

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 22 July 2015

**Public Authority:** Chester West and Chester Council

**Address:** HQ Building  
58 Nicholas Street  
Chester  
CH1 2NP

#### **Decision (including any steps ordered)**

---

1. The complainant has requested recorded information from Cheshire West and Chester Council which relates to the Council's planning register for the period 1947 to 1974. The complainant has also asked for a copy of the statutory index of every application for planning permission relating to the council's planning authority area for the period 1947 to the date of his request.
2. The Commissioner's decision is that Cheshire West and Chester Council has breached Regulation 5(2) of the EIR by failing to respond to the complainant's request within twenty working days.
3. The Commissioner requires the public authority to take no further action in this matter.

#### **Request and response**

---

4. On 1 May 2015, the complainant wrote to Cheshire West and Chester Council and requested information in the following terms:

*"I therefore request:*

*A copy of the council's statutory planning register / electronic inventory of the archive location(s) of all of the original planning files (over the period 1947 - 1974) that are held by the council but not currently accessible on the council via the planning web portal / statutory planning register. The file is titled "11.08.2014 PLANNING.XLS". I can*

*personally testify that I have seen this database and therefore know that this is information held by the Council.*

*A full set of the scanned copies of the original statutory planning register plotting sheets / area plans for the CWaC area.*

*A full set of scanned copies of the planning index cards that detail subsequent planning applications and activity.*

*I would also request formal clarification from the council as to a) why copies of original planning files from the period 1947 - 1974 (which it is known are currently held by the council) are currently, and quite unlawfully, excluded from the councils statutory planning register and b) why no detail or guidance is provided on the councils planning website as to how members of the public can realise their statutory entitlement to access and inspect planning records dating from the period 1947 - 1974.*

*I would like the above information and response to be provided to me as electronically."*

5. And later, also on 1 May, the complainant, referring to sections 36(4) and 36(9) of The Town and Country Planning (Development Management Procedure) (England) Order 2010, asked for additional information under the following terms:

*"Please add the following to the request below (submitted by myself earlier today).*

*I therefore also request a copy of the above statutory index of every (1947 - present day) application for planning permission relating to the council's planning authority area."*

## **Scope of the case**

---

6. The complainant contacted the Commissioner on 4 June 2015 to complain about the failure of the Council to respond to his request for information.
7. This notice is the Commissioner's decision in respect of the Council's failure to respond to the complainants request within the time period provided by Regulation 5(2) of the FOIA.

## Reasons for decision

---

### **Regulation 5 – the duty to make environmental information available on request**

8. Under Regulation 5(1) of the EIR, a public authority holding environmental information is obliged to make that information available on request.
9. Under Regulation 5(2) the Council is required to provide the information as soon as possible and no later than twenty working days from the receipt of the request.
10. On 23 June the complainant advised the Commissioner that the Council had not yet responded to his request for information. This prompted the Commissioner to speak with an officer of the Council about this matter. June.
11. On 24 June the Council confirmed to the Commissioner that it had located the complainant's request. The Council explained that an administrative error had occurred and consequently the complainant's request having been incorrectly filed.
12. On 25 June, the Commissioner wrote to the Council and asked it to respond to the complainants request within the next ten working days.
13. On 1 July, the Council informed the Commissioner that it had made its response to the complainant's request.
14. In this case the Council has provided the information sought by the complainant after the compliance period provided by the EIR has passed and only after the intervention of the Commissioner. On the facts of the Commissioner finds that the Council has breached Regulation 5(2) of the EIR.

## Right of appeal

---

15. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**