

9 July 2019

Mr John Stewart
By email: request-573724-
73915491@whatdotheyknow.com

Strategic Support

Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: FoI/IR/2019/10

Your Ref:

Please ask for: The FoI Reviewing
Officer

Direct Line: 01635 519441

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Dear Mr Stewart,

Internal review of FOI request: Planning Application 19/00814/FUL

Following receipt of your email of 11 June 2019 addressed to Suzi Kenchington, Information Compliance Officer, a review has been undertaken of the Council's handling of your request received on 3 May 2019, for information under the Environmental Information Regulations (EIR), which was as follows:-

'Regarding planning application 19/00814/FUL, please can you send me all documents, meeting minutes and correspondence relating to the following:

- 1. The business case which justifies developing this site.*
- 2. The council's strategy and policies this development complies with.*
- 3. The consultation process and consultees.*
- 4. The stakeholders in the council, sporting bodies and the community.*
- 5. The organisations which the council expects to use the facility and the sports involved.*
- 6. The cost of this work and the nature/costs of further related work.*
- 7. The long-term funding, financial forecast, budget and operating costs.*
- 8. The business plan including how long the facility is expected to exist.'*

On 25 April 2019 you were provided with the following response by Suzi Kenchington, Information Compliance Officer:-

- '1. The business case which justifies developing this site.*

The following is an extract presented to the Executive Committee on Thursday 30th May;

In terms of business case, the use of the old football ground as a MUGA is not an attempt to find a more commercially beneficial use but a way of making this asset available for continued public use until the land is required for possible redevelopment and make that use available by not again entering into a new

lease. The previous lease arrangement earned the Council an income of £4,500 per annum. As and when redevelopment might come forward, the Council needs to retain freedom of action which is not well served by entering into another agreement similar to the previous lease which expired in June 2018 and which the Council made clear for some time it would not renew. After set up costs, the aim is for the MUGA to be cost neutral where maintenance costs are covered by income.

2. The council's strategy and policies this development complies with.

The following is an extract that was presented to the Executive Committee on Thursday 30th May.

The MUGA development is related to the Council's long term plans for regenerating the London Road Industrial Estate. Regeneration of the London Road Industrial Estate, including the football ground, has been a publicly known aspiration of the Council via the Newbury Vision (first published Oct 2005) and the issue has been addressed at the last three Vision Conferences. In addition to this the Council held meetings with interested parties back in 2016 explaining its intentions to regenerate the London Road Industrial Estate, including the football ground, and that it would not enter into a new lease with another organisation in order for the Council to take back control of the land and thereby maximise its freedom of action should development come forward. Strategically the Council believes that the wider public benefit of regenerating the whole LRIE, including the football ground, will substantially outweigh the loss of the ground on the LRIE. The Council fully understands it will have to make that case as and when any planning application goes in for the LRIE regeneration.

3. The consultation process and consultees'

In relation to the redevelopment of the London Road Industrial Estate, the Council held public consultation meetings and wrote to tenants of the industrial estate to update them and invite them to meet the developer. In addition to this the Council held meetings with interested parties back in 2016 explaining its intentions to regenerate the London Road Industrial Estate, including the football ground, and that it would not enter into a new lease with another organisation in order for the Council to take back control of the land and thereby maximise its freedom of action should development come forward.

In regards to planning application 19/00814/FUL, consultation is taking place via the normal planning process, whereby members of the public can submit comments to the Council.

Documents relating to this can be found on the Council's website here;
<https://publicaccess.westberks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PPDK17RD04Z00>

4. The stakeholders in the council, sporting bodies and the community.

It is not clear from this question what information you are requesting.

Please can you clarify what you mean by 'all documents, meeting minutes and correspondence relating to the stakeholders in the council, sporting bodies and the community'?

5. The organisations which the council expects to use the facility and the sports involved.

This is not a request for recorded information.

6. The cost of this work and the nature/costs of further related work.

Current costs to date- £2,400

£1520 for a general clean up and removal of some metal barriers round the pitch, and boarding up of windows and doors on the clubhouse.

£462 for the planning application fee

£440 for security.

7. The long-term funding, financial forecast, budget and operating costs.

There is no recorded information to respond to this question at this time, as the Council is currently going through the procurement stage in relation to the maintenance costs for this site. Therefore, the Council does not record the construction and other capital costs at this stage.

8. The business plan including how long the facility is expected to exist.

The Council does not hold a business plan for the site, as it is not intended to be an income generator. Any income received will go towards the maintenance costs for this site. The site will remain open until the land is required for redevelopment.'

Following receipt of the above response, you sent the email below to Suzi Kenchington on 11 June 2019:-

'1. The business case which justifies developing this site.

The FOI request did not ask about the old lease. Your response makes no attempt to provide any documents or minutes that a business case was actually

provided in preparation for and in support of planning application 19/00814/FUL.

If there is no business case and no supporting documentation please confirm that this is in fact the case.

In your response you state that, "After set up costs, the aim is for the MUGA to be cost neutral where maintenance costs are covered by income", so if that is the case please provide the following information that supports these assertions:

- what are the "set up costs" that your statement is based on?*
- what are the "maintenance costs" that your statement is based on?*
- what is the "income" forecast that your statement is based on and what source / evidence did you use to determine this income forecast?*

The only relevance of old lease is to serve as a benchmark. As you say the previous lease provided the Council with a guaranteed income of £4500 pa with no associated costs. If a business case has been produced it should detail what new income will replace the old, by whom and by when.

I would expect that a business case should cover at the least the following key points:

- Overview and objectives of the project, the strategic context, key drivers for the council, options considered, evidence utilised, external factors and why the particular option was chosen over alternatives.*
- Contain well developed costings (upfront and ongoing) and potential source of revenue (who will use the facility, what will they pay, how often will it be used etc.)*
- Contain clear estimates of timescales involved.*
- Identify the benefits that will be delivered (hard and soft benefits).*
- Outline the most suitable procurement route.*

The request to you was to provide to me with all documents, meeting minutes and correspondence relating to the business case which justifies developing the Faraday Road Football Ground as defined in planning application 19/00814/FUL.

In response to this request you have not provided any documents, meeting minutes and correspondence. The only thing you have provided is information held in a previous lease which we already know and reference to an extract of a transcript made by Cllr Rick Jones to a public question at the Executive Meeting held on 30th May 2019. With respect to the Cllr Jones transcript he also stated that the set-up cost would be £88,000? When it was pointed out to him that this £88,000 was for a prior MUGA proposal he seemed a bit uncertain. In fact the £88,000 figure was originally provided by Cllr Hilary Cole to a much smaller MUGA proposal (originally from Cllr James Fredrickson) in Executive Q&As on 20 December 2018. Cllr Jones confirmed that the £88,000 was for the March

2019 planning application. Are WBC really stating that it is just a coincidence that both schemes as responded to by Cllrs Cole and Jones for two totally different schemes at least 6 months apart are exactly the same in terms of set up costs?

Also please can you explain why you have not provided any details / correspondence under my FOI request pertaining to the £88,000 as referenced by Cllr Jones on 30th May 2019?

2. The council's strategy and policies this development complies with.

Again, this was part of the public answer at the above mentioned meeting; I am expecting to see some written references to core strategy, green infrastructure and how this MUGA, in some way, justifies retaining the area as a sports ground complying with Sport England policies.

3. The consultation process and consultees.

The multi-sports ground idea is nearly 2 years old, so I am asking what consultation has occurred. Clearly those consultation facts mentioned in your initial response to the above are for the LRIE and pre-date any concept of there being some kind of sports ground open (the council's idea was to stop the tenants playing there and get vacant possession).

4. The stakeholders in the council, sporting bodies and the community.

What I mean is who at WBC (Councillors and staff) was involved with the decision to propose a MUGA, which sporting bodies (e.g. Sport England), professional advisors (sporting consultancies) and local clubs/organisations did they talk to – notes from meetings, letters supporting/against etc.

5. The organisations which the council expects to use the facility and the sports involved.

What evidence has been relied on that a MUGA facility at Faraday Road will actually be used? If no evidence has been sought by WBC then please state this is the case. If evidence has been used please provide documentary details. In WBC's plan, there must be evidence of who this MUGA is aimed at and that it is actually needed? What clubs/organisations will WBC target and publicise to? Otherwise, how do you know anyone will use it?

6. The cost of this work and the nature/costs of further related work.

Are you saying that £2400 is the TOTAL amount that WBC has spent on the Faraday Road ground since the lease was ended in June 2018 up to May 2019? If yes, please provide the evidence.

The FOI request specifically asks you to provide all documents, meeting minutes and correspondence relating to planning application 19/00814/FUL which you have failed to do.

Also there is no reference in your response to the £88,000 quoted by Cllr Rick Jones on 30th May and by Cllr Hilary Cole's statement about the £88,000 estimate cost from the Executive Meeting on 20 December 2018 – see public question (n) on

<http://decisionmaking.westberks.gov.uk/documents/b15953/Questions and Answers 20th-Dec-2018 17.00 Executive.pdf?T=9>

As stated above we know that the £88,000 relates to a previous proposal for a MUGA submitted in December 2018 and not for the planning application in March 2019 which specifies fencing, gates, floodlights and pylons. The estimated cost of purchasing and erecting these must be many times the £88,000 mentioned at the above meeting (but omitted in your reply). Please provide evidence that the £88,000 budget is for the previous MUGA option and not for the planning application submitted in March 2019 or whether the total should be raised to take it into account.

7. The long-term funding, financial forecast, budget and operating costs.

Are you confirming that no business case with associated costings has been produced for planning application 19/00814/FUL?

8. The business plan including how long the facility is expected to exist.

Rather like item 1, the council doesn't seem to know who is, or how many people are, going to use it so saying there is no information implies that there are no written planning meeting minutes which justify this expenditure. Surely this can't be right?'

Consequently I have carried out an internal review of the handling of your request, and I have been mindful of the Council's duties under the EIR 2004 and guidance issued by the Information Commissioner's Office (ICO).

I will start by reviewing the number of other communications the Council has had with you on this subject, which are detailed below:-

- (i) An FOI request was submitted to the Council on 31 August 2018 for correspondence 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).
- (ii) An FOI request was submitted to the Council on 15 October 2018 regarding ownership of the spectator stand at Faraday Road Football Ground Newbury.

- (iii) A complaint was submitted to the Local Government and Social Care Ombudsman (LGO) on 3 November 2018 following a Stage One complaint submitted to the Council on 4 June 2018 and a Stage Two complaint on 20 July 2018. I am also aware that the LGO provided the following draft decision on 1 February 2019 and their final decision is currently awaited:-

'The Council was not at fault in its actions up to and including the eviction of a football club – which Mr B and Mr C represent – in June 2018. It warned the club in advance, properly explained its reasons, and provided some assistance to identify alternative arrangements. Although Mr B and Mr C made several complaints about how the Council will use the land containing the football ground in future, this has not yet been through the planning application process. Mr B and Mr C will have the opportunity to raise concerns about the plans as part of a future public consultation.'

In addition, information is provided on the Council's website on the London Road Industrial Estate Regeneration Project, which includes a Frequently Asked Questions section with information on the football club and the stand.

Therefore it is evident that a considerable amount of officer time has already been spent trying to provide you with information on this subject and this current request could be perceived as being manifestly unreasonable. However, I will now respond to the points you have raised in this EIR request.

1. The business case which justifies developing this site.

You have complained that the response did not provide any documents or minutes to show that a business case was provided in support of planning application 19/00814/FUL.

I have identified a report submitted to Operations Board on 4 October 2018, which sets out progress on the future management and rationalisation of the Newbury football ground as a community asset and this is attached at Appendix 1. The Operations Board is an internal group formed of Executive Members and senior officers. I have also attached at Appendix 2 a copy of the minute from this Operations Board meeting, which confirms approval of the arrangement. These documents were submitted to the LGO during their review of your complaint and therefore they may have already been shared with you. In addition, Paul Hendry has provided me with an options paper that was discussed with senior Council officers prior to the report mentioned above being submitted to Operations Board, and the concept of the MUGA was developed from this. A copy of this is also attached at Appendix 3.

There was no requirement for the Council to develop a business case as the development of the MUGA is an interim measure in order to make the football ground available for continued public use, until the land is required for the possible redevelopment

You have also asked whether it was a coincidence that the set-up costs for the MUGA of £88,000 were provided by Councillors Rick Jones and Hilary Cole for what you claim are two totally different schemes.

I have discussed this with Paul Hendry, Countryside Manager, and he has advised that the cost of £88,000 was a rough verbal estimate provided by a company that develops MUGAs when the concept was first proposed and is based on the dimensions of the football ground. I can therefore confirm that the reference to a set cost of £88,000 stated by both Councillors Jones and Cole does refer to the same site, as it has not been subject to any market testing. Therefore there is no correspondence pertaining to the £88,000 estimate available.

2. The Council's strategy and policies this development complies with.

You have stated that you would expect there to have been some written references to the Core Strategy, showing how the MUGA justifies retaining the area as a sports ground in compliance with Sport England policies.

My understanding is that as the proposal to utilise the area as a MUGA is an interim measure until the London Road development plan commences, there is no need for it to comply with any Council strategies or policies. Therefore there is no documentation available.

3. The consultation process and consultees.

There has been no requirement to date for any consultation on the proposal to take place and it will now form part of the planning process for application 19/00814/FUL.

4. The stakeholders in the Council, sporting bodies and the community.

You have stated that this question related to the names of the Councillors and staff, sporting bodies, professional advisors etc involved with the MUGA proposal and I would refer you to the report, minute and options paper provided in response to question 1.

5. The organisations which the Council expects to use the facility and the sports involved.

You have asked for a copy of the evidence to show that a MUGA facility at Faraday Road will be used.

I can confirm that there is no specific documentation setting this out as it has been based on anecdotal evidence that there is a demand for training facilities in the Newbury area. This is because it is currently not possible to meet this demand at other sports facilities such as Henwick, due to concerns about over use of the pitches to the detriment of match play.

6. The cost of this work and the nature/costs of further related work.

You have asked for evidence that £2400 is the total amount that the Council has spent on the Faraday Road ground since the lease ended in June 2018 up until May 2019. The expenditure has now increased to £3302 and a photoshot of the budget that has been set aside for this is attached at Appendix 4.

7. The long-term funding, financial forecast, budget and operating costs.

You have asked for confirmation of whether a business case and associated costings have been produced for planning application 19/00814/FUL.

I can confirm that it is not possible to calculate accurate costs until the MUGA design has completed the planning process and therefore, there is no documentation currently available.

8. The business plan including how long the facility is expected to exist.

There is currently no documentation available providing this information as the demand for the facility has been based on anecdotal evidence, resulting from the Council's experience of managing sites elsewhere in the district.

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)

Attachments:

- Appendix 1: Report submitted to Operations Board on 4 October 2018.
- Appendix 2: Minute from the Operations Board meeting of 4 October 2018.
- Appendix 3: Options paper for the future management of the former Newbury Town Football Club.
- Appendix 4: Photoshot of the budget set aside for the MUGA.