

Freedom of Information Act 2000 ('FOIA')
Environmental Information Regulations 2004 ('EIR')
Decision notice

Date: 23 May 2017

Public Authority: Derbyshire Dales District Council

Address: Town Hall
Matlock
Derbyshire
DE4 3NN

Decision (including any steps ordered)

1. The complainant has requested information relating to traffic at a specific roundabout and road with reference to a Transport Evidence Base Report. The Commissioner's decision is that, on the balance of probabilities, Derbyshire Dales District Council does not hold further requested information. She does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 21 July 2016, the complainant wrote to Derbyshire Dales District Council ('the council') and requested information in the following terms:

"As a Freedom of Information request, in reference to your Consultants Transport Evidence Base Report, please supply the following information for Matlock, Town Square :-

For each of the 3 inbound arms of the roundabout, derived from the AM peak hour & PM peak hour traffic flows (as in your Consultants Report) for the following scenarios :-

a) The existing traffic flows (Base case, table 5.1)

b) With the 'Planned Development Traffic' - no sustainable transport interventions (Design case, table 5.1 – 57% increase above base case)

c) With the 'Sustainable Transport Initiatives' (table 5.7 - 39% increase above the base case)

The details of the queue lengths and the delay times to reach the roundabout from stopping at the rear of the queue.

As you are aware currently observed queue lengths are regularly in the order of: -

A6 Bakewell Road : back to Holt Drive (this will encompass the 'new' A6 /A615 roundabout)

A615 Alfreton Road : back past Matlock Green (this will encompass the A615/A632 junction)

Bank Road : back past DDDC's Offices

Additionally I would request the same details for the A6:

A6 Dale Road - inbound traffic to the signalised junction at Matlock Bridge

A6 Dale Road - inbound traffic to the signalised junction at Matlock Bridge

(observed queue lengths back beyond Artists Corner)

The consultants have already stated they have used the computer programmes ARCADY (roundabouts) & LINSIG (signalised junctions) and therefore I believe this information can readily output from the tests already carried out."

3. The council responded on 16 August 2016. It provided a link to the Transport Study Report¹ (and the following answers to points a) to c):

"a) The existing traffic flows (Base case, table 5, 1) are contained within the report, and are presented in Appendix B, Figure 1 and Figure 2.

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http://www.derbyshiredales.gov.uk/images/documents/C/Committee/Local_Plan_Advisory/V2%20Local%20plan%20advisory%20committee%20agenda%20-%202011%20July%202016.pdf The Transport Study (June 2016) is annexed to the Committee report dated 1st July 2016 and can be located between pages 12 – 108 of the Committee report.

b) With the 'Planned Development Traffic' - no sustainable transport interventions (Design case, table 5.1 - 57% increase above base case) this is contained within the report, and presented in Appendix B, Figure 5 and Figure 6.

c) With the 'Sustainable Transport Initiatives' (table 5.7 - 39% increase above the base case). It is the District Councils understanding that this aspect was calculated as a total across all inbound arms, rather than for each individual arm, and derived from a) and b) above."

The council also explained that the conclusions of the report are based on changes in traffic volumes and how this could be related to different housing allocation scenarios and said that, as such, design traffic queues and delays were not calculated in detail.

4. On 30 August 2016, the complainant expressed dissatisfaction with the response. His correspondence included the following comments:

"A significant proportion of the content of your reply simply regurgitates purely factual extracts from the Consultant's 'Transport Evidence Base Report'.

The two paragraphs that actually respond my request merely state that the items I have requested "have not been calculated".

In my initial request I clearly indicated that to supply the information requested you would have to refer the matter to the Consultants – even indicating that they would have to revisit ACARDY (which they have already utilised)".

5. The council provided an internal review on 17 October 2016 in which it revised its position. It said that:

"The current base data is held by AECOM on behalf of the Local Authority, however, the Local Authority do not have access to the computer programs ARCADY or LINSIG to input the data and run off separate reports to provide this information in the format requested which would require further instruction of the Consultant.

Upon making enquiries I have been informed that AECOM would not have to obtain further base data to carry out this request. As such, I have determined that the information is held on behalf of the Local Authority for the purposes of the 2004 Regulations and it is reasonable to make the base data available in the format requested.

The information requested is disclosed in the following junction capacity assessments, ARCADY, PICADY and LINSIG for:

- Causeway Lane at its junction with Bank Road
 - Bakewell road at its junction with Cawdor Way
 - Dale Road at its junction with Cawdor Way and Matlock Green".
6. The Commissioner is aware that there has been additional correspondence between the complainant and the council. However, for clarity, only correspondence that appears to be most relevant to this request for information is detailed above.

Scope of the case

7. The complainant initially contacted the Commissioner on 30 August 2016 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether, on the balance of probabilities, the council holds further information, in addition to that already provided to the complainant, within the scope of the above request.

Reasons for decision

Section 1 of the FOIA – General right of access to information held by public authorities

Regulation 5 – Duty to make environmental information available on request

9. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
10. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.
11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to

prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

12. The Commissioner made detailed enquiries to the council in order to assess whether further information is held. The council provided the following information to set out the background to this matter:

"Derbyshire Dales District Council and Derbyshire County Council commissioned a report (Enclosed as Appendix 1 and referred to as 'the Report') by AECOM as part of the Local Plan Allocation process to assist in identifying the likely traffic impacts of development across the district as a whole, and to identify a mitigation strategy. It is envisaged that individual developments would be supported by a Transport Assessment at the time any planning application is submitted, which would consider site specific issues in more detail. The District Council commissioned this Report as it does not own or have internal access to the software programmes (ARCADY, LINSIG or PICADY) required to provide the relevant information.

To undertake this project, AECOM accessed base data from the 'Traffic Master Dataset' that is held and updated nationally and accessed by the County Council as the Highways Authority (please see paragraph 3.5 of the Report). As this base data did not cover all of the highways which the District requested; the County Council supplemented any gaps within this base data by surveying key roads. As such, I now understand that, strictly, only part of the dataset could be said to be jointly owned and controlled by the District Council, however, this data will now form part of the County Council's records.

It appears that the complainant would have preferred the commissioned Report to go into more detail for site specific impacts, however this was not the purpose of the report as the intention was to assess the strategic impact on the whole network; not in respect of a specific development. The District Council would expect any site specific planning application to be accompanied by a Transport Assessment which would contain up-to-date data. The developer would be expected to survey key roads to assess the potential impact and that would then be fully assessed in determining any planning application regardless of whether that site was allocated on the Local Plan for housing."

13. The Commissioner asked the council to clarify that it has provided the precise information requested (that being details of the queue lengths and the delay times to reach the roundabout from stopping at the rear of the queue for each of the 3 inbound arms of the roundabout for the 'existing traffic flows', for the 'Planned Development Traffic', and for the

'Sustainable Transport Initiatives', and also details of the queue lengths and the delay times for the A6 Dale Road - inbound traffic to the signalised junction at Matlock Bridge for the 'existing traffic flows', for the 'Planned Development Traffic', and for the 'Sustainable Transport Initiatives') and where within the information provided it can be found.

14. The council confirmed that it is satisfied that it has provided the information it holds for the three inbound arms of the roundabout (those being Bank Road, Bakewell Road and Causeway Lane), and the A6 Dale Road, and confirmed that it has not provided the data for 'Sustainable Transport Initiatives' as such data is not held by the council.
15. It said that as part of the internal review, it provided an 'Explanatory Note' to the complainant on 17 October 2016 which contains the queue lengths and delay times for the roundabout for 'existing traffic flows' in the first table and the queue lengths and delay times for the roundabout for 'planned development traffic' in the second table. It explained that, in the first table, the term 'Do Minimum' refers to 'existing traffic flows' and 'Q PCU' refers to the queue lengths in passenger car units (i.e. the number of cars predicted to be stationary queuing at the junction). In the second table, it explained that the term 'Do – Something OAN Assessment' refers to the Objective Assessment of housing needs which is the capacity of assessment of the 'planned development traffic' and 'Q PCU' refers to the queue lengths in passenger car units (i.e. the number of cars predicted to be stationary queuing at the junction). It further explained that an estimate of the queue length in metres can be calculated by multiplying the values in each cell headed 'Q PCU' by 5.75 and that a further column headed 'Delay (s)' provides account of the delay in seconds. It said that these tables, in addition to the computer outputs provided to the complainant, explain that the values shown in the relevant tables are the maximum values over all time segments and that delay is the maximum value of average delay per arriving vehicle. The Commissioner considers that this information constitutes the information requested at parts a) and b) of the request for the 3 inbound arms of the roundabout.
16. The council also said that the explanatory note contains the queue lengths and delay times for the A6 Dale Road for 'existing traffic flows' and 'planned development traffic' in tables 5 and 6. The Commissioner considers that this information constitutes the information requested at parts a) and b) of the request for the A6 Dale Road.
17. As stated above, the council has said that the requested information is not held in relation to 'Sustainable Transport Initiatives'. The complainant believes that such information has already been, or can be readily, output from the tests already carried out. Therefore, the

Commissioner needs to decide whether such information is held by the council.

18. In its response to the Commissioner's enquiries, the council provided the following information in order to explain why the information relating to 'Sustainable Transport Initiatives' is not held:

"The complainant is of the view that capacity assessments were undertaken under three scenarios 'Existing Traffic Flows', 'Planned Development Traffic' and 'Sustainable Transport Initiatives'. This is not the case and there are only two scenarios where quantitative assessment (calculation of queueing and delays) was undertaken. The calculations were only carried out under the existing 'Do-Minimum' and impacts of the future housing development, the 'Do-Something' scenario.

Paragraph 4.2 of the Report sets out the methodology AECOM has used. To assist; the potential highway impact of a proposed development together with strategies in order to address its impacts is discussed in Chapter 5 of the Report and is publically available.

Briefly, the Report makes a comparison of the effects of full development against an existing situation and an explanatory text is provided in the Report setting out how mitigation can be achieved and what is required in order to bring about a change in flows such that they reflect the base case assessed under the Do Minimum situation. No capacity assessment of the 'Sustainable Transport Initiatives' in themselves were made.

On further review of the request it has been ascertained from AECOM that the capacity assessments under the final scenario suggested by the complainant has not been extrapolated from the base data and the 'Sustainable Transport Initiative' information is not held by the Local Authority. Extrapolation of this data to provide an estimate of predicted impacts on traffic arising out of new developments requires a high degree of expertise and the Local Authority would be require to instruct AECOM to undertake this exercise. It is clear from paragraph 21 of the guidance "determining whether information is held"; that information will not be deemed to be held where answering the request involves exercising sophisticated judgement. It is submitted that in this instance considerable skill and judgement would be required; the Council has acquired the services of AECOM to produce the initial report and assist in interpretation of that data...

...the Council would require the services of AECOM to provide an estimate of predicted impacts on traffic arising out of new

developments from the software which requires a high degree of expertise.

Employees of the Council do not have access to the software directly and are not trained to produce outputs from the data contained within these programmes. The current consultant has provided a list of qualifications applicable to his employment in providing such assessments which include an MSc in Transport Planning, Membership to the Chartered Institution of Highways & Transportation (CIHT), Membership to the Chartered Institute of Logistics and Transport (CILT) and qualification in CIHT's Transport Planning Professional (TPP)."

19. As part of her enquiries to the council, the Commissioner said that the complainant has made it clear that he does not consider the information provided to constitute the information requested. In his email to the council dated 6 December 2016, the complainant referred to Appendices Ax, Bx, Cx and Dx. In Appendix Ax he refers to an Appendix A which he says is a 'further rebuttal on more 'technical issues''. The Commissioner asked the council to provide any relevant comments on the rebuttal on technical issues.
20. The council explained that the complainant's Appendix A largely contains dissatisfaction of the information supplied within the Report and the complainant's personal views on the impact of the planned development traffic.
21. In Appendix Bx, the complainant provided his opinion as to how the precise information that has been requested is held. The Commissioner relayed this to the council asking it to comment on whether the complainants assertions mean that the precise information requested can be produced and whether AECOM has already output/calculated the requested information as alleged. Each of these assertions, together with the council's comments are detailed here:
 - "Basically having input the physical 'parameters' to 'describe' the roundabout, restraints etc into the program and the necessary traffic flow information etc

The result of running the program produces a 'hive' of information of what will happen to (performance of) the roundabout with the traffic conditions that have been input. This 'hive' contains all the information that could be requested to be output.

The full range of this output results available is clearly identified in the ARCADY manual documentation. I can assure you this includes the actual information requested."

The council said that this information is provide in the relevant ARCADY Capacity Assessments under the heading 'Roundabout Geometry' and has already been provided to the complainant. It reiterated that the council did not calculate for the scenario suggested by the complainant but that details of queue lengths and delay times to reach the roundabout from stopping at the rear of the queue have been provided for 'existing traffic flows' and planned development traffic' only.

- "The output results from the program can be supplied is available by 'request' ('instruction to the program') and can comprise of all the available parameter results or non or any intermediate combination in a variety of formats, in differing units (eg. PCU/hr or Veh/min)..."

The council said that this information is provided in the relevant ARCADY Capacity Assessments and has already been provided to the complainant together with a summary of the information requested contained in its 'Explanatory Note'.

- "...From the above it is clear that the information required is available and is held within the ARCADY model...
...As stated above the basic 'physical' information for the ARCADY model already exists. AECOM have the traffic flows* * required (see Table 5.7 in their Report) (making it even easier to produce the required results from the 'hive - see above)..."

The council said that this information is provided in the relevant ARCADY Capacity Assessments and has already been provided to the complainant.

- "... * I would be completely amazed that AECOM has not output this information to 'check' its effects but suspect they have not included the results in their Report (unlike the "57% increase") for rather 'obvious' reasons.

** Table 5.7 is in terms of total junction flows but again I would be amazed that AECOM - having Table 5.1 (the 57% increase) also in terms of total junction flows (the ARCADY program requires the individual junction flows to be input) therefore they must be available from 'previous work' to 'arrive at' the total junction flows."

The council said that these comments are assertions that data has been deliberately withheld from the Report and reiterated that it has already set out the information it holds and that has been provided.

22. The complainant also made assertions in his Appendix Dx which are detailed below, together with the council's comments:

- "(ii) Input is required as individual arms, therefore in the above "Total Junction Inflow" numbers used have to be available in this form."

The council said that this information is provided in the computer (ARCADY) output together with the 'Explanatory Note' previously provided to the complainant.

- "(iii) Individual arms can be 'named' rather than shown as ID's – for greater clarity."

The council said that this comment is noted, however the information is provided in the 'Explanatory Note' previously provided to the complainant.

- "(iv) Output can be as set of summary results for a selected demand set and/or all demand sets. A variety of output parameters can be chosen with a choice of 'units'."

The council said that information is provided in the 'Explanatory Note' previously provided to the complainant.

23. In correspondence to the Commissioner, the complainant also made the following points. Again, the Commissioner relayed these to the council and asked for its comments:

- "Its simple mathematical technical information, output from the program, which can be easily obtained..."

...Less than 2% of this material had any relevance to my request."

The council said that it has provided all of the data it holds in respect of this request.

- "...the information would have been calculated and would be available contained 'in the heart' of the computer program ARCADY (used by the Consultants) in a specific 'Design Run'".

The council said that it has discussed this with AECOM who have confirmed that the Transport Study did not, for the reasons discussed in its Chapter 5, provide a quantitative assessment of the Sustainable Transport Initiative.

24. The Commissioner is aware that there is additional correspondence from the complainant expressing dissatisfaction with the response to his request. However, she considers that the substance of such

correspondence does not significantly differ so as to present additional arguments as to why further information is held by the council.

25. In reaching a decision as to whether the requested information is held, the Commissioner also enquired whether there was any legal requirement or business need for the council to hold the information. The council explained that the data held in the Report has been commissioner for the purposes of the Draft Local Plan. It said that the base data which assisted AECOM in drafting the Report is held nationally and the additional survey data for certain roads will be retained by the County Council as the Highways Authority until superseded. The council also said that there are no statutory requirements for it to retain the data requested.
26. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. The complainant detailed reasons why he believes the requested information hasn't been included. The following statements summarise this:

"It is very simply DDDC realised, having seen the one result, they realised that to continue using ARCADY it would produce output that would clearly show **valid results** that would show unacceptable levels of traffic.

The 'outcome' of me being given the information I am sure I will be able to 'prove' that DDDC's Local Plan (now in its final stages before being sent to the Planning Inspectorate for 'Examination in Public') is unsound."
27. The council said that these statements are the complainant's opinion and reiterated that it has provided all of the data it currently holds in respect of this request. It again explained that the purpose of the Report was to provide an assessment of the strategic impact on the whole network; not in respect of a specific development, such as the Pinewood Road/Gritstone Road development referred to by the complainant. It said that if the site is allocated on the Local Plan (following the Public Examination) any forthcoming planning application in respect of this site would require a detailed Transport Assessment where the impact of that particular development would be considered and published as required for transparency in the planning process.
28. The Commissioner has not seen any evidence of wrongdoing surrounding its records management obligations and considers the council's above explanation as to purpose of the report to be reasonable. She understands that the Local Plan process, and general planning process, is subject to scrutiny outside of information access rights and

has not seen evidence of a reason or motive to conceal the requested information in this case.

29. In the circumstances, and taking all of the above into consideration, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold any further information relevant to this request. The Commissioner appreciates the complainant's view that further information should be held but acknowledges that there is often a difference between what a complainant believes should be held with what is actually held by a public authority. She acknowledges that the detail requested has been calculated for specified three inbound arms of the roundabout, and for the A6 Road, for the two scenarios of 'existing traffic flows' and 'Planned Development Traffic' and that there are 'Total Junction Inflows' for the roundabout for 'Sustainable Transport Initiatives' (table 5.7 of the Report) but it does not follow that the same detailed information is held for the specified three arms of the roundabout for the scenario of 'Sustainable Transport Initiatives'. The council has explained that considerable skill and judgement would be required to extrapolate the information. It is not just a case where the information needs extracting; it has not yet been calculated and to do so requires the exercise of considerable judgement. The complainant has himself referred to the complexity of the matter by stating to the Commissioner that 'I just do not see how you could determine this matter – it requires an experienced qualified Chartered Engineer to 'comprehend the methodology, mathematics and have the experience and understand this transportation / traffic 'discipline''.
30. The Commissioner is satisfied that on the balance of probabilities, further information is not held by the council. Accordingly, she does not consider that there is any evidence of a breach of section 1 of the FOIA, or in the case of environmental information, she does not consider that there is any evidence of a breach of regulation 5.

Right of appeal

31. 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

32. 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.
33. 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

Deborah Clark
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