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Dons Trust Asset Ownership Paper - how the Dons Trust can ensure protection of its ownership of Plough Lane

This paper is designed to explain to the membership and wider fanbase some of the thinking behind the Dons Trust Board's (DTB) desire to pursue a particular way of protecting the ownership of Plough Lane (and by extension, that of its overall ownership of AFC Wimbledon).

In returning to Plough Lane on a freehold site, AFC Wimbledon was placed in a very fortunate position for a club returning to a high value, prosperous part of South London.

Given the club's history and one of the causes of its original demise and subsequent reformation under fan ownership being the ownership of its stadium and the site, there has always been an understandable nervousness from some fans about the possibility of a loss of the stadium.

As a result of these concerns, a number of 'Restricted Actions' (RAs) were inserted into the constitution of the trust during our early years at Kingsmeadow. These additional rules, which are not standard in any rules of a club owning supporters' trust that we are aware of, also safeguard the continued overall ownership of the football club (AFCW PLC) by the trust.

1. Given the current and necessary discussion concerning equity, and the potential

for future sale of some of the stake owned by the Dons Trust (whilst retaining overall majority ownership) in order to manage debt and grow and develop the club and its assets (stadium, training ground, other facilities and initiatives), concern has turned to the ownership Plough Lane.

2. The Dons Trust Board has already had new restricted actions inserted into the rules of AFCW PLC (including the restriction of the ownership of shares by related parties) and will mandate these being adopted in its own rules by a meeting of members. It is also actively exploring with experts in community ownership of assets about the potential use of 'super' RAs to protect both the stadium and fan ownership, including Dave Boyle from the Community Shares Company, former CEO of Supporters Direct (SD) and author of the original Restricted Actions (RAs) clauses in the constitution. However, given the desire to reassure members and fans as to the importance placed upon this issue by the board, we felt it necessary to issue a short paper explaining why pursuing the continued use of the Dons Trust as the vehicle for protecting the ownership of Plough Lane is the most appropriate and provides the most protection.

Review of options for asset protection

In 2012, Supporters Direct (the body that helped to form The Dons Trust, and then experts in fan and community ownership in football and sport) published a paper, 'Developing and Protecting Community Benefit in Football Stadia.'

The research was commissioned from SD by Wrenbridge to help inform their ongoing role in football stadia developments and to outline the different ways in which community benefit can be enshrined, delivered and protected through stadia.

The research explored ways in which:

i) The ownership structure of stadia can be organised to protect community and supporter interests.

ii) Community benefit can be delivered through stadia.

iii) Community benefit can be protected.

The research was based on five case studies:

- Chelsea FC: Stamford Bridge
- Huddersfield Town FC: John Smith's Stadium
- Brentford FC: Lionel Road Stadium
- AFC Telford United: New Bucks Head (at the time of the report, Telford were fan owned similarly to AFCW, but have since passed into private ownership)
- FC United of Manchester: Moston Community Stadium

In addition, and for thoroughness, we have also included an example of 'sale and leaseback' in the form of Cambridge United's former arrangement with Bideawhile and then Grosvenor Estates not included in the SD paper.

Applicability to AFC Wimbledon

While each of the above examples offers a potential way to protect a stadium, each one of them remains distinct, and in the case of Chelsea's CPO (Chelsea Pitch Owners), a unique way of protecting the stadium (and, in the case of Chelsea, the club's name).

However, in the circumstances that the Dons Trust and AFC Wimbledon fans are in, it's vital that ensuring the security of Plough Lane (and the ownership of the club) is secured taking into account the distinct circumstances.

Huddersfield Town

Huddersfield Town's joint ownership company (a 40:40:20 split between the football club, Huddersfield Giants and Kirklees Council) is expected to change when the football club buys out the other shareholders. However, this model was placed under threat on several occasions, on one occasion due to the high cost of renovations required. This model – which was also used at Rochdale – is vulnerable to a difference in financial means and needs between the parties and the failure of the local authority to act as 'honest broker' in a stewardship role because of changed political circumstances. To adopt this form of protection it would require ownership of the freehold of the stadium by a third party, which would be a backward step and offer fewer guarantees than we presently have.

Brentford

Brentford's model provides a 'Golden Share' for Bees United. This was secured when Matthew Benham took over control from the supporters' trust, which owned Brentford FC and their former stadium at Griffin Park. In effect, we already have a 'Golden Share' in the form of the continued majority ownership of the club by the Dons Trust, an arrangement which also gives us much more than a golden share over the stadium. To adopt this form of protection, it would require Dons Trust members to sell the football club ownership and Plough Lane to a private owner.

AFC Telford United

The ownership of the freehold of AFC Telford United's New Bucks Head sits with Telford and Wrekin Borough Council. To adopt this form of protection, it would require a completely different form of ownership of the freehold which would be a backward step and offer fewer guarantees than we presently have. As we found to our cost with the old Plough Lane stadium, placing the stewardship function in the hands of the local authority does not necessarily provide the long-term protection we would want.

Chelsea

At first glance, the protection offered by the CPO structure would appear to provide the kind of asset-lock that would benefit even AFC Wimbledon and be an additional and beneficial form of protection.

The CPO is a 'not for profit' company (it does not pay dividends on shares), not listed on a stock exchange, and has limitations on share ownership and voting.

There are no limitations on share ownership but there are on voting. There is a ceiling on the number of votes per individual, equivalent to 100 A shares, but that individual can still own as many shares as they like. The total number of shares available for sale during a 5-year period is controlled by CPO through a resolution voted on by shareholders at an AGM.

It offers a form of protection for CPO shareholders in that it leases the ground back to the club on the strictly defined proviso that the ground may only be used for football purposes.

This reduces the market value of the land, and the broad base of altruistic ownership has prevented Chelsea from moving home. CPO also controls contractual rights to the name Chelsea FC (licensed back to the club if the first team plays their home matches at Stamford Bridge), the pitch and turnstiles.

CPO does not technically "own" the name Chelsea FC, but it is a condition of the lease that the name Chelsea FC is surrendered to CPO in the event of the football club ceasing to play football at Stamford Bridge. "Control" is a better description than "own".

Control of the name is very significant for supporters: if Chelsea FC moves to another stadium in the future, they would not be able to use the name Chelsea FC without permission from 75% of CPO voting shareholders.

However, the report from Supporters Direct made it clear that there were serious limitations to this model of community benefit and asset protection for several reasons. One of these was that although there is a voting limit of 100 shares for any one person, this is still some way from the supporters' trust/CBS model (as with the Dons Trust) of one member one vote. Because of the model it operates under, one example of a 'concert party' action (bulk buying of shares to gain control of a company) has already occurred. In 2011, it came to light that there may have been an attempt at bulk buying around 2,000 shares by individuals linked to the club, something the rules of CPO were designed to stop. This was connected to an attempt under the former owner Roman Abramovich to move the club to a new stadium.

In more general terms, the SD report also makes several other important observations:

1. There is little sense that the club structure at Chelsea particularly encourages community or supporter engagement at the stadium; nor is there a wider democratic involvement of supporters in the ownership of an important asset.

2. The company (CPO) constituted lacks any objective of community benefit function as offered by the supporters' trust model.
3. There is no monitoring and evaluation of the supporter or community benefit from the arrangement other than Chelsea's continued occupation of the Stamford Bridge site.
4. It is not one member one vote.
5. It is not a truly 'open' membership – at present there is a temporary limit on the number of shares available (although these have not all been taken up) and the minimum cost of £100 could be prohibitive to some.

Since SD's conclusions were made, the following has changed in respect of shares:

CPO discontinued the £100 'A' Share and issued a 'B' share, valued at £25, in 2018 in order to meet what was perceived to be a demand for a lower price to encourage wider ownership among a wider fan demographic. The initiative failed to gain the expected support and share sale revenue dropped dramatically. The B share was withdrawn in 2021 and the A share reinstated at the original £100, with revenues returning to acceptable levels.

The report concludes:

'This CPO model, which is unique in English football, has much to recommend it as it places important assets in the hands of supporters. However, several things could further strengthen the protection in place for supporters through the constitutional structures of the CPO.'

The most pertinent conclusion of the report is the following

> ***'More fundamentally, re-formation of the CPO as a CBS similar to a model used by Supporters Direct would deliver these changes and open up further possibilities.'***

Further observations about the CPO model by the DTB

Plough Lane Bond (PLB) 1 helped to get the ground completed. This was only possible with a top up loan from MSP Capital, at high interest rates, secured against the ground. PLB 2 helped to remove the MSP charge which had previously been secured against Plough Lane. If in future we need to put a charge against the ground on a temporary basis, this requires the membership to consent. This is part of the Memorandum of Understanding (MOU), which governs the activities upon which the PLC must get consent from the DT board and in certain circumstances the membership. An example of where we potentially might need to do this is where we are building a training facility and would only be able to place a mortgage of sufficient value against the training ground once it is completed. This may not happen as the Finance Committee are looking at ways to make this unnecessary, but we cannot be certain that this will be the case and so need to keep our options open. If we were to adopt a CPO type structure, this control would be out of the members hands, at the mercy of a separate body. The decision would not be on a one member one vote basis but based upon the number of shares held by each individual, which would be a dilution of the democracy we currently enjoy. It is surely best that the membership decides on the use of our key assets to assist the growth of our club.

FC United of Manchester

The final model analysed in the SD report was that in use at FC United of Manchester. The club is also a CBS (as per the Dons Trust), which at the time of the report had 3,500 members, each of whom own one nominal membership share which gives each member one vote. The CBS wholly owns the stadium.

As such, the model is the same as AFC Wimbledon’s original one, until the trust authorised the creation of AFCW PLC in order to purchase Kingsmeadow.

Sale and leaseback

Sale and leaseback is a form of ownership of a stadium whereby the club sells the asset to a third party and rents it back, usually at market rate. An example of this is the former arrangement between Cambridge United FC and landlords Bideawhile and subsequently, Grosvenor Estates.

This form of ownership has the advantage that it creates an immediate injection of capital, however it is invariably done during a time of acute financial difficulty such as that being suffered by Cambridge United at the time. This will almost certainly create a situation where the club no longer has any further control over the stadium, except that provided for by the contract of sale and leaseback and can often be subject to punitive conditions in the agreement.

Final observations & conclusions

However, because of its ownership by the Dons Trust and the current set of RAs, it provides a similar enough form of asset protection to that of FC United of Manchester. It is understood that the context of the FC United stadium lands and our own in south west London are different. As part of our stadiums completion (potentially phased), this presents us also with attractive property development opportunities that could be incorporated into the stadium build.

As such it leads us to conclude that the most appropriate form of protection, taking into account the circumstances the Dons Trust is in, is to pursue super RAs to protect the stadium (and ownership of the club). This serves the purpose of:

- Ensuring our Plough Lane Stadium lands are protected as a football, sporting, entertainment and community venue.
- At the same time not creating barriers to us developing commercial property (ie. hotel, business space, residential, retail, leisure etc) that is likely to be integrated into the completion of the stadium structure.
- This commercial property component of our eventual stadium completion would target generating long term sustainable income for the club to support on and off

pitch objectives.

- Protecting the stadium for generations to come

The original SD paper can be read via the Football Supporters Association's archive of Supporters Direct research and publications.