

23rd November 2020

Report of	Assistant Director, Corporate and Improvement Services	Author	Elizabeth Simpson ☎ 01206 508792
Title	Colchester Commercial Stadium Limited		
Wards affected	Not Applicable		

1. Executive Summary

- 1.1 This report sets out the future options for the Colchester Community Stadium Limited (Company Number 06867951).
- 1.2 Colchester Borough Council (CBC) is the sole shareholder of Colchester Community Stadium Limited (CCSL). There are 6 board directors – one CBC officer, one CBC elected member, one tenant representative and three independent directors.
- 1.3 CCSL was formed by Colchester Borough Council (CBC) in 2009 with the objectives and remit of overseeing and ensuring that the multi-million pound public investment in Colchester Community Stadium was safeguarded and its ongoing community use was secured. Having successfully achieved its primary purpose, it is proposed that CCSL is dissolved and that a more appropriate asset management arrangement is put in place which would facilitate the Community Stadium's long-term future and allow the facility to continue to thrive for the community.

2. Recommendations and Decisions Required

- 2.1 Approve as shareholder, that the Council takes the necessary steps to close CCSL.
- 2.2 Give delegated authority to the Strategic Governance Manager, in consultation with the Portfolio Holder for Business and Resources to finalise all the necessary actions required to close CCSL.

3. Reasons for Decision(s)

- 3.1 A more proportionate vehicle of property management is now appropriate given that CCSL was established 12 years ago for the specific reason of providing governance during the critical early years of development and occupation of the Stadium.
- 3.2 The saving in Company overheads will mean additional income for CBC. This is particularly important in the context of falling income streams.

4. Alternative Options

- 4.1 Do nothing and allow CCSL to continue. This is not recommended for the reasons stated in this report.

5. Background Information

- 5.1 Colchester Community Stadium Limited is 100% owned by Colchester Borough Council and has been trading since 2009, The company does not have employees but is registered with HMRC for corporation tax and VAT.
- 5.2 CCSL was set up to oversee the successful relocation of Colchester United Football Club (CUFC) from its former Layer Road site into a new multi-million pound community stadium at Northern Gateway and to ensure the safeguarding of it for use by the public, for income generation for the Council and sustainable and future investment in fabric of the stadium. It was originally envisaged that there would be multiple organisations using different elements of the stadium and the Company was required to co-ordinate and manage that multiple occupation. However, there are now only two leases and they are both to the same organisation.
- 5.3 CBC own the freehold of the Community Stadium and the Estate which it has let on a lease expiring in 2133 to CCSL at a peppercorn rent. In turn CCSL has granted a co-terminus sublease to CUFC (Club Lease) expiring 2133. CUFC pay a rental based on 15% of Match Day Ticket Revenue.
- 5.4 CCSL has also granted CUFC a Service Agreement which expires in 2023. Under this agreement, CUFC run the stadium on a day to day basis as well as providing Non Match Day Services including hospitality such as banqueting and concerts. CUFC must also maximise the availability of the Estate for community use CUFC pay CCSL an annual rent plus a variable rent based on Non Match Day income received over a certain threshold. CCSL pay a proportion of this variable rent upwards to CBC.
- 5.5 Following the successful initial establishment of the Community Stadium and that it has been operational for many years, CBC officers and the 3 independent Directors who have all been on the Board for over 10 years, consider that a more proportionate method of governance is now required.
- 5.6 The proposal to close the Company would save c £60k pa in Company overheads that would go to CBC which is important given falling income streams.
- 5.7 If the Company is closed down, CBC would become the direct landlord of CUFC. The Club Lease and Service Agreement would be managed as per a usual landlord and tenant model by the Amphora Estates team on behalf of CBC with the CBC Communities Team providing input on community yield matters as appropriate.

6. Options for Closing the Company

- 6.1 There are two options for closing the company down. Firstly, the company could cease trading and sit as a dormant company. Once dormant the company has a requirement to file annual dormant company accounts and make an annual confirmation statement. Unless the trading name was important or there was a possibility that the company would begin trading in the medium term, this is not the preferred route.
- 6.2 It is therefore recommended that the Company is dissolved, although please note the comments and recommendations in Section 8 in the Confidential Appendix.

7. Dissolution of the Company

- 7.1 CCSL will need to comply with Companies House requirements. The specific details of these and how they relate to CCSL are detailed in the not for publication report on Part B of the agenda.
- 7.2 The Company could choose one of two routes to dissolve the Company. Firstly by Voluntary Liquidation whereby it would appoint a liquidator who would deal with all the company's assets/liabilities and the liquidation of the company. Alternatively, Voluntary Strike Off with the Directors/CBC closing down the Company, allowing it to go dormant for a period of 3 months and then applying to Companies House to be struck off
- 7.3 The appointment of a liquidator would be likely to incur fees and take the control of the Company away from the directors and management. It is therefore recommended that the Directors/CBC close down CCSL by way of a Voluntary Strike Off (VSO).
- 7.4 If approval is given by Cabinet, the financial year end 20/21 would be targeted as the date to clear the Company's balance sheet out and become dormant as at 1 April 2021, as the first step on the VSO process.

8. Legal Implications

- 8.1 If the Council determines that the Company should be wound up, there are a number of procedural steps that the Council will be required to follow as detailed in the not for publication report on Part B of the agenda.

9. Strategic Plan References

- 9.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's strategic plan aims, setting out the direction and future potential for our Borough and the proposal reflects the 'Better Colchester - the Strategic Plan 2020-23' themes, priorities and goals to enable economic recovery from Covid 19.

10. Consultation

- 10.1 The Company Directors have been informed that the Council as sole shareholder, is now minded to dissolve or make the Company dormant. In addition to Cabinet approval, CCSL will need to hold a Board meeting and obtain written authority from the shareholder and approval to strike off the Company at director level.

11. Publicity Considerations

- 11.1 An appropriate Communications plan has been put in place to deal with public and press enquiries.

12. Financial Implications

- 12.1 As detailed in the not for publication report on Part B of the agenda.

13. Health Wellbeing and Community Implications

- 13.1 The proposal will ensure the continued community use of the Stadium.

14. Equality, Diversity, Community Safety and Health and Safety implications

- 14.1 Section 149 of the Equality Act 2010 places a local authority under a legal duty ("the public sector equality duty") to have due regard to the following matters in the exercise of all its functions, namely the need to:
- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
 - b. advance equality of opportunity between persons who share a "relevant protected characteristic" (i.e. age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation) and persons who do not share it; and
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 14.2 The public sector equality duty is a continuing duty which Members must consider and review at all stages of decision-making. . An EqlA report in respect of the redevelopment of the land has been prepared to which can be accessed via the link below

[Equality Impact Assessment](#)

15. Environmental and Sustainability implications

- 15.1 None identified

16. Health and Safety Implications

- 16.1 None identified

17. Risk Management Implications

- 17.1 The key risks identified are set out below and in the Confidential Appendix:

Risk description	Impact and / or Consequences	Risk Mitigation / Controls
Resourcing within CBC to manage the landlord and tenant relationship and input on the Community Yield requirements	Poor asset management and landlord and tenant relationship	Develop management action plan and nominate key personnel to deal with estates and community aspects
Using CCSL/CBC resources to undertake VSO process	Process delayed, additional costs incurred	Skills already sit within CCSL and CBC