



CABINET REPORT

Report Title	NORTHAMPTON TOWN FOOTBALL CLUB
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	11 th November 2015
Key Decision:	NO
Within Policy:	YES
Policy Document:	NO
Directorate:	Chief Executive
Accountable Cabinet Member:	Councillor Markham
Ward(s)	St James

1. Purpose

- 1.1 The purpose of this report is to update the Cabinet on progress towards resolving the position with regards to loans outstanding to Northampton Town Football Club.

2. Recommendations

- 2.1 Cabinet is recommended to:
- 2.2 note the position outlined in this report, and
- 2.3 note that a Special Meeting of Cabinet will be required to consider recommendations required as a consequence of work currently underway between the Council, Northampton Town Football Club and other interested parties.

3. Issues and Choices

3.1 Report Background

- 3.1.1 As has been well documented, the Council has advanced £10.25m to Northampton Town Football Club (NTFC) to carry out works to improve stadium facilities at Sixfields (£9m) and to develop a hotel at Sixfields (£1.25m). The Council has not agreed to advance further instalments or to transfer land assets under the conditional land transfer agreement held by County Developments Northampton Limited.
- 3.1.2 The loans were to be repaid through the provision of a first return to the Council on the development of land adjacent to Sixfields combined with some land previously leased to NTFC, and then through enhanced revenue streams available to NTFC through the hotel and stadium development.
- 3.1.3 Arrangements were made between NTFC and 1st Land Limited, a company established specifically for this purpose, which have resulted in a position whereby the work for which the Council advanced the funds is only partially complete. The funds which were advanced to NTFC by NBC as provided for by the Facility agreements. NTFC passed these funds to 1st Land Limited. This latter company was placed in Administration after failing to pay its contractor, Buckingham Group Contracting Limited. Despite questioning various parties, including the administrator of 1st Land, the Council has been unable to determine where these funds now are.
- 3.1.4 Following the Administration of 1st Land Limited, a settlement was arrived at between various parties involved (which did not include the Council) such that the completion of the Stadium works would be undertaken by Buckingham under contract to County Developments (Northampton) Limited (CDNL). Work on the Stadium recommenced but later stopped when CDNL failed to pay Buckingham.
- 3.1.5 Since May, officers have been working with NTFC and CDNL seeking to find a way forward by which NTFC could meet its obligations to the Council. The Council has made proposals to NTFC to seek to resolve the matter but received no firm proposals from NTFC or any other party to do so over the summer.
- 3.1.6 In September, NTFC failed to pay due payments on the loans and indicated that it was uncertain when it would be able to pay. Discussions between NTFC and potential purchasers of a controlling interest in NTFC did not progress with any urgency. An examination of NTFC finances at the time indicated that the club was unlikely to be able to meet its outgoings in the near future. In addition it became known that Buckingham had petitioned for liquidation of CDNL.

- 3.1.7 In order to protect the public purse, the Council exercised its rights under the loan agreements to give notice that it may, after the notice period, require the repayment of the loans. Despite assurances that the proposed sale of NTFC would probably meet this requirement, this was not delivered and the planned purchasers withdrew.
- 3.1.8 Following difficulties in being paid, Her Majesty's Revenue and Customs (HMRC) issued a petition for liquidation against NTFC on the 15th October.
- 3.1.9 On the 21st October, the Council cancelled its conditional land transfer agreement with CDNL due to CDNL's impending liquidation. On the 22nd October the petition was granted and CDNL placed in liquidation. Whilst the Council has not as yet hear direct from the Liquidator, Buckingham have advised NBC that Mazars have been appointed as liquidator..
- 3.1.10 Since mid-October, officers have been in discussion with possible purchasers of the controlling interest in NTFC introduced by the current Chairman including the proposal, led by Mr. Kelvin Thomas. The Council has also engaged experienced professional advisors, including financial and legal insolvency experts, to guide officers through this very complicated situation.
- 3.1.11 On the 2nd November the Council met and passed a resolution that:

“This Council notes that Northampton Town Football Club owes this local authority £10.25 million and as yet has not repaid the debt. The club has missed three repayment deadlines and has been asked for the full amount to be repaid. This has not been forthcoming.

This Council further notes that HMRC has issued a winding up petition against Northampton Town Football Club for unpaid taxes. This case will be heard in the High Court in London on November 16th 2015.

This Council resolves to,

- 1. Do whatever we can to help Northampton Town Football Club and the Supporters' Trust.*
- 2. Retrieve the £10.25 million of public money.*
- 3. Ask Audit committee to review our policies and procedures and make recommendations necessary for implementation in business arrangements of this nature. The Audit Committee would then present any recommendations to Full Council.”*

- 3.1.12 Audit Committee briefly discussed the process to implement point 3 above at its meeting on the 9th November, and this falls outside Cabinet's responsibility.
- 3.1.13 This report is to update Cabinet as to progress in relation to points 1 and 2 above.

3.2 Issues

HMRC Winding-Up (Liquidation) Petition Hearing, 16th November

- 3.2.1 The most immediate critical issue facing NTFC is the winding-up (liquidation) petition that has been issued by HMRC. This petition is due to be heard in Court on Monday.
- 3.2.2 The Council has, through experienced professional advisors, approached HMRC to see if there is a possibility of agreeing to adjourn this hearing in order to allow negotiations for a better outcome for NTFC. However this has not been agreed by HMRC, who wish to proceed with the hearing on Monday.
- 3.2.3 Advice to the Council has been that, whilst the Council can – as was asked at the Full Council meeting – be represented in court and seek to apply to the court for an adjournment of the Winding Up application, this may not be successful. Advice has been that the Council should make its own petition for Administration in relation to NTFC.
- 3.2.4 Administration is a process aimed at saving a company, whereas “winding up” or liquidation terminates the company. Advice is that the court will give precedence to a petition for Administration over a petition for winding up of NTFC. This gives better protection to creditors including the Council.
- 3.2.5 Officers have issued a petition for the Administration of NTFC today. The issuing of such a petition does not incur League penalties. The Football League has been made aware of this action through our advisors and has not raised concerns. The Leader of the Council was consulted.

Ownership of NTFC

- 3.2.6 The current owners of the controlling interest in NTFC are seeking to agree a transfer of shares to a new owner. Advanced discussions are taking place between the current owners and new owners publicly led by Kelvin Thomas the former Chairman of Oxford City FC. It is understood that the transfer would be to Northampton Town Ventures Limited (NTVL) a company set up specifically for this purpose.
- 3.2.7 In order to complete the acquisition of these shares, an agreement will be needed between NTVL and the Council with regard to seeking to recover the Council’s debt through development of the land adjacent to the Stadium and through pursuing the location of the funds that were borrowed by NTFC. Discussions are also taking place with Buckingham, the contractors on the incomplete works.
- 3.2.8 The Council has met several times with representatives of the Supporters Trust and have discussed progress on the proposed acquisition by NTVL. The Council and the Trust have also discussed what action may be required if it is not possible for the shares to be acquired by NTVL or from the current owner.
- 3.2.9 Should this proposal fall, then the Council will work with the Trust and any other interested parties to seek to avoid Administration.

3.3 Choices (Options)

- 3.3.1 Members may wish to comment on the position and guide officers as to their actions.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 Officers are working within existing policies, including those to support the major sports clubs in the Borough and under the policy agreed by the Council on the 2nd November. The priority for officers is to protect the public purse and help ensure a sustainable NTFC.

4.2 Resources and Risk

- 4.2.1 The current situation has financial implications which need to be assessed once the way forward has been agreed. These will be covered in a report to a Special Cabinet Meeting to be held as soon as the way forward is determined.
- 4.2.2 There are significant risks to the Council which officers are currently working to manage and mitigate ahead of the Special Cabinet meeting.
- 4.2.3 As part of any proposal on the way forward the Council will need to demonstrate that it represents value for money and optimises the protection of the public purse.

4.3 Legal

- 4.3.1 The 3 Facility Agreements granting the loans to NTFC have been formally cancelled and consequently all sums loaned under the agreements are due, together with interest.
- 4.3.2 The Conditional Land Contract for the development land adjoining the stadium has also been formally cancelled. The Council is the Freeholder of the land subject to 2 very restricted leases currently held by CDNL (in liquidation).
- 4.3.3 The issuing of the Administration petition is not of itself an “insolvency event” and does not result in NTFC going into administration. However once a petition is issued, a hearing will be fixed by the Court to consider whether administration is appropriate.
- 4.3.4 Any deal structure between NBC and other parties to resolve the current situation will require a suite of legal documentation designed to protect all the parties interests

4.4 Equality and Health

- 4.4.1 No particular implications have been identified.

4.5 Consultees (Internal and External)

4.5.1 The Leader of the Council is being consulted at all stages of this work. The Chief Executive, Chief Finance Officer, Borough Secretary, and Director of Regeneration Enterprise and Planning, plus support staff are engaged fully in this programme.

4.5.2 Regular discussion is taking place with the Supporters Trust and NTFC.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The intention of this work is to protect the public purse and achieve a sustainable NTFC going forward as directed, working within the Council's policy to support the major sporting clubs locally.

4.7 Other Implications

4.7.1 NTFC is important to the Town's economy and to youth and community services and facilities. The loss of the Club would be a major detriment to the Borough and therefore this programme of work is aimed at ensuring that this does not occur, whilst protecting the public interest.

5. Background Papers

5.1 None specifically

David Kennedy, Chief Executive, x7726