

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

MARLOW FC

Appellant

and

THE FA ALLIANCE COMMITTEE

Respondent

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

1. The Appeal Board conducted a hearing on Wednesday, 7 June 2023, to determine an appeal by the Appellant against a decision of the Respondent, dated 15 May 2023.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Roger Burden (Chairperson), Mr Robert Purkiss MBE, and Mr Glenn Moulton. Mr Conrad Gibbons, the Judicial Services Officer, acted as Secretary to the Appeal Board.
4. The Appellant was represented by the attendance of Mr Ian Benfell, Club Secretary, and Mr Mark Bartley, Club Manager. The Respondent was represented by Mr Mark Ives and, attending as an observer, Mr Matt Edkins.

The Hearing

5. The Respondent, on 15 May 2023, notified the Appellant of their decision that the Appellant was to be laterally moved from the Isthmian League South Central to the Southern League Central for the 2023/24.
6. The Appeal Board, having taken into account the submissions of the parties and having given the Appeal Bundle careful consideration, noted the following.
7. The Appeal Board thank both parties for the manner in which they made their submissions.

8. The Appeal Board noted that the Appellant was appealing on the following ground(s):
 - a. The Appellant was not afforded a fair hearing.
 - b. Came to a decision to which no reasonable such body could have come.

9. The Appeal Board noted that in the closing oral submissions of the Appellant that there was a request for an adjournment of the appeal hearing, pending disclosure of evidence from the Respondent. The Appeal Board deliberated as to this request and considering Regulation 15 of the Non-Fast Track Appeal Regulations 2022/23 ('the Appeal Regulations'), refused the application given the need for expediency in the decision-making process concerning allocations.

10. However, the Appeal Board noted that aspects of the submissions raised by the parties in the hearing were not provided in written submissions and, in accordance with Regulation 14 of the Appeal Regulations, requested the Respondent provide the submissions in written form following the oral hearing. The Appellant was then provided the opportunity to respond in writing.

11. The Appeal Board unanimously allowed the appeal on the ground that the decision was one in which no reasonable such body could have come.

12. The Appeal Board reached this decision considering the following:
 - a. The following is a summary of the primary considerations of the Appeal Board, however the absence in these reasons of any particular point, or submission, should not imply that the Appeal Board did not take such point, or submission, into consideration when it considered the matter and reached its findings.
 - b. The Appellant suggested that Northwood FC was the obvious choice for the Respondent to have made as Northwood's travelling distances in the Southern League Division 1 Central would amount to only 1360 miles, compared to the Appellant's 1757 miles, an increase of almost 30% over Northwood's journeys.

- c. The Respondent said that journey times had been regarded as a more important factor and that the proximity of the M25 had a different effect on the two clubs, one of which was “inside” the M25 and the other “outside” the M25, which was resulting in the Appellant’s travelling times to be considerably less than those of Northwood.
- d. In the final submissions, the Appellant disputed the effect of the M25 on the timings.
- e. As noted in 10. above, the Appeal Board met again at 1pm on 8 June to consider both additional responses regarding journey times.
- f. The Respondent submitted its analysis of the journey times as requested. This showed the average journey time needed to reach each away fixture. These amounted to 63.6 minutes for Marlow, and 65 minutes for Northwood.
- g. The Respondent also supplied an analysis of both Clubs’ journey times in their current league. This showed 56.3 minutes for Marlow and 65.1 minutes for Northwood. This meant that a move for Northwood would leave its timings unchanged but would increase Marlow’s by 7 minutes, a point acknowledged by the Respondent, but which it described as “not excessive”.
- h. The Appellant disputed some of the Respondent’s analysis but, in any case, the Appeal Board regarded the 1.4 minute difference in travelling times as being of no consequence.
- i. This matter therefore hinged on the travelling distances. The Appeal Board could think of no reason why Marlow, with a travelling distance of almost 400 miles more than Northwood, would have been selected over Northwood.
- j. The Appeal Board were unanimous that the decision was irrational and that the Respondent had come to a decision to which no reasonable such body could have come.

13. The Appeal Board, considering Regulation 21 of the Non-Fast Track Appeal Regulations 2022/23, order that the Appellant is, therefore, to remain in the Isthmian League South Central and the matter of allocation to Southern League Central is remitted back to the Respondent to reconsider.

14. The Appeal Board considered the matter of costs and decided that there would be no order as to costs.

15. The Appeal Board order that the appeal fee be returned.

16. The Appeal Board’s decision is final and binding.

Roger Burden (Chair)

Glenn Moulton

Robert Purkiss MBE

8 June 2023