

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 16 July 2015

Public Authority: West Dorset District Council
Address: South Walks House
South Walks Road
Dorchester
DT1 1UZ

Decision (including any steps ordered)

1. The complainant has requested specific information relating to a planning application near his property. The council responded to say that having searched for the requested information, it had concluded that it was not held. However, during the course of the Commissioner's investigation the information was located and provided.
2. The Commissioner's decision is that the council has failed to comply with regulation 5(2) as information within the scope of the request was provided outside the required 20 working day time frame.
3. As the information has now been provided, the Commissioner does not require the council to take any steps in this case.

Request and response

4. On 19 August 2014 the complainant made the following information request to the council:

"Would you please supply me with information as detailed below – by email would be fine.

Planning application 1/D/13/000530. Change of use at [Specified address].

The application was approved on 10/6/2013 with a number of conditions.

Condition 3 called for details of the extraction unit and filter to be submitted to and approved by the local planning authority.

I would like to see the submission and approval documents please."

5. On 20 August 2014 the council responded providing a copy of an email dated 9 June 2014 and a report dated 16 December 2013. The complainant replied on the same day asking for further information based on the information that had been provided, in particular, he asked for a letter received on 8 August 2013, an email received on 1 October 2013 and reports received on 19 December 2013 and 7 April 2014.
6. The council responded on 1 September 2014 and provided a copy of the correspondence dated 8 August 2013 and 1 October 2013. It advised that the report referred to as being received on 19 December 2013 was the report dated 16 December 2013. With regard to the report received on 7 April 2014, it stated that it was unable to locate it.
7. The complainant requested an internal review on 27 September 2014. In particular, he explained that he was interested in seeing the design of the odour suppression and was therefore concerned that the report received on 7 April 2014 could not be found.
8. The council sent the outcome of the internal review on 4 December 2014. It explained the searches undertaken for the requested information but concluded that if there was a report or any correspondence dated 7 April 2014, there is no copy of such a document now available. The review therefore concluded that all the relevant information that was held had been provided.

Scope of the case

9. The complainant contacted the Commissioner on 14 February 2015 to complain about the way his request for information had been handled. In particular he was concerned that the council appeared to have lost the report received by the council on 7 April 2014. Once the information had been located and provided to him, he asked the Commissioner to issue a formal decision notice to record that the council failed to fully comply with his request within the specified time frame.
10. The Commissioner considers the scope of the case to be to formally record that the information was provided late.

Reasons for decision

11. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

12. At the Commissioner's direction, the council conducted further searches for the missing report. In particular the Commissioner asked the council to consider that the letter referred to a report received on 7 April 2014, rather than a report dated 7 April 2014. The Commissioner also asked the council to ensure that the email inboxes and archived files of specific council officers were searched.
13. Following the additional searches, the council informed the Commissioner that once the relevant council officer had returned from an extended period of leave, she was able to search her personal electronic files and located the missing document. This was then provided to the complainant on 17 June 2015.
14. The council has acknowledged that this case has highlighted some procedural issues within the planning department and has assured the Commissioner that work has begun to rectify these.
15. As the requested information was not provided within the prescribed 20 working day time frame, the Commissioner has concluded that the council failed to comply with regulation 5(2) in this case.

Right of appeal

16. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Andrew White
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Water Lane
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