



---

## NEWSLETTER

---

# Are the **plans** for Whitewebbs **legal**? The plot thickens...

---

Welcome to the Autumn 2022 Newsletter. Whitewebbs has quite a history of dastardly plots being undone by letters... like the anonymous tip-off note that proved the undoing of the Gunpowder Plot, famously hatched at Whitewebbs. Now we're releasing another letter, this time about legality the plans that Enfield Council have hatched for Whitewebbs Park. Could it be just as explosive?

---

---

# Where are we with the Spurs bid?

---

At the time of writing we are waiting for Tottenham to submit their planning application. No doubt there have been “pre-planning” discussions with planning officers and we have seen surveyors measuring up the car park and approach road at Beggars Hollow.

The failure to engage in any meaningful consultation with the Friends and other users of our park should not be forgotten.

There was supposed to be a meeting after the decision to proceed with the Spurs bid. At this, plans would be presented and questions answered. The excuse of COVID has not had any validity since the Spring.

The official line is that all matters can be raised at the planning stage. Anyone who has dealt with the planning process will know that this is rubbish and a disingenuous and cowardly attempt to avoid any meaningful engagement with the community.

We have received massive support from the CPRE ( [www.cpre.org.uk](http://www.cpre.org.uk) ) Their campaign team and solicitor have been working to examine the legality of the Council's decisions and actions. It was decided to seek a “legal opinion” as to the lawfulness or otherwise of Enfield's actions and decisions.

CPRE arranged for this with a very reputable team of barristers on a “Pro Bono” basis. We had to demonstrate the seriousness of our intent by raising a proportion of the costs.

The appeal for funds generated a generous and immediate response demonstrating the strength of support for Whitewebbs. Thanks are due to the many, many Friends and users who contributed. We covered the initial amount with enough to spare for contingencies and further work.

Special thanks are also due to Enfield RoadWatch for their support, financial backing and for providing banking services.

This has been a combined effort by CPRE, Enfield Roadwatch, Friends of Whitewebbs and some individual supporters.

Enfield and Whitewebbs are not alone in this threat to our public open space. Councils all over the country are attempting to sell off public open space to commercial football clubs and other developers. The CPRE is fighting many similar battles.



ON THURSDAY 3<sup>RD</sup> NOVEMBER, WITH MUCH WORK DONE  
BY THE CPRE SOLICITOR AND THE BARRISTERS, WE SENT  
THE THIS LETTER TO THE COUNCIL...



The countryside charity  
London



Helen Berry  
Senior Property Lawyer  
Legal Services  
Enfield Council  
Silver Street  
Enfield EN1 3XA

By email to [helen.berry@enfield.gov.uk](mailto:helen.berry@enfield.gov.uk)

3 November 2022

Dear Ms Berry,

Further to previous correspondence, we write regarding the proposed disposal of a portion of Whitewebbs Park to Tottenham Hotspurs Football Club ("THFC") (key decision 5177, Leasing of Whitewebbs Park Golf Course).

We write to set out our understanding of the council's legal obligations over the land, our interest in the land as members of the public, and our aim and intention to preserve the land as public open space.

### 1. The legal status of the land

The land known as Whitewebbs Park, of which the planned area for disposal is part, is public trust land. It was acquired by Middlesex County Council under s169 of the Public Health Act 1875. The freehold of the land has been transferred to Enfield Borough Council but is still held under s164 PHA 1875. The land is subject to a public trust. The council is in the role of trustee or custodian of the land, as opposed to beneficial owner, and must approach decisions regarding its use accordingly (*Muir v Wandsworth* [2017] EWHC 1947 (Admin)).

We consider that the proposed restrictions on public use and access inherent in THFC's proposals to convert the land to a private training academy are contrary to the statutory trust arising under s164 PHA 1875.

### 2. The council's powers over the land

The land is "open space" as defined in Article 6 of the Greater London Parks and Open Spaces Order 1967: "...any public park, heath, common, recreation ground, pleasure ground, garden, walk, ornamental enclosure or disused burial ground under the control and

management of a local authority". The local authority's powers to enclose, grant rights over and exclude the public from the land are set out within the 1967 Order.

Article 7 of the 1967 Order empowers local authorities to provide facilities for **public recreation** in any open space. This includes indoor and outdoor facilities for "any form of recreation whatsoever". Article 7 specifically includes the power to provide a golf course. It also provides the power to set apart or enclose part of an open space in connection with providing any of the facilities under the Article.

Article 8 provides the local authority with the power to grant to any person the right of exercising the power under Article 7 of the local authority and to let premises to such a person for this purpose.

Article 9 empowers the local authority to restrict access or enclose parts of the open space in the interests of public safety or for the purposes of preservation of vegetation in the interests of public amenity.

Article 10 empowers the local authority, and any person exercising its authority under Article 8, to make reasonable charges as they think fit for the enjoyment and use of the facilities provided under article 7.

#### THFC's proposals

THFC's proposals do not constitute public recreational use. While some recreational facilities are planned, the main purpose of the land will be as a Training Academy. This is not a **recreational** use of the land. Its main purpose is to train young football players with the aim of supplying players to the first team. This is clear from the website of the Men's Academy, on which model the Women's Academy will be based, and which provides its mission as follows: *"To create an elite environment that attracts, retains and develops top quality players providing an ongoing supply of academy graduates to the First Team squad."*

The intensity and nature of the training that will take place at the Academy will not be "recreational". It may be that there is some recreational use of the pitches planned. But their main purpose, indeed the main purpose of the Academy, is to train elite players within a highly specialised and focused training regime.

Additionally, it is not a **public** use of the land. The proposed restrictions on public access are outside of the specific restrictions on access provided for in the 1967 Order. Trainees will be screened and selected according to a rigorous process. As stated on THFC Men's Academy website: *"The Academy employs a large team of staff to identify, recruit, coach, develop and support approximately 205 talented young players."*



In *Muir*, the Court said: "...the operators would not have the power to exclude or restrict access by members of the public, for example, by means of a membership scheme with high annual fees and a long waiting list, or by screening prospective members for suitability."

Although the proposals create some areas of public access – although it is unclear what legal status would be afforded to such access – and some recreational facilities, they clearly remove part of the park from public recreational use. It will be operated by THFC, a for-profit commercial organisation, with the aim of training elite professional football players. Neither the main use of the land nor the level or type of public access restrictions inherent in that use are lawful under the 1967 Order. We consider the proposals to be unlawful on this basis.

### **3. The bidding process**

The council's bid criteria included enhancing or maintaining public access. The Council is claiming the former use of part of the land planned for disposal (as a golf course), was exclusive and not "public", and that by re-dedicating some of the golf course to parkland, the proposals increase public access. However, as set out above, a golf course is specifically provided as an example of a public recreational facility within the 1967 Order. Whilst there is clearly some degree of restriction necessary to providing any facility with limited capacity such as a golf course, the restrictions did not go above the powers of restriction provided for in the Order, in this case public safety and the charging of "reasonable" fees. As an example, local members of the public could play golf in the evening for £9 on the course. There were no membership fees or membership criteria; it was a "pay and play arrangement". This was a public recreational facility of the type the Council is empowered to provide under the 1967 Order. As set out above, the THFC proposal unlawfully restricts public access to parts of the Park. We consider it was irrational for the Council to conclude that the bid met its criteria to "maintain or enhance public access".

### **4. Unlawful use of profits**

As public trust land, any rent generated by the leasing of any part of Whitewebbs Park cannot be used for the Council's general purposes but only for the purpose of improving or maintaining the Park itself (*The Churchwardens and Overseers of Lambeth Parish v London County Council* [1897] AC 625; *Mayor of Liverpool v Assessment Committee of West Derby Union* [1908] 2 KB 647). The Council has made statements such as the following on its website: "Using the rental income received, Enfield Council will reinvest an additional £100k a year into grassroots sport for young people across the borough". This statement suggests revenue generated from the Park will be used outside of the Park. This would be an unlawful use of profits from public trust land.

### **5. Inconsistency with the public trust: freehold reversion**

If the Council proceeds with a disposal under s123 Local Government Act 1972 – which, for the reasons set out above, we do not accept would be lawful – it would need to appropriate the freehold reversion of the land under s122 LGA 1972. This is because the court has been

clear about the need for land owned under s164 PHA 1875 to be managed in accordance with its statutory purpose. In particular, any access restrictions over the land can only be imposed in the recreational interest. In *Western Power Distribution Investments Ltd v Cardiff County Council* [2011] EWHC 300 (Admin), the Court said: "It is clear from the authorities that there should be **no restrictions on public access to the grounds or parts of them**, save where the restrictions, physical or legal, are imposed in the interests of the public enjoyment of the walks and pleasure grounds. Restrictions and prohibitions may be permitted but only in the recreational interest..." (emphasis added).

The Council would therefore need to comply with the s122 LGA 1972 requirement to show that the land is no longer required for its current purpose of public recreation.

Enfield RoadWatch, Friends of Whitewebbs Park and CPRE London want to see the entirety of Whitewebbs Park maintained for public recreational use. We do not consider THFC's proposals deliver this. Please ensure we are kept informed of all developments relating to the planned disposal to THFC so that we may seek legal advice at each stage and take the necessary steps including legal action if necessary to enforce the rights of the public. Please also confirm the current position with respect to the Council's negotiations with THFC and particularly if any agreement for lease or other document has been signed by the two parties to date.

Yours faithfully,

Alice Roberts, CPRE London  
Sean Wilkinson, Friends of Whitewebbs Park  
Carol Fisk, Enfield RoadWatch



# Daily News

PRESS RELEASE  
FOR IMMEDIATE PUBLICATION

## ENFIELD COUNCIL'S PLANS TO LEASE WHITEWEBBS TO TOTTENHAM HOTSPUR ARE UNLAWFUL, CLAIM LOCAL CAMPAIGNERS

Local campaigners have today Thursday 3 November written to Enfield Council stating they believe the leasing of over half of Whitewebbs Park to Tottenham Hotspur Football Club to build a football academy is unlawful because the land is held for the public for recreation.

They have said they intend to enforce the rights of the public to make use of the land for recreation and will take legal action if necessary.

Local groups Enfield RoadWatch and the Friends of Whitewebbs, along with the London branch of the Campaign to Protect Rural England, have set out in the letter why they believe the proposal to lease the land to Tottenham Hotspur **will not stand up in court.**

It will not be for "recreational" or "public use" (under the 1967 Order).

It will have demanding screening requirements excluding the vast majority of the community.

It will significantly restrict public access to a large percentage of the park.

It will be largely owned and run for the sole benefit of a commercial sports corporation

Sean Wilkinson of the Friends of Whitewebbs Park said: "The proposed sports academy will primarily be run for the purposes of contributing to the commercial success of the club. It will no longer be a public park. It's that simple. Covid has brought home to all of us how important our open spaces are for the mental and physical well-being of the whole community and Whitewebbs is a busy park every day of the week with people of all ages enjoying space and the natural environment."



# What should we be doing now?

## CONTACTING COUNCILLORS AND MPS

At the last local election Enfield was the only London Labour Council to lose seats.

I would argue that at least some of this was due to the way the Council has handled the issue of Whitewebbs Park.

Throughout the borough we have many new councillors and they should be made aware of the strength of feeling about the selling off of Whitewebbs.

Please continue to write to your councillors and to our MPs.

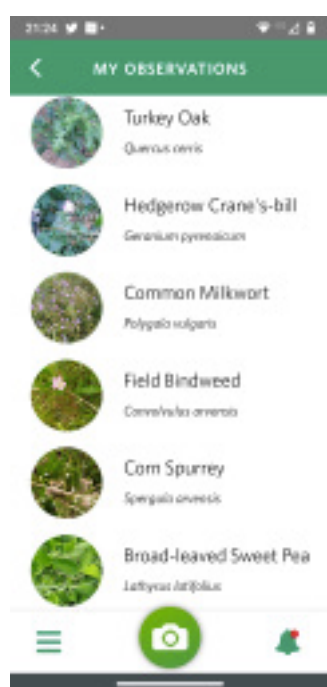
Do not be put off by the banal responses you may receive — they are hoping the issue will go away. It won't.

## ASK THE COUNCIL FOR DETAILS — AND DON'T BE PUT OFF.

All the promises in what little information we have been given are vague and uncosted. Essentially the deal will provide an average of £80,000 a year. This will probably be just enough to cover the cost of emptying bins as well as doing some essential maintenance such as dealing with fallen trees in the council retained area. It is not enough for any major infrastructure work — path improvement, fencing, drainage, decent signage, bridleway improvements. The much trumpeted £500,000 “Premium” is a major distortion. Most of it is advance rental. At best £125,000 is a “Premium”. This will go practically nowhere once central admin costs have been removed.. Ask for schedules of work, budgets and maintenance provision.

## THE CATTLE GRAZING PROPOSAL

While cattle grazing can, in the right place, with the right cattle and at the right season, play a part in land management it was obvious to all who know the proposed area that this was inappropriate for Whitewebbs Park. We had a very well attended meeting on site with Council Officers at which they would not be proceeding with the proposal in Whitewebbs. Various ideas for the management of the areas were discussed and paper describing these was sent to the officers.



A Screen shot from Seek—identifies plants and animals, records a photo and location and provides a lot of information.

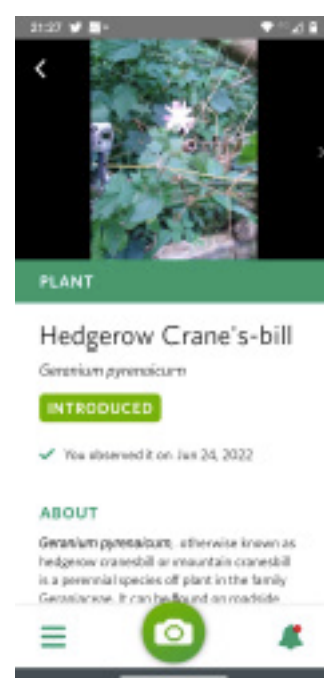
## Recording Data

Appeals have gone out for Friends and park users to record the plants and wildlife of the park. We have built up records but need more—photographs, sightings, incidents. Smartphones are invaluable with apps such as Google lens, Seek, Plant net and Bird Net. These help with identification and record locations. Animals are not always co-operative—if, for example, you see a grass snake but can't take a photo report it to whitewebbspark@gmail.com and describe the location. Better still use the what3words app to give a precise location. All these apps, at least in their basic form, are free.

These are examples of re-cordings using **Seek** from Inaturalist. This is the one I have found most useful but none of them are perfect.

**Bird net** is good for identi-fying birds by their song, but it has limitations. Mine works best with an external microphone with a fluffy cover.

Please pay particular attention to the areas where Tottenham wants to construct its pitches—the northern part of the golf course..





# MEETINGS WITH THE COUNCIL ON GENERAL PARK ISSUES

---

There is provision for a quarterly meeting with all Friends of Parks, Council Officers and the Cabinet member with responsibility for parks.

While this can be appropriate for discussing borough wide issues it is not appropriate for issues specific to individual parks.

The Council has introduced 20 minute on line meetings (a surgery) with the Parks Officer for individual parks.

I immediately booked one of these for Whitewebbs. Twenty minutes was not long enough but I provided a written version of concerns beforehand.

Key outcomes: (I think. I have not yet received the official record of the meeting)

1. The need for a management plan for the park which would involve officers, park Friends and external stakeholder groups such as wildlife trusts and, for example but not specifically, the Woodland Trust and Thames 21.
2. An onsite meeting to look at the work needed.
3. The provision of machines and labour for a couple of days a year to do the heavy machine work. The Friends would re-cruit volunteers to do the less heavy year round maintenance. Initially this would be targeted at footpath clearance and drainage.

There were other issues.

If there are more please send them to [whitewebbspark@gmail.com](mailto:whitewebbspark@gmail.com) with "surgery" as the subject

## WE CAN'T JUST WAIT FOR SPURS' PLANS TO APPEAR...



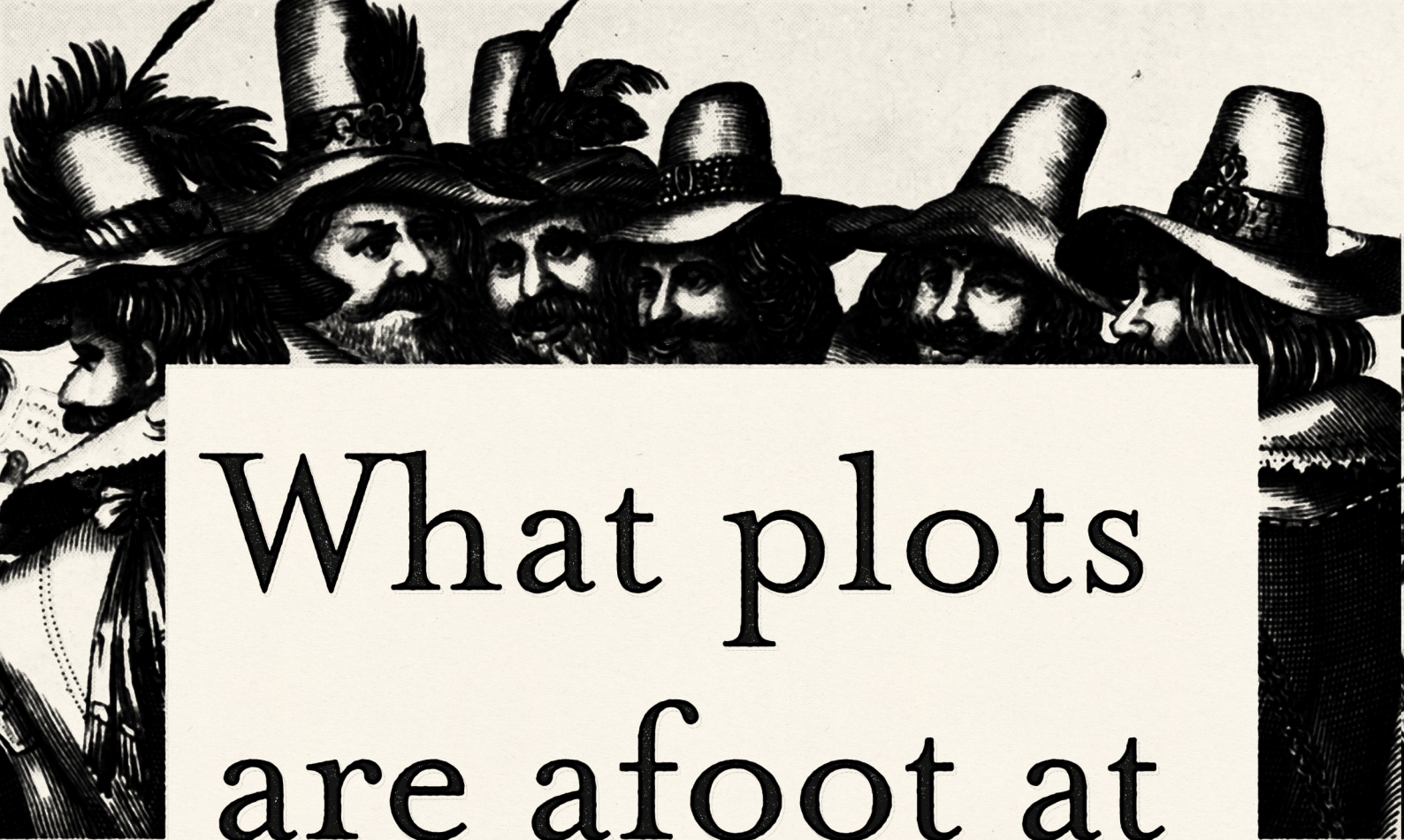
At some point soon Tottenham will submit a planning application. This will contain vast amounts of information from architects, drainage engineers, consultant ecologists, landscape designers and all sorts of other highly paid consultants.

We will get 21 days to study the documents and formulate our responses. Please be ready to help with this by writing letters and making your protests. Guidance will be given at the time.

Anyone with any specialist skills = planning, law, ecology, landscaping is asked to make themselves known by contacting:

[whitewebbspark@gmail.com](mailto:whitewebbspark@gmail.com)





# What plots are afoot at **WHITEWEBBS** this time?

Yet again, Whitewebbs is at the heart of some autumn intrigue and a letter could prove crucial.

Is the Council acting unlawfully by trying to lease the park to Spurs? Time to find out...