

4 January 2019

Mr John Stewart
By email: request-526340-
13e9c7b9@whatdotheyknow.com

Strategic Support

Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: FoI/IR/2018/16

Your Ref:

Please ask for: The FoI Reviewing
Officer

Direct Line: 01635 519441

e-mail: Fol@westberks.gov.uk

Dear Mr Stewart,

Internal review of FOI request: Newbury Football Ground Spectator Stand

Following receipt of your email of 5 December 2018, a review has been undertaken of the Council's handling of your Environmental Information Regulations (EIR) request for information, made on 15 October 2018, which was as follows:-

'Regarding the football ground at Faraday Road, Newbury, please can you send me evidence of ownership (by the council, tenants or third parties) of the large seated spectator stand, namely documents relating to:

Football club leases (including terminations):

Newbury Town FC around 1995

AFC Newbury FC between 1996-2007

Newbury FC between 2008-2018

And since 2008:

Insurance rent statements/remittances

Building insurance premiums, policies & schedules

Asset register details

Building surveys & inspections

Legal letters, title deeds, certificates of ownership

Payment remittances, sales receipts when the stand changed hands

Correspondence, emails, phone conversations, meeting minutes which refer to the "stand".'

On 12 November 2018 Suzi Kenchington, Information Compliance Officer, sent you an email advising that the Council was extending the time to respond to your request by an additional twenty working days, under Regulation 7 of the EIR 2004. This was because of the complexity and/or volume of the information requested and therefore, a response would be provided by 10 December 2018.

A response was in fact provided on 30 November 2018, which was as follows:-

'The spectator stand was transferred (as a gift) to Hungerford Football Club by the outgoing tenant, Newbury Football Club, when the current lease term ended.

The Council does not hold evidence of ownership of the stand, as it was not purchased by the Council. Further, the Council does not hold evidence from any third party (including current or previous tenants) that would demonstrate ownership of the stand, or other fixtures.

*Leases / licenses relating to the **land** are held by the Council, but these do not indicate ownership of the **stand** in a conclusive way. Should you wish to arrange to examine these records yourself, the Council may be able to make them available for inspection directly. It is not considered feasible to provide electronic copies owing to their size and the difficulties in collating a copy (many of the records are bound and cannot be easily photocopied/scanned, so the time and cost of doing so would be prohibitive).*

The title ownership deeds relating to the land can be requested from the Land Registry directly.'

However on 5 December 2018 you sent the following email to the Council:-

'In my previous FOI request you sent me correspondence showing an WBC officer was aware the stand was being sold, so in this follow-up FOI request I fully expected some more information. It has taken you 35 working days (nearly twice the normal allotted) to give me a rather vague refusal statement and no recent evidence which I know exists. I am assuming that your response has been restricted in some way which is hardly "FOI", so I ask you again to please send some of the more readily available, recent electronic document information on my list which you have ignored to mention, namely from the beginning of last year 01/01/17 (if it makes it easier than paper hardcopy):

Insurance rent statements/remittances

Building insurance premiums, policies & schedules

Correspondence, emails between WBC, Newbury FC, Hungerford Town FC'

In reviewing the handling of your request, I have been mindful of the Council's duties under the EIR 2004 and guidance issued by the Information Commissioner. I have also made enquiries with Bill Bagnell, Special Projects Manager and reviewed correspondence on the matter.

I am aware that you made the following EIR request on 30 August 2018:-

'Please can you send me all the correspondence (emails, letters, names of WBC officers/councillors etc between all concerned parties) leading up to and

relating to Hungerford Town Football Club's application to demolish the stand at Newbury Football Ground, Faraday Road (case number 18/02046/DEMO).'

Consequently, you were provided with an email exchange from July 2018 between Council officers and Hungerford Football Club. This included an email sent by a representative at Hungerford Football Club to Colin Broughton, the Council's Asset Management & Strategy Officer dated 16 July 2018, which stated:-

'We have agreed with Newbury F.C to purchase the stand at Newbury football club.'

The implication that the stand was being sold by West Berkshire Council to Hungerford Football Club appears to have led you to believe that the Council holds further information with regard to ownership. However, the stand is not being purchased by Hungerford Football Club but is being transferred as a gift to them by Newbury Football Club. This is confirmed in the email below sent by Bill Bagnell to Hungerford Football Club:-

'From: Bill Bagnell

Sent: 25 September 2018 14:58

To:

Cc: Colin Broughton <Colin.Broughton@westberks.gov.uk>; Richard Turner <Richard.Turner@westberks.gov.uk>

Subject: Football Stand

Dear

Ref our earlier conversation, the point of contact for access at the ground remains Colin Broughton, with myself as back up.

Thank you for confirming that the stand is being gifted to Hungerford Town Football Club by XXXXX as chairman of the old outgoing Newbury Football Club. The Council is not receiving any consideration in respect of the stand being passed to Hungerford.

Before demounting the stand, I would be grateful if a method statement could be provided. Though works and associated safety are the responsibility of those taking away equipment, the Council are required to reasonably ensure those responsible have given due thought to matters relating to Health & Safety.

Please do not hesitate to contact me if you have any queries.

Kind regards, Bill Bagnell'

Consequently, I can reiterate that the stand was not purchased by the Council, it has never been owned by the Council and it does not hold evidence of ownership or

evidence from any third party (including current or previous tenants) that would demonstrate ownership of the stand, or other fixtures.

However, as you have already been advised by Suzi Kenchington, bound copies of leases and licenses relating to the land are held by the Council, although they do not indicate ownership of the stand in a conclusive way. Therefore, should you wish to examine these records yourself, the Council may be able to make them available for inspection directly.

I am also aware you have had separate email communications with Nick Carter, Chief Executive and he has already advised you of the following in his responses detailed below, which are a repeat of your FOI request:-

On 12 October 2018

'There is no evidence that WBC owns the stand. It is considered a tenant's fixture and for which the Council has no responsibility. A previous tenant paid for the stand and acquired planning permission for its erection and a subsequent tenant took on responsibility for that fixture.'

On 25 October 2018

'The Stand was purchased by the Football Club many years ago. Since then Football Club has gone through many changes and an argument could be made that it has reverted to the landlord although we take the view that since it was purchased by a tenant it should remain as a tenant's fixture. Aside from this, I understand that the Stand is not being sold but gifted to Hungerford and is an arrangement between Hungerford and Newbury FC.'

On 4 November 2018

'As I mentioned previously the legal position is open to interpretation however as far as the Council is concerned the Stand has always been a tenant fixture so when the Football Club left earlier in the year it was agreed it was theirs to use as they saw fit. They have decided to gift it to HTFC which the Council is happy to support since it has no use for the Stand.'

This completes my review of your request. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF www.ico.org.uk

Yours sincerely



Rachel Craggs
Principal Policy Officer (Information Management)