

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL  
ASSOCIATION

BETWEEN

Skelmersdale United FC

Appellant

and

The FA Alliance Committee

Respondent

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DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

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1. The Appeal Board conducted a hearing on Wednesday, 26<sup>th</sup> April 2023, to determine an appeal by the Appellant against a decision of the Respondent, dated 5<sup>th</sup> April 2023.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Paul Tompkins (Chairperson), Mr Keith Allen, 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 Gordon Johnson, Club Chairman. The Respondent was represented by Mr Mark Ives, The FA Alliance Committee/Ground Grading Sub-Committee Member, Whilst Mr Matt Edkins, National League System Manager, attended as an observer.

**The Hearing**

5. The Respondent, on 5<sup>th</sup> April 2023, notified the Appellant of the decision that their ground did not comply with the Grade 4 criteria by the 31<sup>st</sup> March 2023 deadline. This decision was taken in line with the National League System Regulations, found on pp.441-445 of the FA Handbook 2022/23.

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 considered all grounds of appeal open to the Appellant, namely:
  - a. The Appellant was not afforded a fair hearing.
  - b. The Respondent misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision.
  - c. Came to a decision to which no reasonable such body could have come.
  - d. Imposed a penalty, award, order or sanction that was excessive.
8. In reaching its decision:
  - 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 Appeal Board had due consideration to FA Regulations, in particular General Appeal Regulation 12, which states:

*“An appeal shall be by way of a review on documents only. The parties shall however be entitled to make oral submissions to the Appeal Board. Oral evidence will not be permitted, except where the Appeal Board gives leave to present new evidence under paragraph 10 above.”*

### **Appellant’s Submissions**

9. The Appellant was represented by Mr Gordon Johnson, Club Chairman.
10. The Appellant explained the circumstances under which it had recently been operating. Until July 2022 the Appellant club had been playing home games on the 3G facility at the JMO Community stadium in Skelmersdale. However, the 3G pitch failed the FIFA bounce test in July 2022 and the Appellant had to

seek an alternative ground at which to play. They have spent the past season ground sharing with Burscough.

11. The ground at which they have been playing belongs to Burscough and any ground grading requirements were communicated to them, rather than to the Appellant. The Appellant had not received verbal updates on what was required to improve the ground grading unless they actively sought such updates from Burscough. In October 2022 the ground was graded by the NW Counties League and Burscough were informed that the dressing rooms were adequate for Step 5 at which they were playing but would need alteration if the ground was to comply with Step 4 grading.
12. The Appellant sourced a contractor to alter the changing rooms and to bring the covered standing up to standard. However, consent was needed from Burscough as these were alterations to their ground. As a fall back, three alternative grounds were considered, all of which were apparently unacceptable at Step 4.
13. Burscough were amenable to the ground alterations but the Appellant was aware that the work needed to commence immediately and Burscough did not want any work to start until the end of the current season, ie after the 31<sup>st</sup> March deadline for compliance had passed.
14. As for the future, the Appellant has been promised a plot of land in Skelmersdale and West Lancashire District Council is content for a football ground to be built there. The current ground sharing arrangement with Burscough allows the Appellant to leave when they wish but in the interim they will *“hopefully allow us to have the works done before the start of the new season”*.
15. The upgrade required by the Appellant is part of a larger scheme of works to be undertaken by Burscough, who anticipate starting their work on Tuesday, 2<sup>nd</sup> May 2023.
16. The Appellant stated that it had not received a copy of the latest ground grading report, which was disappointing to them. They have made progress on the pitch and don't want that frustrated because of inadequate ground grading. As things stand, JMO have not done anything to allow either Step 4 or Step 5 football at their stadium.

17. A schedule of works had been provided in the case bundle being a schedule procured by Burscough. The works include alteration and renovation of the main building, additional toilets and a stand. The stand work alone will take six working days but other works will take longer. Mr. Johnson hopes that the club could be compliant within one month.
18. The ground grading inspection had taken place on 29<sup>th</sup> March but the Appellant only found out over the previous weekend that the report had been sent directly to Burscough who, as had already been said, did not want any disruption to the current playing season.
19. The Appeal Board then asked the Appellant some questions. Reference is made to an on-site meeting on the 19<sup>th</sup> of January 2023 with a chasing e-mail from the league to the Appellant in February 2023. Why had this not alerted the Appellant to the apparent jeopardy and the necessity to be compliant by 31<sup>st</sup> March?
20. In a similar vein the Appellant was asked why it had ignored the ground grading requirements handbook for the current season, which was distributed to all clubs as appropriate. Why did the club feel the need to wait for a visit or a report?
21. In reply the Appellant accepted the position but repeated that Burscough did not want any works undertaken until the current playing season had finished. As the Appellant was not aware that the JMO stadium pitch had failed until 20<sup>th</sup> July 2022 there was no time for them to undertake any work before the commencement of the 2022/23 season.
22. As for potential relocation, the local council will get back to the club following May's local election but if needed the Appellant can stay longer at Burscough until their new facility is ready.
23. The Appellant was asked how it could ever have believed it could comply with the ground grading criteria by 31<sup>st</sup> March if the inspection found the ground to be non-compliant on 29<sup>th</sup> March? Comment was also made on the absence of any dialogue with the FA as the 31<sup>st</sup> March deadline approached.
24. The ground inspector, Mr Gilchrist, stated on 29<sup>th</sup> March that Burscough were not content to allow the dressing room wall to be demolished so at that time the report revealed an inability to make progress as Burscough did not appear to be in agreement even at that very late stage.

25. Mr. Johnson stated that on 29<sup>th</sup> March he had had a couple of conversations with Keith Brown from the Northern Premier League but was unable to provide any clarity on what those conversations had concluded.

### **Respondent's Submissions**

26. Mark Ives, for the Respondent, accepted the integrity and sincerity of the Appellant but emphasised that the Appellant club is a member of the National League system. The Respondent has a responsibility for fairness to all clubs in the National League system and also for fairness to the Appellant which is why the Respondents took no exception to all four grounds of appeal being considered by the Appeal Board.

27. It was accepted in the summer of 2022 that the Appellant would groundshare for the forthcoming season but it was also well known that the ground at which they played had to be Step 4 compliant by 31<sup>st</sup> March 2023. There was also a hope that JMO would have relayed their pitch so as to be compliant.

28. The league had communicated with the Appellant in September/October 2022 then again in January and February 2023 so the Appellant was well aware that the ground at which they were playing was not compliant. The very reason the Appellant sought alternative grounds was because they knew Burscough's ground would not be compliant.

29. By 3<sup>rd</sup> April 2023, the date on which the Respondent's ground grading subcommittee had sat, there was no hope of having the work done in time and no work had been undertaken at all during the season. Why did the ground grading inspector not mention in his report that work was about to start if the work was good to go? Presumably because it wasn't.

30. Although the Appellant's contribution to the work was relatively small, the dependence upon their landlord starting their own works and giving consent for the Appellant's work meant that timing and finance were out of the Appellant's control.

31. It was submitted that as a general principle the Respondent needs to be able to proceed with certainty of work being done in a short time frame so as to be ready for the start of the next season. The Respondent cannot run any risk of ground grading works impacting on the new season and if an extension were

to be granted it would have to eliminate entirely any risk of non-compliance. To do otherwise would run the risk of penalising unfairly other compliant clubs.

32. The Respondent submitted that there was nothing in its decision of 3<sup>rd</sup> April which would allow the Appeal Board to say that this was not a decision to which any reasonable such body could have come. Even today there is no clarity of when the works will be done.
33. The rule is relatively simple; 31<sup>st</sup> March in any season is the cut-off date. There is an element of discretion to allow a short extension if work has started in good faith but it would only be a short extension to avoid any potential impact on the next season. In this case no work had been done.

### **Closing Submissions**

34. In closing, the Appellant fully accepted the points which had been made by the Respondent but commented that it was disappointing to find itself in this situation. Any contribution to future works at Burscough's ground by the Appellant was dependent upon the outcome of this appeal and they will not be wasting that money on a new stand if they are relegated.

### **Deliberation and Determination of the Appeal**

35. The Appeal Board took due notice of the written and oral submissions of both parties. It was clear that:
  - a. Although the Appellant has an appreciation of the steps which need to be taken, works of improvement are entirely dependent upon the complicity of Burscough, who will also have to provide the vast majority of the funding.
  - b. No evidence of funding and no timeline had been provided.
  - c. No work has been done since the start of the season and no works are currently under way.
  - d. The deadline of 31<sup>st</sup> March 2023 for compliance has passed.
  - e. The Appellant faces many challenges in addressing ground grading issues but there are no exceptional circumstances.
  - f. There have been delays in taking necessary action, delays which were not entirely within the Appellant's control.

- g. The process adopted by the Respondent had been fair and in accordance with the relevant regulations.
  - h. The Appellant was aware of the risk it faced and had been written to by the Respondent on this very point.
36. The Appeal Board considered, amongst other things, that the Respondent had not misinterpreted or failed to comply with the rules and regulations relevant to its decision, nor did it come to a decision to which no reasonable such body could have come. The decision to relegate the Appellant was the appropriate outcome according to the regulations and therefore the order of the Respondent was not considered excessive.

### **Decision**

- 37. The Appeal Board therefore unanimously dismissed the appeal.
- 38. The Appeal Board considered the matter of costs and decided that there would be no order as to costs.
- 39. The Appeal Board order that the appeal fee be forfeited.
- 40. The Appeal Board's decision is final and binding.

**Paul Tompkins**  
**Glenn Moulton**  
**Keith Allen**

10<sup>th</sup> May 2023