Leeds CITY COUNCIL

Agenda:	
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Not for Publication: Appendix 1 and 2 of this report are exempt/confidential under Access to Information Rule 10.4 (3)

Report of the Director of City Development

Executive Board

Date: 26 August 2009

Subject: Leeds United Thorp Arch Academy

Electoral Wards Affected:	**Specific Implications For:**
	Equality and Diversity ☐
	Community Cohesion ☐
☐ Ward Members consulted (referred to in report)	Narrowing the Gap ☐

Eligible for Call In ✓ Not Eligible for Call In (Details contained in the report) ☐

EXECUTIVE SUMMARY

In 2004, prior to the Club's 2007 administration, Leeds United was in severe financial difficulties and was seeking to sell and lease back its Elland Road Stadium and its Thorp Arch Training facility so as to improve its liquidity.

Thorp Arch was sold to a third party and the Club took a lease-back of the facility which expires on 10 October 2029. Under the terms of the lease the Club has an option to acquire the facility at a price which has been increasing, year on year, in line with a pre-determined formula. This option to acquire expires on 10 October 2009 and thereafter the Club will have no rights to buy back the training ground.

The rent payable under the lease is penalistic and it too increases year on year in line with a pre-determined formula and therefore the Club wishes to refinance the arrangement by borrowing money to acquire the training ground and thus reduce its annual outgoings.

However, due to its poor credit rating following the 2007 administration, and the effects of the recession, the Club states that it has been unable to secure such borrowing. With time now running out if the option is to be exercised before 10 October 2009, the Club has approached the Council (see Appendix 1 in the confidential section of this report) to see if finance could be made available using the Council's prudential borrowing powers. This paper examines the issues and risks associated with assisting the Club in refinancing its property arrangements and concludes that, due to the inherent value of the Thorp Arch facility, there is a relatively risk free option available to the Council should it be minded to assist the Club.

PURPOSE OF THIS REPORT

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 spiralling 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.

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 Appendix 1 and 2 of this report are exempt/confidential under Access to Information Rule 10.4 (3) as it contains information which if disclosed could prejudice the commercial interests of the Council and other outside bodies.

1.4 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. There are, therefore, concerns that, when the lease expires in 2029, the training facility might be lost to the Club and the City.

2.0 CURRENT POSITION

2.1 Because of its stated inability to raise sufficient finance through any other source, and because of the imminent 10 October 2009 deadline, the Club has approached the Council for assistance. The Club's ultimate objective is to own Thorp Arch and thereby:-

(i) Secure the future of the training facility and the highly regarded Academy which is based there.
(ii) Add value to its balance sheet and hence improve its ability to attract investors.
(iii) Improve its revenue operating position through refinancing its property arrangements in such a way that principle/interest payments (or future rent if another lease is the only way forward in the circumstances) are lower than the annual payments made at present.

3.0 THE THORP ARCH FACILITY

3.1 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, 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.

3.2 Information about the facility is attached at Appendix 2 and a plan is attached at Appendix 3.

3.3 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) 12 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.

3.4 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.

4.0 RATIONALE FOR ASSISTING THE CLUB

4.1 The Council could use its prudential borrowing powers to assist the Club under a purely commercial relationship where the Club makes annual payments to the Council which cover the Council's debt repayments and indeed, this is the model which is explored later in the report. However, there are also other good reasons for supporting the Club in this way:-

(i) A strong Leeds United has been shown to assist Leeds in its quest to be viewed as a major European city.
(ii) The Club receives little national television coverage now that it is in League 1 and improved fortunes for the Club would mean more television exposure for the City.
(iii) When making its decision about who should host World Cup 2018, FIFA will pay particular attention to the relationship between Clubs and their local authorities. Examples of partnership working to achieve shared goals will be important.
(iv) A partnership with the Club may open the way for use of the facilities in association with the 2012 Olympics and the 2015 Rugby Union World Cup
(v) The Thorp Arch facility is a truly exceptional sporting asset for the City. If the option to acquire is not exercised before October 2009 then at the end of the Club's lease in 2029 there can be no guarantees that future planning regulations would protect its use for sport, and the facility could be lost to the City.
(vi) During the current recession, and at a time when the community look to the Council to stimulate the economy, a partnership with Leeds United would send a strong message that the Council is taking a pro-active role in seeking to arrest the downturn.

4.2 On balance, then, if the risks of assisting the Club in the refinancing of its property arrangements can be minimised, then there would appear to be sound reasons for providing assistance.

5.0 RISK ANALYSIS

5.1 The main risk associated with the Council borrowing prudentially to enable the Club to exercise the option is that the Club is, at some time in the future, either unable, or unwilling, to make the annual payments to the Council to cover the latter's debt repayments. In such circumstances the Council may find itself in possession of an asset which requires a new tenant, and given the specialist nature of the facility, there may be only a limited number of options available, especially given the relatively high rental required to service the Council's debt. However, there are other high-profile sporting organisations in and around the City in the activity areas of Rugby league, Rugby Union, and Cricket, which might be interested in renting all or part of the facility, or indeed, acquiring the freehold.

5.2 The site would offer high quality facilities for public use. However, the highway network in the immediately vicinity of Thorp Arch has limited capacity and it might be that improvements would be needed to support public use of the facilities.

5.3 Notwithstanding the above, should the Club not be able to meet the annual payments there are other potential uses for the facility.

5.4 The cost of acquiring land and constructing a similar facility has been estimated by the Council's Strategic Design Alliance at over £15m – nearly three times the cost of acquisition under the option to purchase detailed in the exempt appendix. While this would not, in itself, protect the Council's financial position, it is important in reassuring Members about the scale and quality of the facilities under discussion.

5.5 Further risk analysis is provided in the exempt appendix to this report.

6.0 OPTIONS

6.1 The Council could decline the Club's request for assistance. In that case the option to acquire would expire on 10 October 2009. The Club could continue to occupy Thorp Arch under its lease until 2029, although rent payments would become increasingly penalistic and might prejudice its recovery from relegation and administration. The Club would not be precluded from seeking to acquire the facility by negotiation after October 2009 but it believes that the price would be disproportionately high. After October 2029, or earlier if the Club was to be in default of its lease terms, The City would have to rely on planning controls to ensure the preserving of the facility.

6.2 There are two basic models for Council involvement, should Members be minded to assist the Club:-

(i) The Council gives the Club a loan to acquire the facility, and receives annual loan repayments from the Club. The Council takes a charge over the asset to insure itself against the risk of default by the Club.
(ii) The Club novates its option to purchase to the Council and the Council acquires the facility itself and leases it back to the Club, which then makes annual rental payments to the Council. In the event of default the Council is already then the owner of the facility. This option can allow for the ultimate ownership of the facility by the Club under a formula-based option to acquire. There may be issues regarding double payment of stamp duty here which would need to be addressed.

6.3 Under both models there is reputational risk for the Council if it should fall into dispute with the Club. The relationship might be a 25 year one under either option and the risk of default at some time during that period might be perceived to be high. To protect the Council, what is needed is a relationship where, as time passes, the Club is more increasingly disadvantaged should it become in default. This could be achieved under option 6.2 (i) if the Club was asked to put down a form of non-returnable bond which would sit with the Council, earning interest, and would be forfeit in the event of default. Under option 6.2 (ii) it could be achieved by classing an element of the Club's annual payment as a payment in advance against the ultimate purchase price. In the event of default these payments would be forfeited by the Club.

6.4 Adopting the above philosophy, the Council's greatest exposure would be in the very early years. However, due to a number of other potential property transactions between the Council and the Club relating to the latter's recent planning consent for two hotels, a night club, a new club shop, and extended conferencing facilities at its Elland Road Stadium it is believed that this short term risk can be mitigated. This matter is discussed further in the confidential appendix to this report.

6.5 The Club states that under the second option (6.2 (ii)) its intention would be to acquire the training facility back from the Council as soon as funds permit. In that context the Council's assistance should be seen as providing stop-gap funding to ensure that the option to purchase is not lost. Clearly if the Club does go on to acquire the facility from the Council than any risk is eliminated at that point.

7.0 LEGAL AND FINANCIAL IMPLICATIONS

7.1 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. The precise nature of any agreement has not yet been determined and it will not be possible to report back to Executive Board again before the expiry of the Club's option to purchase. However, the principles of any such agreement have been discussed above and it is believed that the Council's exposure can be appropriately minimised, should the Council be minded to assist the Club. In that event it is recommended that the Director of City Development, in consultation with the Director of Resources, the Assistant Chief Executive (Corporate Governance) and the Executive Member for Development and Regeneration, be authorised to complete any agreement.

7.2 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 appendix to this report.

7.3 The Club would be responsible for meeting the Council's reasonable surveyor and legal costs.

8.0 CONSULTATION

8.1 Officers are in the process of consulting with Ward Members and their views with be reported at the Board meeting.

9.0 LINKS TO CORPORATE OBJECTIVES

Enterprise and the Economy

lncrease marketing and business support activities to promote the City and attract investment

10. SUMMARY

10.1 Leeds United has until 10 October 2009 to exercise its option to acquire Thorp Arch. The Club states that it has been unable to secure an appropriate borrowing facility to complete the acquisition and has approached the Council for assistance. There are good service related reasons as to why the Council might assist the Club in the acquisition of Thorp Arch. However, what is explored in this report is a purely commercial arrangement where annual payments made by the Club to the Council would fully cover all debt repayments resulting from any prudential borrowing. Mechanisms are available to the Council to minimise the impact of any default by the Club.

10.2 The Council could choose the do nothing option, which would avoid all risk. In that case the Club could continue to occupy Thorp Arch until 2029, albeit at an increasingly penalistic rent. This might prejudice or slow the Club's recovery from relegation and administration. This option would also mean a missed opportunity to demonstrate to England 2018, who will be selecting World Cup Host Cities in December of this year, how well the City and the Club are able to work, in partnership, to deliver shared goals.

10.3 There is much due diligence work to be done in a short period of time. Not least the Council satisfying itself that:-

(i) The Club has no other means of acquiring the funding to exercise the option
(ii) The value of the Thorp Arch facility warrants prudential borrowing on the scale requested.
(iii) The Club has the financial means to pay the annual rent which the Council would require
(iv) All forms of security have been explored.

10.4 There are risks associated with the Council assisting the Club in this manner. However on balance, it is felt that, given the likely value of the Thorp Arch facility, a strong argument exists for the Council to offer the Club support.

11.0 RECOMMENDATIONS

11.1 Members are requested to:-

(i) Note the request from Leeds United 2007 for support in exercising its option to acquire the Thorp Arch training facility
(ii) Authorise the Director of City Development, 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 discussed in this report and, if appropriate, conclude those negotiations with the Club in time for the option to acquire Thorp Arch to be exercised before 10 October 2009.

Background Papers

There are no background papers.