

By email

Cabinet Members
West Northamptonshire Council
One Angel Square
Angel Street
Northampton
NN1 1ED

28 March 2022

Dear Cabinet Member,

I am instructed by the board of directors of the Supporters' Trust to write to you to advise you of its grave concerns relating to the absence of basic safeguards and protections in the terms of agreement for the sale by the council of land at Sixfields to the football club's subsidiary, County Developments (Northampton) Ltd. Both companies are controlled and managed by David Bower and Kelvin Thomas.

I am referring to the Heads of Terms set out in Appendix A to the Cabinet papers for the 8 March 2022. I have advised the Trust's board that the Heads of Terms will have been sent to the solicitors acting for both parties by way of providing instructions to the professional advisers and for their reference. I appreciate that the Heads are non-binding and that the full detail will be contained in the final sales agreement between seller and buyer. The Trust board is also aware that the unsuccessful bidder for the Main Site Lease land, Cilldara Ltd, looks likely to be taking legal action against the council for a judicial review in the High Court of the council's decision to accept CDNL's offer. It is not for the Trust to comment on this pending action other than to state that until we are advised otherwise, we have to assume that your external solicitors are instructed to proceed normally. Therefore, there is an urgent immediacy to the issues I find it necessary to raise in this letter.

For several years representatives of the Trust, including myself, dealt with Jonathan Nunn the Leader of the former, Northampton Borough Council together with its CEO, George Candler, and the Borough Solicitor, Francis Fernandes. Jonathan Nunn was always adamant that the club's owners would not be permitted to acquire the land adjacent to Sixfields Stadium unless and until the East Stand was completed to a satisfactory standard. The mantra "stand first" was quoted several times in the face-to-face discussions held with Mr Nunn and verbal assurances given. Mr Nunn is now the Leader of WNC and many of the councillors, including Cabinet members, who held senior positions in NBC are similarly involved with the council.

I was therefore dismayed to see on examining the Heads of Terms that such no such provision or condition for "stand first" has been included or even mentioned. Why is this and how has this omission come about? It is basic, it is fundamental and flies in the face of reason and common sense given all that has gone on before.

The situation as allowed for in the Heads is that CDNL will be permitted to buy the freehold titles to the Main Site Lease land and the Running Track Lease land for £2,050,000 before any work in relation to the East Stand is commenced, let alone finished. I am not forgetting or omitting the Trust's rights in respect of the land registered as an Asset of Community Value but if the Trust does decide to invoke its rights that may only delay the purchase of the land involved for a period of up to six months. The only protection is that the council will have an option to buy back the freehold title to the Running Track Lease land for £1.00 if CDNL fails to complete the East Stand within a period of 60 months. There is no mention of completing the stand to any legally agreed specifications or standards. With the freehold title in its ownership there is nothing on the face of it to prevent CDNL granting to developers long leases of parts of the Running Track Lease land, in which case the effect of exercising the option to re-acquire the freehold would be minimal and would quite possibly not be of advantage to the football club.

Perhaps of more relevance is that the way in which the Heads are constructed. CDNL will buy the freehold of the Main Site Lease land unrestricted and without the council having any recourse as regards this land. This land comprises 17 acres. The Trust has seen various estimates of the land value but a figure of around £1 million per acre is consistently quoted. Therefore, a total gross sale value of £17 million seems feasible. On completing the purchase, CDNL would immediately have the right to sell this land unremediated or alternatively could decide to remediate the land. In either case remediation costs would need to be factored in and for the sake of this illustration let's take a reasonable costs figure of, say, £7 million. The figures quoted by Lambert Smith Hampton are considered to be on the high side. So, on our figures the profit amount for the Main Site Lease land could be in the region of £10 million and this could be earned by CDNL without any work being carried out on the East Stand and without any obligation to do so. This is not to impugn the club's owners or their intentions. The Trust is seeking only sensible legal protections and the council is not providing them.

Another point I have raised with Jonathan Nunn, when I last spoke with him on 11 February, is that there is nothing to prevent the controlling interests in CDNL selling the company or the Main Site Lease land, the proceeds of which would have to be paid to NTFC if the companies were still parent and subsidiary and from there could be paid to the club's owners to reduce or settle internal indebtedness. The East Stand could still remain uncompleted. There are a number of other possible scenarios regarding the future of the land under CDNL's unfettered ownership but it has to be the duty and obligation of the council to provide all protections necessary. I submit that if this deal proceeds as written there will be few, if any, protections and that, in any event, these will be completely inadequate from the perspective of the football club's supporters. The council is failing badly the supporters of the football club and the residents and taxpayers of Northampton.

I need also to comment on Section 4 in the Heads and the part sub-titled “Use of the Running Track”. It states that the football company and purchaser (both controlled by the club’s owners) acknowledge that any benefit derived from the Running Track shall be for the benefit of the football company. This is rather meaningless and, as worded, almost certainly unenforceable in legal terms for reasons of vagueness and uncertainty. Who decides what is for the benefit of the football club? The answer is its controlling directors. When the Trust attended a Zoom conference on 11 February 2022 with Jonathan Nunn and with the opposition leaders also present the Trust recommended that to protect the football club and its supporters it would be advisable to register a restriction on the title of the Running Track Lease land to seek to ensure that the development of the land would be for the continuing and long-term direct benefit of NTFC as distinct from any other parties. This has been completely ignored. We would mention in passing that the Running Track lease land has already been remediated and so is ready for development. It follows that the figures applicable to this 3.61 acres of land would be different to those of the unremediated land.

The Trust board finds it extremely disappointing that it should have to write to WNC about these matters. We repeat that we consider that the council is failing the supporters of the football club in the matters referred to in this letter. The Trust has previously commented that the council is washing its hands of the football club and leaving it to its fate. That comment we repeat with a message to the council and its leadership of our profound disappointment.

As I commented at the beginning of this letter, the issues raised in this letter are considered by the Trust board to be urgent and, as such, require please your prompt and full response. We would like to give you an opportunity of explanation and correction where necessary. Our present intention is to publish this letter on our social media and platforms at 9 am Wednesday, 30 March and at that time release the letter to the external media.

We are also copying this letter to the opposition leaders for their information.

Regards

John Morgan

Acting Secretary and Legal Adviser

On behalf of the board of NTFC Supporters Ltd