

Appendix 1 and 2 to this report are exempt/confidential under Access to Information Rule 10.4.
(3)

Report of the Director of City Development

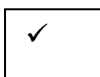
Executive Board

Date: 12 February 2010

Subject: FARSLEY CELTIC ADMINISTRATION

Electoral Wards Affected:

Calverley & Farsley



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

Farsley Celtic Football Club is an important provider of football related activities and facilities in West Leeds and the Club went into administration in May 2009. In order to allow the Administrator to assess the way forward regarding both the Club and the Throstle Nest site, Executive Board are being asked to consider proposals put forward by 2 parties regarding the future use of the facility.

The Council has interests on this site, namely an area of land on the site, required as part of a S106 to be laid out as sports pitches and the community use of the sports hall which is now owned and operated by the Club.

The report requests that the Council considers the implications of the 2 proposals contained within the confidential appendix which will inform a course of action for the Administrator and the future operation and direction of Farsley Celtic Football Club.

1.0 PURPOSE OF REPORT

- 1.1 To provide Members of Executive Board with an update on the Administration of Farsley Celtic Football Club and to:
- consider a request for financial assistance in the form of a loan from a Consortium seeking to acquire the Football Club to enable it to continue to play in the Conference League; and
 - to obtain Executive Board's approval to a less than best disposal of City Council Land to the new purchaser of the Football Ground.
- 1.2 This report has been marked as exempt from call in on the basis that the decision of Executive Board is considered to be urgent and call in may result in the Administrator seeking to liquidate the Football Club's assets without further delay.
- 1.3 This report has not been included in the Council's Forward Plan of key decisions on the basis that formal requests for Council assistance were only received in January 2010.

2.0 BACKGROUND

- 2.1 Farsley Celtic Recreation and Athletic Club was formed in 1908 by a group of local villagers. In 1948 the Club moved to Throstle Nest and in 2003 was incorporated as a limited company, Farsley Celtic 1908 Limited. As of 2009 the Club ran a number of teams including a junior club for boys and girls with more than 300 registered players ranging from Under 8's through to Under 19's. In addition, the first team plays in the Blue Square North League of the Football Conference. The Club is, therefore, a significant and important provider of football related facilities and activities in West Leeds.
- 2.2 From a football perspective the Club has been relatively successful, winning promotion to the Blue Square Premier League (one league below the Football League) during the 2006/07 season. However, the Club were relegated to the Blue Square North League at the end of the following season and found itself in financial difficulties due in part to the cost of players' wages, with many players remaining on two year contracts at Conference level wages. On 14 May 2009 the Club's financial situation came to a head when it was served with a Winding-up-Petition by Her Majesty's Revenue and Customs. As a result, one of the Club's other creditors, Molson Coors Brewers Limited, applied for an administrator to be appointed in respect of the Club's affairs, and on 30 June 2009, Philip Michael Lyon and Robert David Adamson of Mazars LLP were appointed as joint administrators of the Club.
- 2.4 In total, the Administrators have identified debts of approximately £1,200,000 as against assets worth approximately £540,000. The debts include the secured creditors who are Molson Coors Brewers Ltd (£255,000) and Yorkshire Bank (£40,000) who have first and second charges on the Football Ground respectively. The other principal creditor is HMRC at £210,000 and football related debts which amount to some £30,000, which have preferred status under Football Conference rules. Leeds City Council is also a creditor to the value of £3,145 for outstanding Business Rates.

- 2.5 Members should note that the Council also has interests in the Football Ground in two principal areas, namely the Sports Hall and the adjacent development land recently sold to Chartford Homes. The nature of the Council's interests are outlined below.
- 2.6 **The Sports Hall** – On the Football Club's land is a Sports Hall, which was originally built by the Council in the 1980's, but is owned by the Football Club (Plan 1). The Sports Hall has been made available for community use since it opened, however, until recently there was no formal agreement in place to protect and govern this arrangement. In 2008 the means by which community use is delivered was established up to 2018 through a usage agreement entered into by the Club and the Council. The agreement provides for community use for three days per week. In addition, if the Club goes into liquidation, appoints a receiver, or fails to deliver its obligations under the usage agreement then the Council has an option to purchase the Sports Hall for £1. Should the Council exercise its option then the management and cost of maintaining and operating the Sports Hall would be the responsibility of Leeds City Council.
- 2.7 **Chartford Homes** – In March 2009 the Football Club sold a plot of land (Plan 1) to Chartford Homes for a proposed housing development. The basis of the sale was that the Club initially received £150,000 for the transfer of the land to Chartford Homes. In addition, Chartford Homes would also pay the Club a further £325,000 if planning permission was obtained (£140,000 to be paid on the grant of planning permission, with the balance of £185,000 to be paid either on completion of the development or in two tranches - £92,500 to be paid 12 months after planning was granted, and £92,500 to be paid 24 months after planning was granted).
- 2.8 The first 'additional payment' of £140,000 is to be paid into an escrow account and utilised to carry out certain works as required by the planning permission including the laying out of five-a-side pitches on adjacent land, which includes land owned by Leeds City Council (Plan 1). In addition, the further payment of £185,000 is also dependent on the Council agreeing to the use of its land for the purposes of laying out the new pitches. Accordingly, because of the values involved, the Council's consent to the use of its land is an important consideration in the administration/liquidation of the Football Club. As it is presented currently, the Housing Development needs Council land to secure the S106 and unless Chartford can bring forward a proposal that does not require Council land, this will remain an important consideration for the Club's future. On that basis, the Administrator has agreed to defer his decision on whether to liquidate the Club's assets until after Executive Board has considered the matter.
- 2.9 On the 26th November 2009 the Council's Plans Panel West agreed to defer and delegate to the chief planning officer to approve planning permission for Chartford Home's development. Approval will be subject to notification to the Secretary of State as a departure and the completion of a Section 106 agreement covering on and off site sport and recreation improvements.
- 2.10 As part of the sale agreement between Farsley Celtic and Chartford Homes, Chartford have secured a preemption right to enable them to acquire the Throstle Nest Site should it be sold.

3.0 MAIN POINTS

- 3.1 In the context of the background information identified above, at a meeting with the Administrator on 16 November 2009 the Council was advised that a decision now needs to be made on the future of the Club. Essentially two options are under consideration by the Administrator. Firstly, the Football Club could come out of Administration as a going concern through a Creditor Voluntary Arrangement (CVA). Alternatively, if the Administrator feels that a CVA is not viable or able to give the best return to creditors they could place the Club into liquidation and sell the remaining assets for the maximum value possible.
- 3.2 With regard to the two options outlined above, the Administrator has advised the Council that they are considering two specific proposals.
- 3.3 The first proposal is from a purchaser who wishes to remain anonymous at this time and acquire the land through a liquidation of the Club's assets. Their proposal is to use the site for their own business purposes which will be centered on the leisure facilities and enable the junior club to still operate from the site.
- 3.4 The second proposal is from a Consortium that is promoting a CVA to bring the Club out of Administration through a new company. Under this proposal the Club would continue to operate on a similar basis as it does today, with all of its junior teams, and, subject to the agreement of the Football Conference, stay in the Blue Square North League. The rules of the Conference determine that upon administration, a club must exit by way of a CVA that pays 100p in the pound to all creditors, not just football creditors. Accordingly, to achieve a CVA the Consortium will need to reach an agreement with all creditors.
- 3.5 Through the Consortium's legal adviser, Walker Morris, a CVA proposal has been established, however, as part of this proposal the Council has been approached to see if it can provide the consortium with financial assistance in the form of a loan.
- 3.6 The Consortium's proposal would need to reach a satisfactory agreement with all creditors.
- 3.7 The basis of both proposals and the other options available are outlined in the confidential Appendix attached to this report. This Appendix has been marked as confidential under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which if disclosed to the public would, or would be likely to prejudice the commercial interests of that person or of the Council. The proposals have been considered in terms of the benefit that the Council would seek as part of any proposal to make its land available to facilitate any S106 requirements.
- 3.8 Officers have advised the interested parties that in order to recommend the Council make land available for the provision of new sports pitches (and thereby release the additional payments due from Chartford Homes to Farsley Celtic) the existing facility owned by Farsley Celtic must continue to be used for recreational purposes. To ensure this four main conditions have been specified any purchaser(s) of the land now owned by Farsley Celtic must meet:-
- enter into a covenant with the Council that the land now owned by Farsley Celtic will not be used for anything other than for recreational purposes

- grant the Council an option to buy the freehold (at a price equivalent to recreational use value) if the land ever ceased to be used for such purposes
- enter into an agreement with the Council for the ongoing use and maintenance of the land in the Council's ownership; and
- enter into an agreement with the local authority in respect of community use of the sports hall on the same terms as the current agreement between the Council and Farsley Celtic.

The responses are contained within the confidential appendix to this report.

4.0 LEGAL AND RESOURCE IMPLICATIONS

- 4.1 The confidential Legal and Resources implications are covered in the non public appendix of this report.

5.0 PROPOSED LESS-THAN-BEST DISPOSAL

- 5.1 In accordance with Section 123 of the Local Government Act 1972, the Council can only dispose of land for a consideration less than the best that can reasonably be obtained with the consent of the Secretary of State.

- 5.2 Under the terms of the Local Government Act 1972 General Disposal Consent (England) 2003, the Council has the power to dispose of land subject to the following conditions:

- (1) the Council considers that the purpose for which the land is to be disposed of is likely to promote or improve the economic, social and/or environmental well-being of the area or of local residents; and
- (2) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000.

- 5.3 The land which it is proposed to dispose of is shown hatched on the attached plan and the Director of City Development advises that it has an unrestricted value identified in the confidential section of this report. As detailed in paragraph 2.8 of this report, the land is required to facilitate the development of the adjoining land by Chartford Homes which will result in further payments becoming payable by Chartford Homes to the Football Club. Subject to members being satisfied that the disposal of the land is likely to promote or improve the economic, social and/or environmental well-being of the area or of local residents, it is proposed to dispose of the land for nil consideration so as to facilitate the development of the adjoining land by Chartford Homes.

6.0 RECOMMENDATIONS

- 6.1 Members are asked to refer to the recommendations outlined in the Confidential Appendix attached to this report.

Background Papers

Administrators Report to Creditors
 Business Plan for FC 2010
 Business Proposition for Proposal 1