful JV Agreements at Sixfields to indirectly support NTFC's aspirations for stadia expansion and greater financial sustainability.

3.3.3

(a) The Council could choose not to enter into a partnership agreement to promote Northampton through connecting the Northampton Saints and "Love Northampton" brand, but this would preclude a significant opportunity to get county, national and international promotional benefits for Northampton with consequent economic well-being benefits.

4. Implications (including financial implications)

4.1 Policy

4.1.1 Any wider land development proposals that would arise under the proposed JV arrangements would need to be consistent with the National Planning Policy Framework and with relevant local planning policies.

4.2 Resources and Risk

4.2.1 Capital: Depending on the final loan agreement it is likely the loan will need to be treated as capital expenditure for the Council under Section 25 (1) (b) of the Local Authorities (Capital Finance and Accounting) Regulations 2003. If this is the case the Council will need to approve the amount of the loans into its Capital Programme. Subject to the level of interest charged on the loans it may be classified as a "soft" loan which is likely to require separate disclosure in the Council's Accounts. A capital sum might be realised from participation in a successful JV arrangement involving development of Council land (in combination with other adjacent land). This receipt could – if retained - provide a means of supporting other capital investment plans.

4.2.2 Prudential Indicators: If the loans are treated as capital expenditure it will impact on the Council's Prudential Indicators which it set in February 2013 as part of the Budget setting process. The loan will increase the Council's Capital Financing Requirement (CFR), its underlying need to borrow to finance capital expenditure, and could lead to the Council breaking its Affordable Borrowing Limit (ABL). The ABL is the maximum the Council can borrow. When the budget was set for 2013/14 in February 2013 the position was as follows:

Affordable Borrowing Limit (ABL)	£250.0m
Forecast Long Term Borrowing	£215.8m
Headroom	£34.2m

The Council should have sufficient headroom in its ABL for 2013/14 to incorporate the loans without having to change its ABL, which would require a

full Council decision, during the financial year. In addition to its long term borrowing the Council may, from time to time, have to borrow temporarily short term to manage its cash flow commitments. This short term borrowing would impact on the headroom available. However, based on current forecasts there should be sufficient head room and this will be kept under review through the monitoring of the Council's Treasury Management Strategy throughout the year.

- 4.2.3 Treasury Management Strategy: If the loans are treated as capital expenditure the Minimum Revenue Provision (MRP) Policy may need to be updated to reflect the repayment provisions of the loan.
- 4.2.4 Revenue: If the Council was to provide loan finance to one or either Club it would need to ensure that this was provided in such a way so as to marry with the timing and extent of revenue impacts on the Council, arising from any external borrowing that it needed to make to fund this. The structure of any borrowing made would need to have regard to the business plan of the stadium improvements and any other developments for which loan finance was provided to either club.
- 4.2.5 Risk: The security provided by either club for any loan finance provided to them would need to be sufficient to ensure that the Council was not exposed to the risk of default. Without such security being in place, the consequential ongoing revenue liabilities of the Council servicing debt as a result could negatively affect delivery of other services to the public.
- 4.2.6 The connecting of the "Love Northampton" and Northampton Saints brands through the proposed partnership agreement provides very significant promotional benefits in a complete package, which will greatly enhance promotion of the Town and thereby the local economy. Funding will be from the Council's reserves earmarked for economic development purposes. Given the immense standing of the Saints brand locally, nationally and internationally, no significant risks are associated with this partnership and it is for the Council to work with the Saints to maximise the benefits to the Town and local business,

4.3 Legal

- 4.3.1 Local authorities have powers under the Localism Act 2011 to act in the same manner as any other legal person, save where those powers are specifically limited by statute. The making of loans would be permissible, subject to any statutory financial services or similar regulations that may be relevant. The fiduciary duty of the Council to the tax payer would require that there should be sufficiently robust arrangements concerning the repayment of any loans provided and adequate tangible security in place to cover the position in the event of default.
- 4.3.2 The Council is under a general duty to achieve best value from the disposal of its land and property, arising under s.123 of the Local Government Act 1972. Any agreement to dispose of an interest in land for an initial nominal consideration, as part of a Joint Venture agreement with other parties, would only be legitimate where there was considered to be a strong objective

prospect of that agreement leading to a development return reflective of what could be achieved in the market generally.

4.3.3 The Council would need to comply with EU law in relation to “State Aid” in the methodology of providing any direct or indirect financial support to either club, to assist in the promotion of the wider economic and social well-being of the Town. There are certain exemptions from ‘State Aid’ and the Council would need to ensure that the terms of any support provided were consistent with those. In some circumstances applications for exemptions may need to be made to EU bodies. If this was relevant, it could be a potentially delaying factor. Depending upon the quantum of actual loan finance sought, there may be a requirement to undertake an economic impact assessment.

4.3.4 The Council has the necessary powers to undertake promotional activity to promote the town to residents, visitor and investors.

4.4 Equality

4.4.1 There are none specifically. Any development proposals linked to the proposals above would need to have regard to accessibility issues for disabled persons.

4.5 Consultees (Internal and External)

4.5.1 Rugby & Northampton Athletics Club

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The proposals above would support:

- (a) The stated commitment of the Council to help support the aspirations of the major sport clubs in the Town.
- (b) The promotion of development, growth and job creation within the Northampton Waterside Enterprise Zone and in the wider Northampton economy, particularly the visitor economy.
- (c) Effective working with a key partner (HCA) to bring forward development on under-utilised publicly owned land for a variety of uses.

4.7 Other Implications

4.7.1 There are none specifically.

5. Background Papers

5.1 Cabinet Report dated 28 January 2008 - Sixfields Stadium – Request for Lease Variations

5.2 Cabinet Report dated 11 July 2012 - Land at Sixfields – Development Strategy

David Kennedy, Chief Executive
Steven Boyes, Director of Regeneration, Enterprise and Planning
Simon Dougall, Corporate Asset Manager