

Issues relating to the old football ground

1. Why is the proposed re-opening of the old football ground only temporary? Why isn't it permanent?

Ans: The old football ground site is integral to the redevelopment of the whole of the London Road Industrial Estate. Therefore the Council will not enter into any new occupational relationship which might jeopardize the Council achieving vacant possession on the site, should the Council receive planning consent to redevelop the land. For more detail please refer to the responses set out below.

2. Why did the Council not insure the old clubhouse and in not doing so, did it lose out on an insurance pay-out post the fire?

Ans: When insuring the site the Council was only required to consider its property needs in respect of the old clubhouse.

Financially it was entirely logical only to pay premiums required to protect the Council from any public liability based claim and where there was no logic in paying higher premiums based on asset protection, since any pay-out would have been dependent on the Council rebuilding the old clubhouse. This would not be appropriate and where the clubhouse was entirely run down and beyond economic repair well before the fire and indeed when the previous tenants vacated. This was confirmed by an external condition survey report dated July 2018 and which is in the public domain. Hence there was no justification for the Council pursuing higher insurance cover at greater public cost.

No insurance company would have underwritten any pay-out for an effectively redundant & derelict building and where, because the Council had no intention of rebuilding the structure, the Council had not experienced any loss against which to make a claim had higher insurance cover been sought. Had the Council attempted to find a higher level of cover, the Council would also have had to demonstrate the highest level of asset protection which would have been on site physical security at a cost of approximately £200K since June 2018. The costs of this coupled with higher premium does not represent value for money. Finally, it should also be noted the Council's insurance arrangement requires the Council to cover the first £250K of repairs.

3. Why did the Council withdraw the application to demolish the old football clubhouse and reopen the old grass pitch for public recreation and informal sport?

Ans: The planning application had two principal objectives; to demolish the old clubhouse in order to remove an on-going major health & safety and

security liability and to make available again on a temporary basis the old grass pitch for general public use. Of these two objectives only demolition of the clubhouse required planning permission since the clubhouse was technically a Class A4 building use (drinking establishments). However, once the building had been destroyed by fire, the remnants of the structure were removed under the requirements of Building Control. As a result demolition of the clubhouse via a planning application was no longer applicable.

Other aspects of the application did require planning permission; creation of pay & display parking on the footprint of the old clubhouse (change of use) and erection of new sections of 2.4m high palisade fencing.

The extra parking was considered since historic spectator parking bays were marked up directly against the old grass pitch and that new pay & display parking would be a temporary source of income to help support maintenance of the grass pitch once re-opened. However, during the planning consultation process concerns were raised about having balls potentially fall in close proximity to parked cars. As a result of these concerns and that post Covid parking uptake was likely to drop, it was decided not to deliver these parking spaces on the site of the old football ground. This in turn removed the need to seek permission to build parking on the footprint of the old clubhouse.

In respect of replacing old fencing, proposed sections of new fencing at a height 2.4m also required planning permission. However, in order to make the re-opening works as cost effective as possible, the Council decided to leave in situ existing lengths of fencing and for other sections to be modified where possible. Again neither of these actions required planning permission.

Ultimately the withdrawal of the planning application has allowed the Council to commence with tidying up works in 2021 which otherwise might not have been able to start until New Year 2022.

4. Why did the football ground close and what level of consultation was there on closure?

Ans: The football ground closed when the tenancy between the last occupant and the Council ended in June 2018. The tenancy was extended from the original end date of June 2016 in order to allow the last tenant more time to consider its options around a club share or potentially new site. There was no legal requirement for the Council to extend the lease again beyond June 2018. Over the last 8 years there has been extensive consultation with Sport England, the Football Association, Berks & Bucks FA, both the old and new management team of Newbury Football Club and other interested parties such as Thatcham Town Football Club. Detailed discussions with Sport England are on-going so that a way forward can be found to secure club football and allow an important urban economic regeneration project to proceed. The public itself was first made aware of proposals to redevelop the London Road Industrial Estate (LRIE), including the football ground, as far back as Oct 2003 when the first Newbury Vision was published. Since then

there has been several public presentations of regeneration proposals at the annual Vision Conference. The Council has at all times been clear in what it is trying to achieve and the challenges associated with achieving those aims.

5. Why was it not possible for Newbury Football Club to continue at the LRIE football ground after the tenancy expired?

Ans: In order for NFC to continue playing in its league it needed to prove security of tenure on its ground for the future season which in effect would have required the Council granting a new form of lease. This was not possible since the development agreement with St.Modwen, then still active, required the Council to achieve vacant possession of the football ground before any redevelopment proposals could be worked up in further detail.

6. Once the LRIE development agreement with St.Modwen fell away due to legal action, why was it not possible at that point for the old football ground and clubhouse to reopen?

Ans: On achieving vacant possession the Council carried out in July 2018 a condition survey of the old football ground clubhouse. The survey stated the clubhouse could not be re-occupied without the building undergoing immediate remedial works of just over £200K and with a further £300K of works to be completed within 3 years. The Council had no future use for the building and could not justify expending these sums on a redundant building and where the building itself was beyond economic repair. For interested parties to secure external funding for these repairs the Council would have had to grant a new long lease (25 years or more) and where such a lease would have been wholly incompatible with the Council's plans to redevelop the area. To allow the club back in, who had already in June 2018 secured a new temporary venue at Brimpton, would have prevented all parties from concentrating on finding a new long term sustainable home for football within Newbury which could not be delivered on the LRIE. Similarly to allow the club back in would reduce the confidence of potential development partners that the Council would make available the football ground for redevelopment without which the regeneration would be unviable. That remains the situation now.

7. Why is the Faraday Road football ground critical to the redevelopment of the London Road Industrial Estate (LRIE)?

Ans: There are aspects of the LRIE regeneration which are commercially challenging. The area is largely a protected employment zone and where the principal feature of redevelopment must be creating employment opportunities both in the form of well serviced flexible office space and new light industrial units. The delivery of these will be financially challenging and construction of some of this will be in advance of finding tenants; this financial risk will need supporting by capital receipts from housing. The only part of the estate where

delivery of housing is not a significant challenge in terms of flood zones and protected employment land is the old football ground.

8. What will the financial return be to the Council in potentially developing the old football ground for housing?

Ans: It is not possible to forecast that with any accuracy what the returns might be beyond knowing that housing, where there is little or no requirement for major flood mitigation, is commercially less risky to deliver than office or light industrial units without pre-let agreements. The old football pitch area is within Flood Zone 1, the zone of least contention and where residential development can physically be delivered without too many challenges. Capital receipts from any residential development in this location will support the rest of the regeneration which will be commercially more challenging. Possible financial returns will also be affected by the type of any development partnership the Council might enter into and also to what extent the Council might try to deliver affordable housing beyond policy. These latter issues are matters yet to be decided upon and will take time to agree upon.

9. At £200K the cost of the Council's 'open space' planning application seems prohibitive and a poor use of money as opposed to re-opening the ground to dedicated football?

Ans: Approximately two thirds of that cost covered: demolition of the old clubhouse; lavatory block; associated porta-cabins; the existing very poor condition boundary fence and delivery of 80 new pay and display parking spaces. The rest of the cost is for a mixture of new fencing treatments between LRIE leaseholder businesses and the grass pitch, anti-vehicle measures to prevent unauthorised access and to improve the existing grass pitch. The demolition work associated with the clubhouse, porta-cabins and fencing is work that would have to be undertaken whether under the Council's own proposals or proposals put forward by other interested parties seeking to re-establish football. Whatever use is made of the old grass pitch, the old clubhouse could not be retained; it was a potentially dangerous structure representing a significant public health risk and where it could not be reoccupied without considerable expenditure and in respect of a building wholly beyond economic repair as first identified in July 2018. This work could have been funded by other bodies but where such funding would be dependent on the Council granting a new long lease. The Council cannot grant such a lease since it is incompatible with regeneration proposals and the Council is concentrating on proposals to deliver a new sustainable home for club football at Monks Lane Newbury. Post destruction of the clubhouse by fire in August 2021, remedial works to tidy up the area prior to reopening of the area are due to be completed by Dec 2021 and at a cost less than the original budgeted £200,000.

10. Will the new football ground facility at Monks Lane be a better facility than the old LRIE Faraday Road ground and will it be sustainable?

Ans: Yes, the facility will be better and sustainable. The new ground will have a 3G pitch allowing for greater match and training use than the existing LRIE single grass pitch and will provide up to date Step 4 facilities which at the old ground were only Step 5 and had reached end of life when the lease expired June 2018. Sustainability is dependent on two key aspects of any club football ground; first, occupational lease lengths are long enough to attract external funding for any club upgrades, both in league promotion and facilities improvements; and secondly, the new facility must be managed by a club that is a viable business. The Monks Lane facility will have an occupational tenancy of 40 years which, combined with new facilities, will allow Newbury Football Club to occupy the site and be able, should it need it, to seek commercial sponsors and / or FA funding. The FA view single grass pitch grounds which are on a short lease or occupational licence as not being sustainable and worth investing in. For reasons given above the Council will not grant a new long lease on the LRIE site, where it is not required to do so and it would not be possible to grant such a lease without abandoning regeneration proposals.

11. Are the Council's proposals to provide a new football ground at Monks Lane supported by Sport England?

Ans: The proposals follow FA ground grading technical guidance and therefore will satisfy the FA. As a result the Council does not foresee major issues in securing Sport England's support for facilities which include a 3G pitch and a ground that can function at Step 4 as opposed to the Step 5 facility originally provided at the old Faraday site. What is being discussed with Sport England is the relationship between this planning application and future proposals on the London Road Industrial Estate which will eventually, subject to consent, affect the old football ground. This is a complex issue of sequencing and ensuring the parties are happy about what needs building and when.

12. Why did the football ground close when it is registered as an Asset of Community Value (ACV) and who approved the ACV registration?

Ans: The ACV status only becomes relevant should the Council dispose of the football ground site, either on the open market or to a development partner, at which point the attempted disposal allows the ACV holder to make an offer to purchase the site at market value within a six month time period. The Council is not obliged to accept any offer. The request for ACV registration was reviewed and granted by the Council based on the criteria at the time. The Council acts both as a land owner and local authority and where those roles do not necessarily align. The granting of the ACV was done by the Council acting as local authority and being scrupulously objective since the request for registration did not align with Council proposals acting as a

landowner. In terms of land and asset ownership the Council must act in the best interest of the public purse and at all times comply with the requirement to achieve best value (S123 of the 1972 Local Government Act), unless specifically granted permission to seek less than best value by the Department for Communities and Local Government in circumstances where less than best value can be justified because proposals are for the wider and greater public benefit. The Council as landowner needs to pursue best value on the LRIE but where that aim cannot override any process to grant or otherwise ACV status.

13. As a registered ACV why was the old football ground clubhouse and associated structures the subject of a planning application for demolition?

Ans: An asset being registered as one of community value does not prevent the owner of the asset demolishing it unless there are aspects of the asset that come under planning legislation that requires submission of an application to seek a demolition consent. The aspect of planning legislation that applies to the old clubhouse is that a Class A4 building (drinking establishments) requires planning permission before demolition. If the old clubhouse had had no licence history planning consent for demolition would not have been required and submission of a demolition notice would have been sufficient.

14. How was it the old football ground could be the subject of two planning applications which did not support each other?

Ans: There are two historic planning applications on the old football ground; one to demolish the old clubhouse, associated structures and to reopen the ground for general recreational use and a second application to fully redevelop the area for dedicated football, with new clubhouse and increased number of pitches. The intention of the first application by the Council was to reopen the area for general public use until the land is required for redevelopment subject to consent. The intention of the second application by a 3rd party is to redevelop the old site as a new expanded and permanent home for football which would be in addition to proposals to deliver a new football facility at Monks Lane, the capacity and quality of which will be significantly better than the old site at Faraday Road. It must be remembered that any individual or group may submit a planning application on land that it does not own. The applicant may be aware that the land owner does not support proposals and thus expends resource on the application entirely at their own risk. In this instance the 3rd party applicant was wholly aware the Council as a land owner did not support the expanded football proposals at Faraday Road. However, the Council has to separate out its roles as both a land owner and local planning authority (LPA) and where the LPA has to determine any application on its own merits, regardless of ownership and

regardless of that ownership preventing delivery of any scheme that might be granted a consent.

15. What data was used to determine whether an open space facility in this area of Newbury will be used and why is this a better proposal than re-opening the ground for dedicated football on a temporary basis?

Ans: There is not available data that might forecast the extent to which the facility might be used for general recreational purposes. The alternative to reopening the ground for recreational use prior to the land being required for development, subject to consent, is to keep the ground closed. The Council does not wish to do this. The alternative proposal that the ground be re-opened again for dedicated football, even on a temporary basis, is not a reasonable proposition. To re-open the ground to dedicated football will require a new permanent security fence to keep out other users, the demolition of existing structures as already proposed and where, unless the Council pays for this, funding required to deliver these facilities would require some form of guaranteed occupation of the site even for a few seasons. The Council is not prepared to fund these works only to lose control of vacant possession and equally the Council is not prepared to grant any occupation rights, however limited, that might jeopardise control and vacant possession of the site. Any development partnership the Council may enter into will almost certainly require the Council to guarantee vacant possession of the football ground land.

16. Will the Council hold further public consultation on the closure of the old football ground?

It is not the Council's intention to hold further public consultation specific to the closure of the old football ground. The issue has been known for many years, discussed in public forums such as the Newbury Vision Conference and where considerable time was given to public dialogue on the matter during November 2020. In November 2020 interested parties were able to express their views in some detail and in turn the Council tried to explain to individuals why inclusion of the football ground within regeneration proposals was critical. Going forward it is the Council's intention to consult with the public on the wider regeneration of the LRIE, to advise on time scales, likely outcomes and what the Council hopes to achieve overall.

17. Is it possible for the Council to keep football on the London Road Industrial Estate but not necessarily on the existing old site?

Ans: No this is not possible. Any other area of land within the LRIE will be within the protected employment zone which, if used to deliver a new football facility, will significantly extinguish existing employment opportunities and add

substantially to the challenge of relocating businesses who wish potentially to remain on the estate but be moved into new facilities. Generally a new football site within the LRIE would restrict flexibility to such an extent as to make regeneration impossible. Even if it were possible to consider relocating football to another area of the estate, this would require buying out existing leasehold business interests and where, even if this was contemplated, the Council as a land owner would not grant occupation rights to a football club on the LRIE any better and on a site any larger than enjoyed previously by Newbury Football Club. This would make club level football unsustainable. Also it is not reasonable to consider keeping football anywhere within the LRIE and also to deliver new facilities at Monks Lane which are substantially better in every respect to the old LRIE facilities.

18. Did the Council take legal advice on closing the old football ground?

Ans: No, the Council did not take legal advice since closure of the football ground and consideration of alternative uses for it is a planning matter and not a legal matter. The previous occupational tenancy ended and where the Council had no obligation to grant a new tenancy or extend the existing. In respect of planning the Council has liaised closely with Sport England and where the Council as planning authority will determine the Council's application (as a land owner) entirely on the merits of that application and on the basis of statutory consultee responses.

19. If the old football ground pitch is opened again for public use, how will the open space recreational pitch be managed?

Ans: The only active management of the site will be keeping grass maintained to a suitable standard for public recreational use and casual sport. As a result the site will not require a fully enclosed boundary fence requiring secure opening and closing times to prevent other users gaining access and where the only security required will be to prevent unauthorised vehicle access onto the grass pitch. Unauthorised vehicle access will be prevented by the erection of appropriate anti-vehicle bollards in areas where there is no fencing. Occupation will be on a first come first serve basis and where users are expected to act with common courtesy towards each other as is the case in other areas of recreational grass within the Newbury area.

20. Why has delivery of the open space recreational pitch at Faraday Road been so delayed?

Ans: The new open space facility could not reasonably be delivered until all existing redundant buildings, which represent a public health hazard, were removed via demolition. As a Class A4 building use (drinking establishments) demolition of the old clubhouse required planning permission. An application was submitted in the Autumn of 2020 and where the WBC Ecologist recommended a bat Pre-Roost Assessment (PRE) be carried out to check

whether the building could act as a likely roosting site during the bat gestation period of spring through to summer end 2021. A PRE was carried out and where the ecologist reported there was no evidence of past roosting and the building was of low value as a potential roost. However roof voids within the building were not all available for inspection and as a precaution it was recommended a bat emergence survey be carried out in May 2021 to see if a roost has become established. This therefore prevented any demolition of the building in the interim period thereby delaying determination of the application by at least 10 months. If bats were found to be present in May a further survey would be required in June and July. If at that point bats were found to be still present, demolition would require a licence from Natural England. A bat emergence survey was carried out in May this year and which demonstrated no bats were present within the building and as a result the demolition application could carry on to determination. However the matter is now closed since the clubhouse was destroyed by fire in August 2021 and all other works required to create a safe practical environment for public recreational sport do not require planning permission.

21. Why does the Playing Pitch Strategy (PPS) assume that the Faraday Road football pitch is not available?

Ans: A key action of the PPS was to set out a means of relocating the single adult sized grass pitch at Faraday Road to a new location which was more capable of future expansion and with security of tenure. The football relocation proposal was a direct result of the commercial requirement, as identified by property consultants working for the Council in 2011, to make available the football ground as part of any redevelopment of the London Road Industrial Estate. Addressing this issue was a clear requirement of Sport England when we produced the PPS.