

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

WHITTLESEY ATHLETIC FC

Appellant

and

THE FA LEAGUES COMMITTEE

Respondent

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

1. The Appeal Board conducted a hearing on Tuesday, 11 June 2024, to determine an appeal by the Appellant against a decision of the Respondent, dated 17 May 2024.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Paul Tompkins (Chairperson), Mr Glenn Moulton, 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 Ricky Hailstone, with Mr Dave Colbert observing. The Respondent was represented by Mr Mark Ives, with Mr Mark Frost, Mr Matt Edkins and Mr James Earl observing.

The Hearing

5. The Respondent, on 17 May 2024, notified the Appellant of their decision that the Appellant's application to be laterally moved, from the Eastern Counties Division One to the Spartan South Midlands Division One for the 2024/25 season, was refused.

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 grounds:
 - a. Failed to give the Appellant a fair hearing.
 - b. Came to a decision to which no reasonable such body could have come.
9. The Appeal Board unanimously dismissed the appeal on both grounds.
10. 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. On considering the ground of appeal that the Respondent had come to a decision to which no reasonable such body could have come, the Appeal Board took careful consideration of the Appellant's geographical location, likely mileage to be travelled in the forthcoming season, and the availability of the alternative solution proposed by the Appellant, namely to place the Appellant in Spartan League Midlands South Division One. The Appellant sought to demonstrate that to leave them in the Eastern Counties Division One continued to impose what they considered to be an unreasonable burden upon them compared with moving them as requested. The Appellant also identified that travel to the teams in the Eastern Counties Division One is along much worse roads and therefore there is a significant time difference.
 - c. Having played in the Eastern Counties League Division One for three seasons, the financial impact on their club is evident. Not only are they unable to move forward as they would wish, but they find that club is

going backwards and is being held back by its allocation to the Eastern Counties League such that it's very existence as a Step 6 club is now in question.

- d. The Appellant also proposed a move for them back to the Spartan League could be achieved and would leave 21 teams in that Division and 19 teams in the Eastern Counties Division One.
- e. The Appellant briefly touched on the additional ground for appeal, namely that it had not received a fair hearing. Their original presentation requesting a lateral move appeared to have been considered by the Respondent but there was no notification of any actual hearing, merely notification that the application had been unsuccessful. The Appellant was content that it was now being given the opportunity of advancing its arguments.
- f. By way of response, the Respondent explained that their responsibility to the National League System has been dictated by the National Game Board and they must apply the Regulations not for the benefit of individual clubs but for the benefit of clubs as a whole. In this case, this meant that the allocation had to be appropriate for the whole of Step 6 nationwide and to consider individual cases on what was best for that individual club risked having knock on effects to the detriment of the whole system and potentially other clubs within the system.
- g. On the question of placing an odd number of teams in leagues, this is something which the Respondent has studiously sought to avoid because, although there are occasions where this is unavoidable, not only is this policy, it is a requirement of the National Game Board. There would be questions of integrity for the competition were some leagues to be disproportionately smaller or larger, thus making promotion harder for some teams. In addition, this would increase the number of fallow weekends and would prevent leagues concluding their fixtures simultaneously on the last day of the season. For this reason, odd numbers of teams in leagues had to be avoided and, where possible, all leagues were populated with 20 teams at Step 6.
- h. The grounds of appeal advanced by the Appellant did not in themselves demonstrate that the decision to allocate the Appellant to Eastern

Counties Division One for the forthcoming season was either wrong or, at least, so unreasonable that no reasonable such body could have come to it. The perspective of the Respondent was nationwide when populating the various leagues and moving clubs has an implication on many other clubs.

- i. On the question of whether the Appellant had received a fair hearing, the Respondent commented that the process does not provide for individual hearings, merely that clubs arguments are considered. Time does not allow for individual hearings, given the extremely limited time between the end of one season and Leagues' AGMs providing for the constitution of Leagues in the forthcoming season.
- j. 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. This ground for appeal only allows the Appeal Board to intervene when it considers the Respondent has come to a decision to which no reasonable such body could have come.
- k. When looking at league allocations objectively, the Appellant finds itself in a location where it is a club close to the border of at least two possible leagues and the Respondent must exercise objective discernment when placing clubs. Placing the Appellant club in the Eastern Counties Division One was not perverse, irrational or wrong. To do otherwise could have overridden the principle of objectivity and fairness when applying the Regulations and would have risked preferring the Appellant's case over other clubs in a similar position. The Respondent had to consider the integrity of the National League System at Step 6. Therefore the Appeal Board is unable to find that that the allocation of the Appellant to Eastern Counties Division One for season 2024-25 is a decision to which no reasonable such body could have come.
- l. For the avoidance of doubt, the Appeal Board was satisfied that the respondent had followed the correct procedure and that the Appellant had not been denied a fair hearing.

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

12. The Appeal Board order that the appeal fee be forfeited.

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

Paul Tompkins

Keith Allen

Glenn Moulton

11 June 2024

Amended: 24 June 2024