

Newbury Community Football Group

Reasons for Stage 2 complaint

The reasons for lodging a Stage 2 Complaint are set out using the original enumeration.

In this document the term “Community” means the footballing community of Newbury. The terms “Ground” and “Newbury Football Ground” adopt the definition of playing fields in Sport England’s Playing Fields Policy (which specifically deals with safeguarding existing facilities). PE’s strategy defines a playing pitch as the sum of its parts; the pitch, the purpose of the facility (e.g. football, etc.), the management arrangements, accessibility, and the whole facilities including changing facilities, clubhouse and stand.

Stage 1 Complaint heading: Grounds for Complaint

1. The original complaint relates to three scenarios: a) short, b) medium and c) long term use of Newbury Football Ground. In respect of:
 - a. Since September 2017, NCFG has repeatedly sought clarity about short-term use of the Ground following the Council’s termination of the then operator’s lease. As a matter of fact, for several months the Council either failed to respond or responded by issuing holding statements. In May 2018 the Council prematurely announced by press release that Newbury Town Council (NTC) had been invited to managed the facility, but there were no details about what this meant to the Community. After a meeting, held behind closed doors, NTC rejected the invitation. Shortly afterwards, the Council announced a hastily and ill-thought-out short-term plan. In doing so the Council did not communicate with NCFG (as representatives of the Community in Newbury) nor did the Council provide any detail about the practical use of the Ground or consider the purpose of the Ground and the requirements of the Community. It is now apparent that, without reason or cause, in the short term the Council has in essence closed the facility. This is contrary to the needs of the Community and the intended use of the ground. The Council has, without reason, summarily rejected NCFG’s offer to run the ground for the benefit of the Community. If the Council asked NTC to consider running the facility what possible reason can they provide for not also offering the same opportunity to the current operator or NCFG?
 - b. The Council has failed to give anything close to sufficient detail to allow the Community to understand how the Ground will operate in the medium term. It is however clear that by re-classifying the Ground as a general playing area with unfettered access that will not be safeguarded as a high-quality pitch (meaning whole facility) for full-size football or indeed managed in any meaningful way, the Council will cause untold damage to the facility (including the playing surface) so that it will not be fit for its purpose as a full-size football pitch. Furthermore, it is understood that the Council intends to permanently close part of the Ground (clubhouse, changing rooms, stand, lighting, etc.). This flies in the face of the Council’s duty to protect the Ground and serve the best interests of the Community (as is enshrined in the Core Strategy and the Asset of Community Value). There is absolutely no reason for the Council to change the nature of use in the way prescribed by the Council, other than a cynical, harmful and possibly unlawful attempt to destroy the purpose of the Ground.
 - c. There is no clear policy for the use of the Ground in the long term; statements by the Council are at best confusing and at worst misleading and inaccurate. The

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Council has stated a vague intention to redevelop the Ground. The Council is reminded that the Ground is in fact protected by two aspects of local planning policy (ADPP2 and CS18) and also by the Asset of Community value and by national planning policies. The Council has not been at all clear about the long-term future of the Ground. The Council's claim that the site is to be redeveloped is premature in the extreme, has no basis in fact, fails to accord with local planning policy, is not supported by objectively assessed need or commercial viability assessment, and has not been subjected to public consultation. The Council is not entitled to close the Ground without evidence to support that doing so would be in the best interests of the Community. Despite claims by the Council, redevelopment of the Ground is not an objective of Newbury Vision; in fact, the core objective is to improve sporting facilities. Factually the Ground is not part of London Road Industrial Estate and is not necessarily caught by the aspiration to improve that area with mixed-use development. The Ground is not required for housing land supply. The Council has claimed that there will be no obligation to re-provision the facility, which is factually wrong. Closure of the Ground will cause long term damage to young person's participation in football, which as the nation's favourite sport, is a form of exercise that is important to the fight against child obesity. It also goes to the heart of child well-being. It is counter intuitive to wellbeing for the Council to pursue a strategy of destroying Newbury's only dedicated fully equipped football facility to make way for flats (or other non-community use).

2. The Council's response confuses dialogue, the purpose of which has in the main been for the Council to resist the clearly stated requirements of the Community, with positive engagement and consultation. In fact, despite many requests, the Council has failed to carry out any proper consultation with NCFG (as representatives of the Community). The Council's claim to have reiterated development intentions is wrong. It would be more accurate to describe this as reiterating ill-defined development aspirations that do not factor in requirements or best interests of the community. The answer supplied by the Council is clear evidence of the Council's dogged determination to conflate Newbury Football Club with Newbury Community Football Group. This is a fundamental and possibly purposeful misunderstanding. The latest and deliberate failure of the Council to engage with the football community in Newbury is perfectly illustrated by the press release issued by Councillor James Fredrickson on 21st June entitled "Site set to open as a multi-use games area available to local residents". Who did Councillor Fredrickson engage with to ascertain if this option was viable or wanted by the community? What evidence can Councillor Fredrickson or the Council provide to support the suggestion made in their press release? The simple answer is no consultation took place and no evidence or justification can be provided – which regrettably is the modus operandi of the Council over this key and very community sensitive issue.
3. Please refer to the points in item 1 above. However, in simple terms the type and purpose of use proposed in the Councillor Fredrickson press release (see item 2 above), which NCFG nor the FA, nor Sport England have been consulted on provide absolutely no detail. For example, how will you be able to hire the club house, can the facility be used at night using the existing floodlights? Will the changing rooms, showers etc be available?
4. The Council's response is erroneous and misleading. The Council has confirmed that the whole facility will be closed to its current purpose. Furthermore, there is no evidence at all to suggest that the Council's intention to change the Ground's purpose to unfettered informal multi-sport/general-recreational-use will "encourage far greater and wider use of

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the site than is currently achieved". NCFG has supplied irrefutable evidence of need (surveys, petitions and input by Sport England and the FA), which the Council has ignored. Again, the question that this Council cannot answer is what evidence can they provide to support this obvious change of use and who have they consulted with?

5. The Council's response fails to answer the specific complaint. Furthermore, the response is once again erroneous and misleading. There is absolutely no evidence-led need to "manage the facility flexibly over the short term". Furthermore, there is no reason to believe that redevelopment of the Ground is inevitable (i.e. development would be contrary to national and local planning policy and the AVC; development is not supported by evidence of need or that it would serve the best interests of the community). Indeed, in May 2017 the Council's Chief Executive stated at a public meeting that development would likely not occur within 5 years, assuming that the then current legal would be concluded in the near future. That legal challenge is ongoing; it therefore stands to reason that even if development were to go ahead, it would not affect the Ground for at least five years from now. In addition, it is possible (probably likely) that any attempt by the Council to carry out redevelopment could be met by other challenges, including a move to protect the Ground. Clearly, the Council had considered that management by Newbury Town Council would achieve its desired outcome; there is therefore no reason, other than the Council's resistance on ideological grounds, why a community led group could not be employed at nil cost to the public purse to manage the facility. The Council has not explained how or why management by the Council will create greater flexibility than an agreement with a community group.
6. The Council's response fails to answer the specific complaint. Furthermore, the response is again erroneous and misleading. The redevelopment of the Ground has not "been in plan for 15 years", nor for that matter has the holistic redevelopment of the London Road Industrial Estate. Factually, redevelopment of the Ground is not an objective of the Core Strategy; in fact, policies ADPP2 and CS18 specifically protect the Ground from redevelopment. There is no evidence to support the Council's statement "with the site providing much needed housing and employment land". The Council's Housing Land Allocations DPD specifically excludes London Road Estate from housing allocation and the Ground is not mentioned as a potential site for housing. Local and national policies resist the redevelopment of playing fields (as defined above) for housing. The Council has recently re-established a housing land surplus. The removal of the previous operator combined with the plan announced by the Council does as a matter of fact deny the Community access to the facility. The repeated claim that the Council's plans are likely to enable greater access does not improve on repeating; the Council has neglected to consider the purpose of the ground. The statement is analogous to the Council saying that opening up holding cells in a police station would enable greater access. That is to say, opening up a facility and thereby destroying its purpose is counterproductive to said purpose.
7. The Council has failed to answer the specific complaint. This is possibly because the respondent is, by reference to office, named.
8. The Council's response is fundamentally misinformed. The Council's short and medium-term plan will destroy the main purpose of the Ground (as described above) which is firmly protected under ADPP2 and CS18 and by the ACV. There is no doubt that the Council's plan fails to accord with those protectionist policies (which have a self-evidently beneficial purpose). Furthermore, to achieve unfettered access, the Council will likely demolish part of the facility. The right to carry out demolition as a permitted development right is removed by the ACV (Localism Act).
9. The Council has failed to answer the specific complaint.

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10. The Council has failed to answer the specific complaint. For reasons set out below, the complaint has substance:
 - a. Failure to make any attempt to assess the best interests of the community (public).
 - b. Failure to make impartial and evidence-based decision. By the Council's own admission, it is relying on a vague aspiration that is now 15 years old and which has been superseded by the NPPG, Sport England's Playing Field Policy, the local Core Strategy, the ACV and Newbury Town Plan.
 - c. There can be no doubt at all that all meaningful decisions relating to the Ground and the London Road Estate have been made in camera.

In the covering email we have again listed the 7 principles of public life and we hope that this Stage 2 complaint is reviewed fairly and independently with these principles used as its benchmark.

11. The Council's response fails to answer the specific complaint and is misleading. The Council has signalled its intention to permanently close the Ground. Furthermore, the Council demonstrates its determination to conflate the Club with the Community and thereby shows distinct absence of understanding.
12. The Council's response is factually wrong.
13. The Council's response is erroneous and misleading. The Council has not held any public meetings specifically about the Ground. There has been no consultation about the wider London Road Estate. Material decisions and debates have been held in camera and records kept out of the public eye. Refer to numerous points above – what consultation has taken place and with whom? Can the Council show the transparency requested by confirming who in the Council came up with the idea to “open the site as a multi-use games area” with 5 a side pitches marked out and no management whatsoever at the site? What process did this go through within the Council, i.e. was it committee based or individual? Please provide copies of minutes / meeting notes that came to this conclusion. Who made the decision not to consult with NCFG and / or existing users of the site? Please provide any evidence that shows that the current facility is no longer required by the Community?
14. The Council has failed to answer the specific complaint. The Council has, however, given weight to the complaint by admitting that its plan relies solely on an aspiration from 2003 and is not, by any definition, especially planning policy and law, up to date.
15. The Council has failed to answer the specific complaint; there has in fact not been any public consultation about the future of the Ground or indeed the wider London Road Estate. It this assertion is incorrect please specific details of public consultations that have taken place?
16. Evidence is contained in correspondence by the Council to NCFG and indeed in the response to the complaint.
17. The Council's response is erroneous and misleading. The Council's plan does not result in the Ground being made available for its protected purpose and does include closure of essential facilities.

Stage 1 Complaint heading: NCFG requires WBC to:

1. Mr Carter's response to NCFG's stage 1 complaint simply does not address the points that were raised. Consequently, NCFG are now formally submitting this Stage 2 complaint.
2. Mr Carter's response to the Stage 1 complaint was "we have no intention of renegeing on our agreed plans". This is interesting language used by Mr Carter. What plans is Mr Carter referring to? Is it the Council's *aspirations* as initially set out in 2003? (as referred to in point 14 of his response to NCFG's Stage 1 complaint). These are not plans that have gone through a formal planning application or public consultation – these are aspirations set out over 15 years ago as such how can they be renegeed on? By contrast the Ground is actually protected by two aspects of local planning policy (ADPP2 and CS18) and also by the Asset of Community Value. By implication is Mr Carter saying that he would be happy to renege on these published policies / protections? More worryingly the language used by Mr Carter also begs the question of how open will WBC be to alternative planning applications that will be submitted? Mr Carter's response really does smack of a leaning towards predetermination.
3. Despite confirming that he would be happy to meet again with NCFG, Mr Carter stated in an email on 7th July 2018 in response to an email sent to Richard Turner regarding questions and concerns over the Ground "I am not convinced that there is a need to meet to discuss further your concerns"
4. The legitimate and sensible request not to to change the way in which the Ground is operated until a plan for continued use of the whole facility has been subjected to public consultation and put in place has been ignored.

Stage 1 Complaint heading: The 7 principles of public life:

This is referred to in item 10 of the Stage 1 complaint, which the Council has failed to respond to.

It is NCFG's view that WBC's handing of the Faraday Road football ground falls short on many of these key principles and we hope that this Stage 2 complaint is reviewed fairly and independently with these principles used as the benchmark.