



EXECUTIVE BOARD

Meeting to be held in Civic Hall, Leeds on
Thursday, 17th September, 2009 at 3.00 pm

Councillors

R Brett (Chair)
A Carter
J L Carter
S Golton
R Harker
P Harrand
J Procter
J Monaghan

MEMBERSHIP

K Wakefield
R Lewis *

R Finnigan

*non voting advisory member

CONFIDENTIAL AND EXEMPT ITEMS

The reason for confidentiality or exemption is stated on the agenda and on each of the reports in terms of Access to Information Procedure Rules 9.2 or 10.4(1) to (7). The number or numbers stated in the agenda and reports correspond to the reasons for exemption / confidentiality below:

9.0 Confidential information – requirement to exclude public access

9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

9.2 Confidential information means

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

10.0 Exempt information – discretion to exclude public access

10.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below) the description of the exempt information giving rise to the exclusion of the public.
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Exempt information means information falling within the following categories (subject to any condition):

- 1 Information relating to any individual
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

A G E N D A

Item No K=Key Decision	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.</p>	

Item No K=Key Decision	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF INTERESTS</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5		10.4(3)	<p>LEEDS UNITED THORP ARCH ACADEMY</p> <p>To consider the joint report of the Directors of Resources and City Development and the Assistant Chief Executive (Corporate Governance) updating Members on the discussions with Leeds United in respect of the Thorp Arch training facility.</p> <p>Appendices 2 and 3 to the report are designated exempt under Access to Information Procedure Rule 10.4(3).</p>	1 - 8



Not for Publication: Appendices 2 and 3 of this report are exempt/confidential under Access to Information Rule 10.4 (3). Appendix 3 will be circulated either immediately before or at the Executive Board meeting.

Report of the Directors of Resources and City Development and of the Assistant Chief Executive (Corporate Governance)

Executive Board

Date: 17 September 2009

Subject: Leeds United Thorp Arch Academy

Electoral Wards Affected:

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

On 26 August 2009 Executive Board received a report from the Director of City Development, detailing an approach from Leeds United Football Club, which was requesting Council involvement in the purchase of its Thorp Arch training facility. The Club was not requesting a financial subsidy from the Council. Rather, it sought assistance with the refinancing of its interests at Thorp Arch through an agreement with the Council to be drawn up on purely commercial terms.

The Club has an option to purchase Thorp Arch which expires on 10 October 2009 and therefore, from the Club's perspective, time is of the essence.

Executive Board, while not committing to assist the Club at the 26 August meeting, did authorise officers to enter into discussions with the Club and to report back to the Board if there was considered to be any prospect of working with the Club on this matter.

This report updates Members on the discussions with Leeds United.

1.0 BACKGROUND

- 1.1 In 2004 Leeds United Football Club was experiencing severe financial difficulties. Due to below par performances by the team, income was well below expectations and high player wages and other outgoings meant that the Club was incurring a large annual operating deficit. In order to improve liquidity the Club determined to sell and lease back its Elland Road Stadium and its Thorp Arch training facility. The Club did approach the Council at that time to establish whether the Council was a potential buyer, but the Council was unable, given the precarious financial position of the Club, to meet the Club's asking price. The main issue for the Council at that time was the Club's future ability to meet any rental payments under the leaseback, given its then uncertain fortunes and high outgoings. Indeed, the Club did manage to sell both assets to third party buyers but could not eliminate the revenue deficit it was experiencing, especially following two relegations in 2004 and 2007. It eventually went into administration in 2007 and a more streamlined, debt free, football club, which is now reported to be returning an operating surplus, emerged from the process. We are advised that the new Club – Leeds United 2007 – has managed to secure leases of Elland Road Stadium and Thorp Arch, along with options to purchase, on the same terms as its predecessor. Details of the Thorp Arch facility are given in Appendix 1.
- 1.2 Thorp Arch and Elland Road were sold to different buyers and details of the sale and leaseback arrangements for the former are provided in the exempt Appendix 2 to this report. The Club has a lease of Thorp Arch which expires on 10 October 2029. The rent payable is penalistic and increases, year on year, according to a pre-determined formula. If the Club could borrow at reasonable interest rates to acquire the facility then it would do so and would, as a result, be able to reduce its annual outgoings. Unfortunately, because of the Club's recent administration, and the impact of the recession, it advises that it has been unable to secure a suitable borrowing facility.
- 1.3 Under the terms of the lease, the Club has an option to acquire Thorp Arch at a pre-determined price, before 10 October 2009. After 10 October 2009 the Club would have no right to acquire the facility.
- 1.4 Because of its stated inability to raise sufficient finance through any other source, and because of the imminent 10 October 2009 deadline, the Club approached the Council for assistance.
- 1.5 The Council could use its prudential borrowing powers to assist the Club. Members of Executive Board on 26 August considered two options:-
 - (i) Making a loan to the Club to enable it to acquire Thorp Arch
 - (ii) The Club novating its option to purchase Thorp Arch to the Council and the Council leasing the facility to the Club on commercial terms.

Members were not persuaded at the meeting of the rationale for providing assistance, particularly given the risk of non-payment of annual loan repayments or rent by the Club. Members discounted the option of making a loan to the Club but did authorise officers to open up a dialogue with the Club to see if sufficient security could be offered by the Club to warrant the Council's involvement in a landlord/tenant relationship.

1.6 Executive Board resolved:-

- (i) That the request from Leeds United 2007 for support in exercising its option to acquire the Thorp Arch training facility be noted.
- (ii) That the option of offering a loan to the Club be discounted.
- (iii) That the Director of City Development be authorised, in consultation with the Director of Resources, the Assistant Chief Executive (Corporate Governance) and the Executive Member Development and Regeneration to enter into discussions with the Club on the lines now discussed in order to explore whether the option of the Club novating to the Council its option to purchase with subsequent acquisition by the Council and lease back to the Club can be progressed. Such preliminary discussions to include the need for appropriate guarantees in respect of the income from the lease to the Club, adequate provision for community and educational use, securing levels of Council control appropriate to the City's hosting of international sporting events, necessary maintenance arrangements and such other matters as may be necessary to protect the Council's interests as owner of the facility.
- (iv) That a meeting of this Board be convened sufficiently in advance of the 10 October 2009 deadline, in the event that the discussions referred to in (iii) give rise to a recommendation to progress the option to a conclusion.

2.0 CURRENT POSITION

- 2.1 Officers have been in discussion with the Club since 26 August to determine if there is any basis for assisting the Club in the refinancing of its interests at Thorp Arch.
- 2.2 The Director of Resources has made it clear to the Club that any proposals involving prudential borrowing must not create any financial implications for the council taxpayers of Leeds. ie that the annual debt repayments resulting from any prudential borrowing by the Council would need to be fully met from annual rental payments made by the Club. The Club understands this point and is willing to be co-operative in this regard.
- 2.3 The Council has commissioned an independent valuation of the Thorp Arch facility which will be reported at the meeting.
- 2.4 With regard to the offer of security, a number of options have been discussed and are detailed in the exempt Appendix 3 to this report, along with a risk analysis. Because of the short timescale to complete negotiations with the Club Appendix 3 will be circulated either immediately before or at the Executive Board meeting.
- 2.5 Appendix 2 and 3 of this report are exempt/confidential under Access to Information Rule 10.4 (3) as they contain information which if disclosed could prejudice the commercial interests of the Council and other outside bodies.

3.0 LEGAL AND FINANCIAL IMPLICATIONS

- 3.1 The Council does have the powers to acquire land by agreement for the purposes of any of its functions or the benefit/improvement or development of its area. Any agreement with the Club would be on purely commercial terms with the Council taking appropriate security to protect its investment.

- 3.2 Under any proposed scheme of assistance the Club would have the full repairing and insuring responsibility for Thorp Arch. The Council's annual costs resulting from prudential borrowing would be fully met by annual payments made to the Council by the Club. Further financial information is given in the exempt appendices to this report.
- 3.3 The Club would be responsible for meeting the Council's reasonable surveyor and legal costs.

4.0 CONSULTATION

- 4.1 Ward Members have been consulted and are all in favour of opening up a dialogue with the Club. If agreement can be reached then they would wish that there should be more community access to the Thorp Arch facilities and additional outreach work by the Club. One Ward Member would like to see improvements made to the local highways infrastructure as a part of any agreement.

5.0 RECOMMENDATIONS

- 5.1 Members are requested to consider the financial proposals being made by the Club and the security being offered as detailed in the exempt Appendix 3 to this report (to follow) and to determine, in the light of these, whether they are supportive of the Council entering into the acquisition/leaseback arrangements set out in the report. If members are so supportive, the Board is recommended to authorise and delegate responsibility to the Directors of Resources and City Development and the Assistant Chief Executive (Corporate Governance) to negotiate and agree detailed terms with the Club and conclude documentation to give effect to the arrangements approved within this report.

Background Papers

Executive Board Report 26 August 2009

APPENDIX 1

THORP ARCH FACILITY

The Thorp Arch facility is the training base for Leeds United teams of all levels and is also the base for its highly regarded Academy. Over the years the Academy has produced many international and high quality players including the likes of Harry Kewell, Alan Smith, Jonathan Woodgate, Scott Carson, Aaron Lennon, Paul Robinson, James Milner and, more recently, Fabian Delph. If the Club is to rediscover its former greatness then a successful Academy is seen by many to be an essential component of the road to improvement.

We are advised that the facility comprises:-

- (i) 12.1 hectares of fully landscaped facilities at Thorp Arch, near Wetherby, including a highly sustainable balancing pond which is used for irrigation of the many playing surfaces.
- (ii) 8 full size grass pitches, 2 of which are floodlit
- (iii) 2 full size all-weather pitches
- (iv) Reception, cafeteria, ancillary offices
- (v) ? changing rooms all with associated shower facilities, kit rooms, and equipment stores
- (vi) 25 metre indoor swimming pool
- (vii) Hydrotherapy/physiotherapy/injury treatment facilities
- (viii) Three-quarter size indoor football pitch with artificial grass surface
- (ix) Gymnasium
- (x) Surfaced access road and car parking areas

All of the facilities are maintained by the Club, to a very high standard.

Because of the high quality facilities Thorp Arch is highly likely to be used as a Team Base Camp during World Cup 2018, should England secure the nomination to host the event from FIFA, regardless or not of whether Leeds secures Host City status.

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank