

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

UNIVERSITY OF EXETER FC

Appellant

and

THE FA LEAGUES COMMITTEE

Respondent

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

1. The Appeal Board conducted a hearing on Wednesday, 12 June 2024, to determine an appeal by the Appellant against a decision of the Respondent.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Tony Rock (Chairperson), Mr Robert Purkiss MBE, and Mr Keith Allen. Mr Conrad Gibbons, the Senior Judicial Services Officer, acted as Secretary to the Appeal Board.
4. The Appellant was represented by the attendance of Mr Harry Moreton, with Mr Luke Steer observing. The Respondent was represented by Mr Mark Ives, with Mr Mark Frost, Mr Matt Edkins and Mr James Earl observing.

Preliminary Application

5. Prior to this appeal, the Appellant lodged a preliminary application to be determined before a separate Appeal Board regarding whether the Appellant had the right of appeal.
6. The Appeal Board allowed that application, allowing the Appellant to lodge their appeal. This was communicated to the parties on 24 May 2024.

The Hearing

7. The Appellant's appeal was regarding the Respondent's decision to not promote the Club due to the failure of their ground grading. The Appellant's appeal was premised on the Appellant's position that they should have been promoted to Step 6 of the National League System, to compete in the South West Peninsula League for the 2024/25 season.
8. The Appeal Board, having taken into account the submissions of the parties and having given the Appeal Bundle careful consideration, noted the following.
9. The Appeal Board thanks both parties for the manner in which they made their submissions.
10. The Appeal Board noted that the Appellant was appealing on the following grounds:
 - a. Failed to give the Appellant a fair hearing.
 - b. Came to a decision to which no reasonable such body could have come.

Note: the Appellant acknowledged in their Notice of Appeal that their first ground of appeal was in regard to the ground grading process and not that they didn't receive a fair hearing. On that basis the Appeal Board did not consider in any detail the first ground of appeal.

11. The Appeal Board unanimously dismissed the appeal on both grounds.
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 detailed some of the background to the Club and then spoke about the key points in relation to their appeal. They stated that a decision was taken some 18 months ago to apply for promotion to Step

6, and since then they had invested in things which they knew would be required, such as the spectator stand. They received their first ground grading inspection on 2 February 2024. Verbal feedback from the assessor was very good. The Appellant then had to chase the Football Foundation for any written feedback, which was eventually received in the form of a brief e-mail on 25 February 2024. That e-mail identified four specific areas which needed to be addressed. Despite trying to obtain additional information, no detailed report was received by the Appellant. They were then informed by the Respondent on the 17 May 2024 that they had failed the ground grading and would not be promoted to Step 6 next season. The Appellant wasn't sure, but thought the breakdown of non-compliance versus passes was about 26 to 50.

- c. The Appellant submitted that, had they been informed about those specific areas, then they would have targeted them prior to the second inspection on 9 April 2024. As such, with no detailed report from the assessor, the Appellant was not able to put things in place. The Appellant felt that National League System Regulations (objectives 2.1 and 2.3) had been compromised because they had not been provided with a detailed report.
- d. The Appellant thought that the process and communication received from Stadium Power/Football Foundation was poor, that Exwick Sports Hub provided some of the best sporting facilities in the South West Region and that there were clubs already playing at Step 6 who had not been subjected to the same process and in certain areas didn't meet the ground grading regulations. The Appellant said that their promotion to Step 6 was fully supported by both the Devon and Exeter Football League and by the South West Peninsula Football League. The ground is of a suitable standard for Step 6 football, supported by the fact that Exeter Women currently play their home games there.
- e. The Appellant accepted it was their responsibility to ensure they met the ground grading requirements, and acknowledged that on 31 March 2024 they had failed to do that. Having been informed on 17 May 2024 that

they failed to meet the criteria and were not being promoted, the Appellant decided not to spend additional money on areas/improvements that were currently not required .

- f. The Respondent said that ground grading is not a subjective requirement, it is based on fact. On 31 March 2024, the Appellant had not met the ground grading requirements, and indeed to their knowledge, still don't meet those requirements. For the Appeal Board to uphold the appeal, they would have to make a decision outside of their powers and a decision that was against the ground grading requirements of the FA. The Respondent then drew attention to those areas of the RAG rating which the Appellant had failed to achieve. The Respondent also gave the background on the move to ground grading at Steps 3-6 of the NLS being conducted by Stadium Power. Such a move was aimed at providing consistency within the process. The Respondent acknowledged that there had been some teething problems in the first year.
- g. The Respondent said that clubs in the system have access to the ground grading criteria and that the Appellant should have been aware of the requirement. On 31 March 2024, the Appellant did not meet the ground grading requirements and the Respondent's decision to reject their promotion to Step 6 was the only decision they could have made.
- h. The Appeal Board reminded itself that it is unable to impose its own preferred solution in such cases and is only empowered by the FA Appeal Regulations to review the original decision of the Respondent. The Appeal Board concluded that on the 31 March 2024 the Appellant had failed to meet the ground grading criteria and that the Respondent's decision not to promote them to Step 6 of the NLS was one that they were entitled to make and was a decision that was not irrational, perverse or so unreasonable that no other such body would have made it.

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

14. The Appeal Board order that the appeal fee is to be forfeited.

15. The Appeal Board's decision is final and binding.

Tony Rock

Keith Allen

Robert Purkiss MBE

12 June 2024