

HIGHLIGHTED RISKS:

The Football Club will be unable to use its main asset, the Seamer Road ground, to help establish a secure future.

1. INTRODUCTION

- 1.1 In 1960 the Council sold the football stadium at Seamer Road to Scarborough Football Club Limited. Since that time the Club has enjoyed periods of success but more recently has experienced difficulties both on and off the pitch.
- 1.2 The present owners of the Club, Scarborough Seadogs Ltd, have come to the view that the only practical way ahead to ensure that professional or semi-professional football continues in the town is for the construction of a new stadium on a new site.
- 1.3 Funding for the new stadium would be achieved from a sale of the Seamer Road ground.

2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 The key Corporate Objectives that would be supported if the proposals in this report are implemented are:

Objective 1: - To help ensure the provision of decent housing for all.

Objective 3: - To keep the population of the Borough healthy.

Objective 4: - To develop tourism and improve opportunities for leisure.

3. BACKGROUND AND ISSUES

- 3.1 The principle issues for consideration are:

- Covenants contained in the 1960 conveyance.
- The form which a new stadium would take.
- The management arrangements for the new stadium.
- Viability.

3.2 Covenants

- 3.2.1 The conveyance was drafted in a manner intended to ensure that football or other sporting activities would continue to be played on the Seamer Road site. This was achieved by the inclusion of a number of restrictive covenants:

- That the land was only to be used for the purpose of football or other sport or pastime.
- That no building should be constructed on the land without the Council's consent.
- That the land be maintained in a suitable condition as a football ground.

3.2.2 It is consequently necessary for these covenants to be released before any alternative use or development of the land can be undertaken. Without release of the covenants the land's value is restricted.

3.2.3 There are two possible routes that the Club could follow to seek release of the covenants:

- To reach a negotiated agreement with the Council.
- To apply to the Lands Tribunal for release on the basis that the covenants are out of date and no longer relevant.

3.2.4 The Club has consequently approached the Council with a request that it agrees to release the covenants to enable the land to be sold and redeveloped in order to provide funding for a new stadium. The Council is free to determine whether or not to release the covenants and the terms for any such release.

3.2.5 Release of the covenants has a value as the land could not otherwise be developed. There have been a number of cases in the Lands Tribunal over the years which have established the principle of compensation for release or relaxation of covenants and a valuation mechanism.

3.2.6 The payment of the likely level of compensation that would be appropriate would however reduce the amount of funding available for construction of a new stadium and could make the exercise unviable. The Club has asked the Council therefore to consider an alternative arrangement which seeks to replicate the present situation. The proposal is that, once completed, the freehold ownership of the new stadium would transfer to the Council subject to rights of the Club for occupation so that the net receipts from sale of the Seamer Road site can be used to fund the new stadium.

3.3 **Form of New Stadium**

3.3.1 The Club has identified a site at Dunslow Road as the best location for the new stadium as it is remote from residential properties, the occupiers of which might have concerns about a football or sports stadium as a neighbour and has potential for additional activities. Discussions have been held with Caddick Developments, owners of the land and developers of Scarborough Business Park which encompasses the chosen site.

3.3.2 It is consequently proposed that the new stadium should include a number of income generating elements. These are at this stage unspecified but are the subject of discussions with planning officers. The Club believes that the new stadium should have a wider community interest and benefit than is currently the position. It is considering the inclusion of other sporting facilities that would be of value to the local community. An important consideration is that the new facilities should complement not conflict with existing arrangements.

3.4 Management Arrangements

3.4.1 There are a number of factors which will influence the best future management arrangements for the new stadium. Firstly, they should, so far as possible, ensure the long term security of sporting activity on the site. Part of this will be to avoid the vagaries of football clubs which are influenced by many external factors and often require support from benefactors of various kinds. Secondly, the arrangements should reflect the importance of community involvement.

3.4.2 It is suggested that the new stadium could be managed by a community trust which will then reflect the interests of the community in a formal and secure manner. The land would be owned by the Council but managed by the Trust. A Trust would have charitable status and consequently would be tax efficient and able to source extra funding opportunities not available to a commercial owner or to the Council. The football club would hold a lease or other suitable mechanism for use and occupation of the stadium and facilities for its purposes.

3.5 Viability

3.5.1 The cost of a new sports stadium is substantial. It includes the cost of the site, the cost of construction and the cost of additional facilities. These can only be funded by the sale receipts from Seamer Road, proceeds from any commercial elements in the new scheme, grant funding and sponsorship.

3.5.2 The amount of receipts from Seamer Road is the potentially greatest proportion of the funding. However this is influenced by the amount and form of development which can be undertaken on the site. The higher the value, the greater the receipt and contribution towards the costs of the replacement stadium. Residential use is the most likely form of development which would be permitted.

3.5.3 The value of the covenant calculated as approved by the Lands Tribunal is a sum in the order of £200,000. The new stadium would occupy a site of 5 acres and values in this location for business development are currently in the order of £150,000 per acre.

4. CONSULTATION

4.1 None at this stage.

5. ASSESSMENT

- 5.1 It appears likely that Scarborough Football Club cannot continue to provide professional sport in the town unless its management and financial arrangements are changed. In order to resolve the outstanding financial debt and put the Club on to a firm and sustainable footing, relocation to a new site is probably the only option.
- 5.2 The Club has explored ways in which this could be achieved and is proposing to acquire a site in Scarborough Business Park to develop a new community sports stadium which will include football and other sporting activity. In order to fund this venture the existing football ground at Seamer Road will have to be sold for the maximum value and the new development will need to incorporate a number of commercial elements.
- 5.3 The Council has the benefit of a number of restrictive covenants which would limit the sale proceeds of the Seamer Road site and thereby frustrate the Club's plans. Release has a value but the compensation that would be appropriate would reduce the amount of net receipts from the sale to a level that may make the proposal unviable. It is consequently proposed that the compensation for release of the covenants should take the form of the freehold interest in the new site and thereby maintain an interest of the Council which is similar to the existing arrangement. Valuations of the interests suggest that the value of the Council's interest would be retained.
- 5.4 There is an opportunity to ensure that any stadium or sporting facilities can contribute to the wellbeing of the Borough citizens and that there is a greater community involvement in this venture. The suggestion is that the new site could be held and managed by a Community Trust and include a number of additional community sporting activities. The benefits and risks of such an arrangement will need to be fully assessed before any commitment is made but it is already clear that there will be risks for the continuing viability of such an arrangement. Similar arrangements have been established elsewhere and their experiences will be useful in helping the final decision. An important part of this will be the involvement of the local community, in the neighbourhood of the new stadium, wider sporting community and Pindar Sports College.
- 5.5 Any proposals for management of the new site, whether by a Trust or through some other mechanism, will emerge and can be considered over the coming months when there is a clear way ahead for the Club. An agreement to release the covenants in principle would help the Club to establish its direction and a secure future.
- 5.6 It will be necessary to undertake a detailed consultation process to establish the required community sports elements to be included and support for a Community Trust.

6. IMPLICATIONS

(a) Policy

6.1 The proposals in this report will require a change of policy and will consequently require full Council approval.

(b) Financial

6.2 There are no direct immediate financial implications for the Council. There may be implications in the future if any new arrangements prove to be inadequate. It will be necessary to prepare a detailed business case and undertake a financial viability exercise before any final commitment to the establishment of a Trust is made.

(c) Risk

6.3 See attached risk matrix.

(d) Legal

6.4 The proposals in this report are consistent with the constitution. Release of the covenants, acquisition of the freehold in the new site and establishment of a community trust will require careful and appropriate documentation.

(e) Environmental and Sustainable Development

The new stadium will be constructed to modern standards which reflect environmental and sustainability issues.

7. ACTION PLAN

7.1 Not applicable.



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Background Papers:

None.

RISK ANALYSIS

Issue	Quantum	Risk (H, M or L)	Implication	Mitigation
The Football Club will go out of existence.	To the Council financially – none. For the community, loss of reputation and economic impact. To the Club – large.	H	Professional football will end in the town. The Seamer Road ground may cease to be used and fall into disrepair.	Relocate the ground to a new site which is properly funded for a sustainable future.
A suitable Trust to arrange the new stadium cannot be established	A project will not be possible.	M	Would defeat the objectives.	Investigated in advance of any final commitment.
Trust unable to meet its obligations after its establishment.	An alternative arrangement would become necessary or the Council would have to step in.	M	Responsibility may devolve to the Council as site owner.	Ensure that robust business case established before finalisation of arrangements. Seek the experiences of similar arrangements elsewhere to inform the final decision.
Planning consent not granted.	The project would not proceed.	L	Scheme would not proceed.	Planning Officers involved in pre-application discussions.