



Lead Officer of Report: Edward Highfield

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Report of: Edward Highfield
Report to: Cabinet
Date of Decision: 17 July 2019
Subject: Sheffield Olympic Legacy Park – future arrangements

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input checked="" type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? <i>Business and Investment and Finance</i>		
Which Scrutiny and Policy Development Committee does this relate to? <i>Economic and Environmental Wellbeing</i>		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>		

Recommendations:

Cabinet is recommended to:

- Note the progress made at Sheffield Olympic Legacy Park to date
- Confirm the expanded vision and geographical reach of an extended SOLP, as set out in this report and at Appendix 1
- Retain Legacy Park Limited as the special purpose vehicle charged with driving forward delivery of SOLP on the basis and implications as set out in this report.
- Confirm the role and remit of LPL as set out in this report, including reporting arrangements
- Approve up to £150,000 per annum for 3 years from the Council's Corporate Investment Fund to cover underwriting risk in support of operations associated with SOLP
- In respect of the current financial year approve underwrite up to £150k of current operating costs but work with Legacy Park Limited to move to a capped contribution of £80k by December
- Approve the principle of a Memorandum of Understanding as set out at section 2 designed to oversee the relationship between SCC and LPL.
- Negotiate with Scarborough International Property Limited as preferred development partner in order to drive forward the commercial development of SOLP, working in conjunction with SCC and wider SOLP partners, with terms to be agreed by Cabinet Member for Resources in consultation with Cabinet Member for Business and Investment, Executive Director for Place and Director of Legal and Governance
- Commission LPL and SCC officers to produce annual reports on the impact of SOLP

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

*Sheffield Olympic Legacy Park; Legacy Park Limited Emergency Funding –
Leaders Decision 26/04/2019*

Development of the Olympic Legacy Park - Cabinet report October 18 2017

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Paul Schofield
		Legal: David Hollis
		Equalities: Annmarie Johnston
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	Eugene Walker
3	Cabinet Member consulted:	Mazher Iqbal
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Edward Highfield	Job Title: Director of City Growth
	Date: (Insert date)	

1. BACKGROUND

1.1 In recent years the site of the former Don Valley stadium has been transformed. The Sheffield Olympic Legacy Park (SOLP) now represents one of the most exciting regeneration projects in the city region; delivering a tangible legacy from the London 2012 Olympic Games by promoting an integrated approach to health, wellbeing and sport to a local, national and international audience via a combination of education, research, community participation and professional sports.

Achievements to date

1.3 With the support of various partners including the Council who own the land, the following investments have been secured:

- £1.1m from European Regeneration Development Fund to remediate the site
- Oasis Academy Don Valley – £16.2m capital grant from Central Government education funds
- UTC Sheffield Olympic Legacy Park - £10m capital grant from Education Funding Authority

- Advanced Wellbeing Research Centre - £14m capital grant from the Department of Health to Sheffield Hallam University, including Council sale of freehold of AWRC plot
- Park Infrastructure - £4.9m SCRIF grant from Sheffield City Region
- £1.4m of other third party contributions including grants and planning agreements to develop the sports facilities
- Community Stadium –agreement for leasehold sale of stadium plot to Sheffield United.
- Elimination of cost of operating pitch in community stadium by SCC – taken over by Sheffield United FC and Pulse

1.4 To date, land on the OLP site had been earmarked for development by Park Community Arena (PCA). Clearly the PCA proposal has failed to progress in line with original and revised timetables and therefore the future of that site is now being actively reconsidered by the Board as it develops the OLP masterplan".

KEY POLICY QUESTIONS

1.5 Whilst a number of plots remain vacant and available for end use, the above investments to date mean that SOLP is well on its way to delivering a compelling innovation asset for the city region and catalyst for regeneration of the surrounding area, realistically seeing all of the land at the park utilised in the next few years. Against any reasonable measure, it would be possible to argue that the original job at SOLP is well on its way to be completed.

1.6 It is however clear that there is greater potential and appetite from partners for SOLP to influence a wider geographic area, extending its physical footprint and generating a greater economic impact over a longer period of time. A number of key policy questions are therefore presented:

- Do we continue with SOLP and seek to expand its footprint and reach?
- Do we continue with LPL as a special purpose vehicle?
- What amount of underwriting risk on partner contributions are Members prepared to take and where is that to be funded from?
- How should the Council deal with costs incurred to date on the SOLP site?
- Should the Council proceed with a private sector development partner to deliver development of the rest of the site – and if so, who and on what basis?

1.7 This report seeks to examine and address each of these questions and set out a clear way forward.

Wider vision and objectives

- 1.8 Sheffield Olympic Legacy Park's extended footprint will stretch from Broughton Lane to Woodbourn Road. The map at Appendix 1 shows the current and proposed extended footprint of SOLP.
- The red boundary shows the extended site of the Sheffield Olympic Legacy Park
 - The blue boundary shows the wider area that will benefit from adjacency to SOLP, where associated investment and regeneration focus will be targeted, although not directly part of SOLP itself
 - The yellow boundary shows a wider set of assets that are relevant to the achievement of the wider vision for SOLP, including a major housing site at Attercliffe Waterside and the Woodbourn Road athletics track.

2. DELIVERY ARRANGEMENTS

- 2.1 After the closure and demolition of the former Don Valley Stadium, the Leader of the Council asked Richard Caborn to work with partners across the public and private sector to develop a new vision for the site, rooted in sports and physical exercise.
- 2.2 Since that time, delivery of SOLP to date has been driven by a special purpose vehicle, Legacy Park Limited (LPL), chaired by Richard Caborn, employing a very small core team.
- 2.3 Sheffield City Council, Sheffield Hallam University and Sheffield Teaching Hospital Trust have been Members of the company, LPL, until 2019 when Sheffield Hallam University withdrew from the company in order to focus on successful delivery of the Advanced Wellbeing Research Centre (AWRC).
- 2.4 This triggered a period of review during the first part of 2019, seeking to clarify objectives, governance, legal structures, delivery capacity and the role of partners. This report sets out the Council's consideration of those issues and seeks decisions necessary to take forward new arrangements for the next phases of delivery.

Proposed delivery arrangements and benefits of approach

- 2.5 With the withdrawal of Sheffield Hallam University from LPL, it has been necessary to review the purpose and funding strategy for LPL going forwards. A number of alternative options could be pursued, each with potential pros and cons.

	Pros	Cons
In house delivery i.e. winding up LPL and delivering SOLP from internal SCC resource only	<ul style="list-style-type: none"> • Simplified governance • Tax efficient 	<ul style="list-style-type: none"> • Loss of external confidence and momentum • Unlikely to generate substantial cost savings as dedicated capacity still required • Potential loss of external Chair who has been critical to success to date
Arm's length delivery i.e. the current model, retaining LPL with current or extended Members and external delivery capacity.	<ul style="list-style-type: none"> • Maintain external confidence and independence • Avoids potential loss of momentum • Provides vehicle for income generation • Avoids complicating existing agreements held by LPL • Avoids loss of external chair. • Able to flex to ensure appropriate skills for specific tasks 	<ul style="list-style-type: none"> • Clarity required about what constitutes a LPL decision and what requires SCC approval. • Potentially less tax efficient • Potentially more expensive than in house • Requires financial underwriting of income generation by the Council • Legal restrictions around procurement and State Aid
Hybrid approach – retaining an arm's length branded function in name only, but seconding delivery resource from SCC.	<ul style="list-style-type: none"> • Simplified governance – all Council decisions only • More tax efficient • Maintains external confidence and perception of independence 	<ul style="list-style-type: none"> • Risks potential loss of momentum • Means potential loss of external chair.

2.6 Discussion with the Council Leader and Cabinet Member for Business and Investment have indicated a preference to retain LPL in order to maintain momentum, a desire to see a wider set of stakeholders formally engaged in delivery of SOLP and the establishment of a Memorandum of Understanding between SCC and LPL to clarify the Council's relationship with the company. This indicates the current model of arm's length delivery is preferred - retaining LPL with current or extended Members and external delivery capacity.

Role of Legacy Park Limited

2.7 Should LPL be retained and funded, its core purpose will be to:

- Convene stakeholders to drive forwards the development of SOLP and the delivery of the vision
 - Developing proposals for new project ideas
 - Promoting key sites and development plots within SOLP and immediate surrounding area
 - Making recommendations to SCC as landowner (see MoU)
 - Liaise with Canal and River Trust and SCC and other stakeholders if appropriate to develop a high level masterplan from Broughton Lane to Attercliffe Waterside that provides a framework for development opportunities either side of the canal and making more use of the canal
- Act as a single point of contact for all enquiries for investment in certain places, as outlined below, passing all enquiries about possible land transactions to SCC at the first opportunity
- Acting as the lead interface with development partner(s) in those places
- Developing activities to engage the local community and increase use of SOLP
- Servicing SOLP governance arrangements

2.8 Referring to the map at Appendix 1, these LPL functions are targeted geographically as follows:

Boundary	Role
Red	LPL is single point of contact and coordinates all enquiries, passing land enquires to SCC at the earliest opportunity
Blue	Five year plan for Attercliffe central for economic regeneration, building upon the work at Sheffield Olympic Legacy Park and AWRC; LPL to be the lead point of contact for any investment and relocation working closely with SCC (planning and property) to create sites and investment opportunities for SMEs, relocations and supplementary uses. All enquiries coordinated through LPL, passing land enquires to SCC at the earliest opportunity
Yellow	Longer term plan for economic regeneration (including Attercliffe Waterside) led by SCC and supported by LPL. Area includes residential, mixed use and light industrial

Governance and reporting

2.9 It is essential that day to day joint working between LPL and SCC is collaborative, transparent and mutually supportive and that formal Council's decisions (land, assets, funding etc.) are made by the appropriate democratic process.

2.10 This relationship will be set out in a formal Memorandum of Understanding in order to provide clarity.

- 2.11
- The Council has to date spent circa £3.7m supporting the operating costs of LPL and matching the capital infrastructure funding which needs to be re-paid over the longer terms through direct income (capital receipts)
 - LPL will therefore be under an obligation at all times to pursue projects/investments that both deliver the vision for SOLP and enable SCC to recoup its investments to date by achieving fair market value and best consideration as required under S123 of the Local Government Act for its land and assets recognising the limitations for use imposed by various grant agreements which have been used to fund investment to date.
 - Public money will be used to fund LPL. LPL will therefore be under an obligation at all times to ensure value for money in its day to day operations and expenditure e.g. staffing, accommodation and activity.
 - LPL will need access to a range of specialist skills at different stages. LPL will be required to ensure an appropriate skills mix of its internal resource, tied to delivery of its annual business plan.
 - The Council will require LPL to directly employ staff where it makes sense to do so, rather than use consultants. Consultants should only be used for specialist, time limited tasks to ensure the Council delivers on its Best Value Duty
 - LPL will be responsible for developing project ideas / investor leads that meet the wider vision of SOLP.
 - Council assets are not being transferred to LPL. Decisions affecting Council resources, risk or strategic interest will therefore need appropriate Council decision making through its democratic processes.
 - LPL will make recommendations to SCC and assist by coordinating the information required for SCC to make an informed decision.
 - LPL will not develop project ideas or pursue project leads for things that fall outside of the vision for SOLP, which SCC prohibits or could bring the Council's reputation into disrepute.
 - LPL will act as a single point of contact for all enquiries for investment, working with Invest Sheffield and brokering introductions to other parts of the Council (planning, property etc) as required.
 - LPL will seek to charge fees and generate commercial income e.g. commission on investment leads – however this will not be applied where that fee is likely to reduce SCC's land value / capital receipts or incur a cost to any of the stakeholders / Members of LPL.
 - LPL will coordinate responses to the Local Plan Consultation for Sheffield Olympic Legacy Park and may comment on the wider Attercliffe area.

A quarterly progress meeting including the Council Leader, Cabinet Member and Chief Executive will oversee the relationship between SCC and LPL and application of the MoU.

- 2.12 In order to ensure effective communication between LPL and Council departments, LPL will provide monthly updates to Edward Highfield, Director of City Growth, and attend ad hoc meetings with Council officers as required to pursue joint work.

Role of partners

- 2.13 In order to expand the reach and impact of SOLP, a wider set of partners are envisaged – either as formal Members of the company, LPL or wider stakeholders. This is expected to include Sheffield Children’s NHS Foundation Trust, South Yorkshire and Bassetlaw Integrated Care System, Yorkshire & Humber Academic Health Science Network and Sheffield City Trust, in addition to the original stakeholders of Sheffield City Council and Sheffield Teaching Hospitals NHS Foundation Trust and Sheffield Hallam University.
- 2.14 Sheffield Hallam University as the key innovation asset on SOLP via the Advanced Wellbeing Research Centre, will continue to be a major and important stakeholder and a key occupier of SOLP.
- 2.15 LPL intends to operate a company Board for Members of SOLP as well as a wider stakeholder group to include non Members. Thematic working groups such as land and property, innovation assets and community impact will operate as required. SCC involvement will be different across each strand, with a substantial focus on land and property given the clear link to Council assets and decision making.

Costs

- 2.16 The financial model for the LPL is a mixture of Member subscriptions, external funding and commercial income.
- Each stakeholder wishing to become a Member of LPL will be requested to provide £10,000 pa.
 - LPL will seek to secure external grant funding where possible e.g. from Sheffield City Region / LEP.
 - LPL will seek to charge fees and generate commercial income e.g. commission on investment leads – however this will not be applied where that fee is likely to reduce SCC’s land value / capital receipts or incur a cost to any of the stakeholders / Members of LPL unless as part of agreed project costs
- 2.17 The Council is requested to underwrite up to £150,000 p.a. to allow LPL to pursue this income strategy and make up and shortfall as a core funding contribution. A core funding contribution of up to £150,000 for 3 years from the Council’s Corporate Investment Fund is therefore requested to cover this exposure. The income strategy of LPL will pay for core operating costs, most notably the staff capacity required to drive forward the work packages and roles set out in this report. Years 2 and 3 have the potential to require less than £150,000 underwriting, depending on the level of committed

income and financial contribution from partners that LPL are able to secure.

- 2.18 If SCC is prepared to underwrite up to £150,000 of current operating costs for 2019-20 it has already provided £40,000 of this. LPL is seeking contributions from other partners and SCC is aiming to cap its funding at £80,000 (ie an additional £40k) for this year, requiring funding from other partners of a matched £70k. If this target funding cannot be achieved by LPL by December, then SCC will review the delivery mechanism to ensure the success of OLP with the Chair of LPL in order to keep within this £80k envelope for SCC
- 2.19 Whilst external funding and income generation that does not come from LPL Members is welcome, it must not divert LPL from delivering its core mission. Whether SOLP is led by an arm's length company or by the Council, it will require core funding.

3. LAND

- 3.1 The Council has to date spent circa £3.3m of direct external costs (plus £400k of other costs) on SOLP which needs to be re-paid over the longer term. Whilst some of this should come from direct land receipts, it is likely that this will not cover all of the expenditure to date, however indirect uplift in land values and business rates will generate a sustainable income to the Council.
- 3.2 It is essential that principles affecting SCC land and assets are clear:
- Under Section 123 of the Local Government Act, SCC must obtain Best consideration in the disposal of its assets. SCC will undertake regular asset valuations of remaining plots and sites within SOLP. Land Value will be calculated on a residual basis as development opportunities are brought forward. Ultimately SCC must obtain market value for its land interests.
 - LPL will be under an obligation at all times to pursue projects/investments that both deliver the vision for SOLP and enable SCC to recoup its investments to date by achieving best consideration for its land and assets.
 - Ownership of land or assets will remain with SCC. Final decisions on disposal or investment will remain with SCC.
 - Negotiation on land value and terms of any property transaction with SCC will be led by SCC, once an introduction has been made by LPL.
 - LPL will not seek to generate commercial income where that income is likely to affect SCC land value / capital receipt.
 - The ERDF and SCRIF grants were subject to certain provisions regarding uses and timescales for the disposal of development plots. The terms of any disposal must reflect these in order to avoid clawback of the grants.

4. OPERATIONAL MANAGEMENT

- 4.1 A number of ongoing operational obligations remain with SCC and need sustainable delivery mechanisms and resourcing. These primarily relate to land disposal, negotiations and valuations and estate management. The Estate Management function includes
- Service charge collection, management and administration
 - maintenance of common parts
 - Car Parking and events management
 - Pitch management and maintenance until such time as the lease is signed for the Community Stadium
 - Management of voids
 - lease negotiations and variations
 - General estate/land management duties including tenant liaison, licences, covenant variations and waivers, encroachments, boundary disputes, wayleaves, easements, change of use, assignments etc.
- 4.2 Interim arrangements are currently in place for the Estate Management Function. However it is intended to procure a Property Management Agency to act on behalf of SCC to undertake estate management duties and service management collection and administration.

The majority of the Estate Management Functions will be covered through the Service Charge. Specific functions such as lease variations or licences are charged services.

However, until the plots are fully developed and let, the costs of estate management such as events management, car parking and the maintenance of public realm will be higher than can be recovered through the service charge and SCC will need to cover any void costs.

No budgetary provision exists for contract administration, client liaison or covering voids. The shortfall is currently being met by Parks and Countryside and Property and Regeneration Services as a pressure that sits outside the £150,000 funding request.

The current cost is anticipated to be not less than £60k pa which has to be met by SCC. A further report to seek approval to vire budgets where appropriate to cover any shortfall will be brought forward once the position is clear.

5. DEVELOPMENT PARTNER

Need for a development partner

- 5.1 Significant additional resources will be required to realise the expanded vision for SOLP stretching from Broughton Lane to Woodbourn Road.

- 5.2 Development capacity and capital funding will therefore either need to be provided by the public sector or from a private sector partner. SOLP stakeholders decided in 2018 to pursue options to secure a private sector development partner.
- 5.3 A masterplan for the expanded site and its relationship with the surrounding area will need to be prepared by any long term development partner. Whilst this work has not been carried out at this stage, a number of strong principles appear clear and would be the starting point of any masterplan:
- Building out remaining plots on the original SOLP in order to deliver commercial activity, increase the economic activity on the site and increase the concentration of relevant activity at the heart of the site.
 - Significant commercial development on the Attercliffe Common frontage site as a gateway location, including hotel and office uses.
 - Improvement to the main points of entry e.g. upgrading tram stops and sense of arrival.
 - Creation of new development sites for research and development, industrial collaboration and commercial space on existing surface car parks by providing alternative car parking solutions
 - Exploring the potential for sympathetic development within and adjacent to the SOLP site.
- 5.4 The Council's drivers for any wider Masterplan will include:
- Promoting an integrated approach to health, wellbeing and sport to a local, national and international audience via a combination of education, research, community participation and professional sports.
 - Creating economic and health and wellbeing opportunities for local residents
 - Stimulating regeneration in the wider Attercliffe area
 - Unlocking surrounding housing sites, engaging key partners such as Homes England, if appropriate
 - Enhancing the value of SCC owned assets
 - Generating capital receipts and future income streams to repay SCC investments to date.
 - Ensuring appropriate controls and governance to ensure an appropriate mix of uses over the long term
- 5.5 To date there has been very limited commercial interest from the development industry with the exception of Scarborough International Property Limited (SIPL) which is involved in the community stadium and have expressed an immediate interest in the Attercliffe Common site
- 5.6 Unlike the land developed as SOLP to date, future expansion land is mainly subject to long leases to Sheffield City Trust (SCT). Any agreement with a development partner must involve SCT in relation to those sites and also address what happens to the land in the event of the expiry or break of the existing lease terms in order to provide sufficient security to attract funding.

- 5.7 In seeking a private sector developer the Council has to be mindful of EU and UK procurement law. Any agreement where the primary purpose is the execution of public works will need a procurement exercise advertised in the OJEU. However, if the Council entered a land transaction this would not need to follow the same procurement requirements. Under a land transaction the Council will have less control to direct or enforce development than under a development agreement that includes public works such as ability to influence the mix and pace of end uses of the site via restricted user clauses or development milestones.
- 5.8 That does not mean that the Council has no control and effective terms to protect the Council's position can be agreed that do not constitute public works and arrangements of this nature can be made to work.
- 5.9 If the Council wishes to enter into a land transaction it will need to do so in accordance with its own disposals framework.
- 5.10 If Members are minded to pursue this potential investment from SIPL to develop areas of the SOLP then it would be necessary to negotiate a land agreement with both SIPL and SCT to explore whether SIPL is able to bring forward viable funded proposals which meet the Council's objectives for SOLP. The Council must decide whether there is a case to consider SIPL as a special purchaser under its disposals framework.
- 5.11 Whilst the precise nature of a commercial arrangement between SCC, SIPL and SCT is yet to be defined, it is proposed to work with SIPL on a site by site options basis within the context of an overarching masterplan developed jointly by SIPL, SCC, LPL, SCT and others. SCC land would only be released at market value in order to meet SCC legal obligations as a public authority. Authority is sought to proceed on these terms.

6. HOW DOES THIS DECISION CONTRIBUTE?

- 6.1 Strong economy – by bringing underutilised or brownfield land back into use for the development and creating new jobs, SOLP supports the Council's desire to create a fairer, more sustainable local economy where everyone has the chance access to good jobs, training and economic opportunity.
- 6.2 Better health and wellbeing – SOLP is all about promoting good health and greater levels of physical participation in sport and exercise. Critically the vision for SOLP is not just about research and development, but also local community engagement and impact.
- 6.3 Thriving neighbourhoods and communities – By converting low quality land into international standard community and commercial space with high quality public realm, SOLP has already transformed the image and perception of its immediate surrounding area. An expanded SOLP will directly benefit adjoining neighbourhoods which suffer from deprivation, offering members of the community new positive activities in line with Council policies to encourage people to have a good quality of life and feel

proud of where they live, with increased access to local amenities and facilities.

- 6.4 Tackling inequalities – Located between communities and which suffer the effects of longstanding deprivation SOLP provides new ways to bring people of different backgrounds together through health and wellbeing and employment opportunities, supporting Council policies to make it easier to overcome obstacles by investing in the most deprived communities and supporting individuals to help themselves and achieve their full potential.

7. HAS THERE BEEN ANY CONSULTATION?

- 7.1 There is no legal requirement to consult on these proposals. However, the issues and proposals contained in this report stem from a long period of consultation with stakeholders including LPL itself, Sheffield Hallam University, Sheffield Teaching Hospitals NHS Foundation Trust, Sheffield Children’s NHS Foundation Trust, South Yorkshire and Bassetlaw Integrated Care System, Yorkshire & Humber Academic Health Science Network and Sheffield City Trust.
- 7.2 Formal public consultation on any physical developments on the SOLP will be conducted via the planning process in the normal manner.

8. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

Equality of Opportunity Implications

- 8.1 SOLP is intended to promote inclusive economic growth, community engagement and improved health and wellbeing outcomes. The site is surrounded by wards that have high levels of economic deprivation, therefore it is an explicit objective of the project that it will have positive equality implications.
- 8.2 There are not anticipated to be any negative impacts that affect any particular groups and as such a full Equalities Impact Assessment form has not been completed for this report but will be completed in the near future.

9 FINANCIAL AND COMMERCIAL IMPLICATIONS

- 9.1 The proposed financial model for LPL is a mixture of earned income, core Council funding contribution and Membership fees charged to other stakeholders (either in kind or as cash).
- 9.2 In order to give LPL the cash flow and certainty of operations, a maximum financial contribution from the Council of £150k per annum for 3 years from the date of this Cabinet report is sought. The contribution for Years 2 and 3 will be the net cost incurred by LPL. As such, the £150k per annum represents the maximum contribution to LPL although other costs may be

incurred by SCC in furthering the aims of the development of the site. There is no explicit budgetary provision for this and resources would have to be prioritised.

	£
July 2019 – July 2020	150,000
July 2020 – July 2021	Up to 150,000
July 2021 – July 2022	Up to 150,000
Maximum total	£450,000

- 9.3 Other operating costs such as service charge shortfall and the costs of internal officer time will be met from this headline budget of £150,000 once LPL generates other income and subscriptions from Members.
- 9.4 The costs of voids, legal fees and land negotiations will however, still need to be met by SCC. No existing Council budgets exist for LPL, or to meet the costs of voids, legal fees and land negotiations, therefore this contribution will need to come from the Corporate Investment Fund (CIF) if Members feel this is a priority, or, budget virements. A mandate will be submitted as part of the impending call for projects, meaning financial authority for the measures outlined in this report will be made alongside other calls on CIF. This is a time limited funding option which may require further commitments in the future if the goals are not achieved by July 2022.
- 9.5 As outlined elsewhere in this report, LPL will not take ownership or control of Council land or assets. Any decision affecting Council resources will come through normal Council decision making processes.
- 9.6 LPL will be under an obligation at all times to have regard to the Council's commercial interests and the legal framework within which it operates.
- 9.7 Adopting the recommendations of this report will require formalisation of the budgetary provision to fund the items at section 4 above. Wherever possible, the estate management and public realm costs will be recovered by a service charge. The work undertaken by internal SCC teams will be delivered by prioritising SOLP needs above other existing commitments.

10 LEGAL IMPLICATIONS

- 10.1 The Council has the power to enter into these arrangements under s1 of the Localism Act 2011 which provides the general power of competence. Some of the arrangements in relation to LPL will be covered by covered by the Local Government Act 2003

The provision of the elements of the MoU and wider arrangements will be a contract for the provision of services for the purposes of EU and UK procurement law. As the potential payment of £450,000 exceeds the relevant EU threshold the Council that would normally require an OJEU advertised process before awarding a contract. However where the service provider is a controlled entity the requirement does not apply. This is

usually referred to as the Teckal exemption.

To be a controlled entity LPL must comply with the following;

- the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;
- more than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority; and
- there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

Although some of the wider stakeholder and proposed members are not contracting authorities for the purposes of the Public Contract regulations 2015 and would be regarded as private sector it is believed that LPL can be structured so the stakeholders are involved and LPL still meets the Teckal test.

The control requirements can be met by one or more contracting authorities together. What this does not mean is that the Council or other contracting authorities have to have day to day oversight or operational control. It is sufficient that it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person. This can be met in part by the MoU but will also require a rewrite of LPL's constitutional documents before the recommendations in this report can be fully implemented.

The procurement implications for the potential commercial arrangements with SIPL are outlined above and the Council will need to be sure they do not amount to public works as the primary purpose.

It is not thought there are State Aid implications from the arrangements but these will be monitored.

10.2 Land Disposal

Section 123 of the Local Government Act 1972 states that 'a Council should not dispose of land under this section for a consideration less than the best that can be reasonably obtained.

Therefore, in order to comply with legislation and best practice it is essential that the procedures for land and property disposals are directed at obtaining the best terms reasonably obtainable. In most cases this requires that all interested parties should be allowed an equal opportunity to put forward a bid to lease or purchase a property avoiding partiality or bias.

However there are a number of occasions where it may be beneficial for the Council to offer direct negotiations with a special purchaser without resort to marketing. These are set out in SCC's Disposal Framework adopted in 2013. The definition of special purchaser includes:

- A sitting tenant or other party already having a proprietary interest in land
- A developer with a major investment project
- An adjoining landowner
- A developer offering a public/private partnership with a special focus on the land/property in question
- A developer offering open book terms

SIPL potentially meets a number of these definitions having entered into negotiations for a lease of the community stadium and with significant resources to invest in partnership with LPL and SCC.

10.3 **Disposals by Private Treaty**

It is intended that any disposals to SIPL will be undertaken via Private Treaty in line with the policy set out in SCC Disposal Framework 2013.

Under the terms of the Disposal Framework, Purchasers should be given a period of exclusive negotiating rights to seek planning consent or other necessary approvals. If negotiations with a prospective purchaser reach a mutually acceptable conclusion the position will be deemed to be exclusive subject to the requirements to achieve best consideration and the incidence of any unsolicited offers for the property.

If negotiations have not been finalised by the expiry of an agreed period, the agreement will end unless there is a specific reason for an extension of time.

10.4 **Unsolicited Offers**

In accordance with the requirement to obtain best consideration and associated case law, the Council is obliged to consider any unsolicited offer received for a surplus property for which a prospective purchase has been identified and Legal Services instructed up to the point of legal commitment to sale.

11. ALTERNATIVE OPTIONS CONSIDERED

11.1 The main broad alternative options for the strategic direction of OLP are as follows:

Option	Analysis
SCC to withdraw from LPL and cease its involvement in SOLP	This would jeopardise SOLP's success to date and represent a major loss to the city's economic fortunes. As SOLP is on Council land, this is not only not a viable option, it would also damage the Council commercially and its reputation.
Not extend SOLP and cap the project at its current geographic extent.	As set out in this report, there is the opportunity and appetite from partners and to expand the impact of SOLP by increasing its size and reach.
End LPL as a stand-alone company and delivery of SOLP in house	As set out in this report, this would not generate a significant saving to the Council as dedicated delivery capacity would still be needed, but it would risk a significant loss of momentum and effectiveness. On the understanding the LPL will involve other partners, this report recommends continuing with LPL.
Transfer land and assets to LPL	<p>This would mean SCC lose control of the decision making process. As set out in this report, it is essential that the Council seeks to recoup as much of the investment made to date in OLP as possible. LPL acting as the single point of contact for investment enquiries, but SCC retaining control of assets if felt to be the best way of achieving this.</p> <p>It is unlikely to meet the legal requirements for achieving best consideration.</p>
Pursue SOLP without an expanded set of partners	SOLP is a partnership of public and private sector bodies. No one institution could deliver the research and development, land, commercial and community elements of SOLP alone.
Do not appoint a private sector development partner	Would mean either no further expansion was likely or that the public sector would bear the up front development costs and risks.
Procure private sector development partner	<p>Would mean lengthy process, delaying future development and potentially losing the only developer who has shown interest in developing SOLP future phases.</p> <p>Would provide a competitive process if there were more bidders and allow the Council to have more control over development.</p>

12. REASONS FOR RECOMMENDATIONS

- 12.1 In order to continue and expand the economic and social benefits to the city, it is recommended to confirm an expanded vision for SOLP, including retaining the special purpose vehicle LPL.
- 12.2 In order to ensure strong governance and democratic accountability, it is recommended that a Memorandum of Understanding is put in place to oversee the relationship between SCC and LPL.
- 12.3 In order to accelerate the commercial development of SOLP, it is recommended the Council negotiates with Scarborough International Property Limited as preferred development partner.

APPENDIX 1

To be provided at the meeting