



Agenda:

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

Report of the Director of City Development

Executive Board

Date: 28 April 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 March 2010 the Club resigned from the Blue Square North League following their failure to complete three consecutive fixtures. Consequently, the Administrator put the Club's ground up for sale and has received several offers. In order to allow the Administrator to assess the way forward regarding the sale of the site, the Council needs to determine whether it wishes to support the Administrator's preferred bidder through the inclusion of the Sports Hall and Council land, or consider the acquisition of the site directly as the most appropriate means of securing the use of the ground for football uses over the long-term.

The Council has interests on this site, namely an area of land adjoining the ground, 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 options available and outlined within the confidential appendix which will inform a course of action for the Administrator and the future operation and ownership of the Throstle Nest site.

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 the acquisition of the site from the Administrator to ensure the continued use of the site for football for the benefit of the West Leeds area.
- 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 and/or dispose of the ground without further delay.
- 1.3 This report has not been included in the Council's Forward Plan of key decisions on the basis that the proposals contained in this report are an urgent response to the liquidation of Farsley Celtic's assets and the pending sale of the Throstle Nest site. The Administrator has advised the Council that the offers it has received need to be determined in the next few days otherwise one or more of them may be withdrawn. On this basis the Council's stance whether to support any of the offers or not cannot wait until the next scheduled Executive Board (19 May 2010) and for this reason the Chair has agreed to this matter being considered at a specially convened meeting on the 28 April 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, until March 2010 the first team played in the Blue Square North League of the Football Conference. The Club is therefore, and has been, 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.
- 2.3 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.

- 2.4 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.
- 2.5 **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.
- 2.6 **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).
- 2.7 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.
- 2.8 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.
- 2.9 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.

2.10 Accordingly, at the Executive Board held on the 12 February 2010, Members resolved to support the CVA put forward by the Palmer consortium, who would form a new Farsley Celtic Company (FC 2010) and consequently the use of the Council land shown on plan 1 to support the delivery of any Section 106 Agreement required for Chartford Homes' adjacent residential development and to utilise the Council's Prudential Borrowing powers to provide a loan to FC2010.

3.0 MAIN POINTS

3.1 Further to the Executive Board meeting held in February 2010, the Palmer consortium put forward a CVA to the Administrator which was rejected. A revised offer was also rejected, which led to the First Team being locked out of the Throstle Nest Ground for three consecutive home fixtures. As a consequence of these events, the Football Conference accepted Farsley Celtic's resignation from the Blue Square North League and their results for the 2009/10 were deleted from the League.

3.2 In light of these events it was clearly difficult to trade the Club as a going concern and the Administrator decided to invite offers for the ground on the open market.

3.3 Under these circumstances, the Council's interests in the Sports Hall and land required for the Chartford Homes development remain important factors in the liquidation of the Club's assets. In order to protect the Council's position officers gave notice of the Council's intention to exercise its option to acquire the Sports Hall for £1.00. In addition, the Council advised the Administrator that the provision of the land required by Chartford and the inclusion of the Sports Hall in any sale would, subject to Member approval, still require any purchaser to comply with the following conditions:

- enter into a covenant with the Council that the Throstle Nest site 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.

3.4 Discussions held between the City Council and the Administrator have indicated that they have received several offers for the site. The Administrator's preferred offer complies with the Council's conditions, however, its acceptance by the Administrator is contingent on the Sports Hall and Council land being made available to facilitate the sale and the payment of the Chartford overage monies. Should the Council choose not to support this proposal then the Administrator would look to accept the offer which pays the highest value independent of the Sports Hall and Chartford overage monies. Under this scenario, the Council would not have the benefit of the conditions that it has sought to impose through a sale of the site.

3.5 In light of the above, the Council has three options to consider as outlined below:

- to support the Administrator's preferred bidder by agreeing to the Sports Hall's inclusion in the sale and the use of Council land to facilitate the Chartford development.

- to not support the sale of the ground to the Administrator's preferred bidder, which would result in the sale of the ground to the next most financially attractive offer and would not require the Council's support.
- to acquire the Throstle Nest site directly from the Administrator as the most appropriate means of securing the future of the site for the benefit of football in West Leeds.

3.6 The background to the options above are outlined more fully 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.

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 the Council could dispose of is shown on the attached plan 2 and the Director of City Development advises that it has an unrestricted value identified in the confidential appendix to this report. As detailed in paragraph 2.7 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

Administrator's report to Creditors

User Agreement - Leeds City Council and Farsley Celtic 2008

Minutes for Plans Panel West, 26 November 2009