



SIGNED OFF BY	Head of Legal and Governance
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TO	Executive
DATE	Thursday, 19 September 2019
EXECUTIVE MEMBER	Portfolio Holder for Investment and Companies

KEY DECISION REQUIRED	Y
WARDS AFFECTED	(All Wards);
SUBJECT	Loan of funds to Greensand Holdings Limited

RECOMMENDATIONS
<p>That the Head of Legal and Governance, in consultation with the Head of Finance & Assets, the Leader of the Council, the members of the Commercial Ventures Executive Sub-Committee, and the Executive Member for Place and Economic Prosperity, and subject to the completion of relevant due diligence, be authorised to finalise and enter into a loan agreement with Greensand Holdings Limited on the terms proposed in the exempt report set out in the Part 2 section of this agenda.</p>

REASONS FOR RECOMMENDATIONS
To obtain Executive authority to allow Greensand Holdings Limited the financial basis to explore time sensitive business opportunities. Additional Reasons for Recommendations are detailed in the exempt report set out in the Part 2 section of this agenda.

EXECUTIVE SUMMARY
The details of a time sensitive business opportunity are detailed in the exempt report set out in the Part 2 section of this agenda.
Executive has authority to approve the above recommendations .

STATUTORY POWERS

1. Section 1 of the Localism Act 2011 gives local authorities a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation. Section 4 of the same Act directs that anything which is done for purely commercial purposes should be done through a company structure.
2. Companies and the rights of shareholders are governed by the Companies Act 2006.

BACKGROUND

3. The relevant background is set out in the exempt report in the Part 2 section of this agenda.

OPTIONS

4. The options available to the Executive are set out below:

Option 1: To authorise the Head of Legal and Governance, in consultation with the Head of Finance & Assets, Leader of the Council and any other appropriate Executive Members, and subject to the completion of relevant due diligence, to finalise and enter into a loan agreement with Greensand Holdings Limited on the terms proposed in the exempt report set out in the Part 2 section of this agenda. This is the recommended option as it will support the Council's objectives, as detailed in the exempt report set out in the Part 2 section of this agenda.

Option 2: To not authorise the Head of Legal and Governance to finalise and enter into a loan agreement with Greensand Holdings Limited. This is not the recommended option as it will not support the Council's objectives, as detailed in the exempt report set out in the Part 2 section of this agenda

LEGAL IMPLICATIONS

5. There is no legal duty to consult the public on any commercial activities undertaken by a subsidiary company of the Council; these are matters for the authority having regard to its general powers under the Localism Act 2011. The Council will want to be satisfied that Greensand Holdings Limited has all the relevant information to consider when exercising its own powers in respect of commercial transactions.

FINANCIAL IMPLICATIONS

6. The loan of funds to Greensand Holdings Limited will see a commercial rate of return paid to the Council. Any further indirect implications will be fully considered before the loan agreement is completed and Executive Members will be briefed accordingly before the loan is executed.
7. The approved Capital Programme for 2019/20 includes £25 million allocated for investment in capital schemes that support delivery of Council objectives. The proposed loan will be funded through this capital allocation, supported by prudential borrowing.

EQUALITIES IMPLICATIONS

8. There are no direct equalities implications of this decision and the loan will have no negative or discriminatory effects upon any individuals with protected characteristics.

COMMUNICATION IMPLICATIONS

9. No communications would be issued until the Council has completed the loan agreement and Greensand Holdings Limited has completed the proposed business transaction given the confidential nature of the business. An appropriate communications plan will be adopted in due course.

RISK MANAGEMENT CONSIDERATIONS

10. This proposed loan is in response to risk mitigation, as detailed in the exempt report in the Part 2 section of this agenda.

SPECIAL URGENCY

11. Urgency grounds. The business opportunity that is now available to Greensand Holdings Limited for which the loan is required was not known about 5 clear days in advance of the meeting and this report is therefore published in line with the Special Urgency provisions detailed in the Council's Constitution.
12. The time sensitive nature of the business opportunity means that the decision cannot reasonably be deferred.
13. The Special Urgency provisions are set out in Procedure Rule 3.5.8 of the Council's Constitution, in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
14. As set out in Procedure Rule 3.5.8, a notice has been published setting out that this decision is urgent and the reasons why it cannot reasonably be deferred.

CONSULTATION

15. The Chair of Overview & Scrutiny has been consulted in the preparation of this report, as required by the Procedure Rule 3.5.8 of the Constitution, and has agreed that the decision can be taken at this meeting.

POLICY FRAMEWORK

16. Supporting Greensand Holdings Limited to proceed with the business opportunity will allow the Council to deliver the objectives set out in the Council's Outline Capital Investment Strategy 2019/2020.