

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 November 2019

Public Authority: Calverton Parish Council
Address: The Council Room
Main Street
Calverton
Nottingham
NG14 6FG

Decision (including any steps ordered)

1. The complainant requested from Calverton Parish Council (the Council) information about a decision to grant a licence for agricultural use of a piece of land.
2. The Council has failed to respond to this request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must provide the complainant with a response to this request in accordance with its obligations under FOIA.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 12 September 2019, the complainant wrote to the Council and requested information in the following terms:

"Under the Freedom of Information Act 2000, I am requesting information about the process followed by Calverton Parish Council that has resulted in a decision being taken to grant a license for the agricultural use of the recently 'purchased land off George's Lane' that incorporates all of the land, including the small field that is part of a designated 'Local Wildlife Site' (5/334) - SK6148 2684 (0.72 ha).

On January 29th, 2019, a formal Parish Council decision was taken to exclude a small area of 'the purchased land off George's Lane' from any agricultural contract. This decision was recorded in the minutes of that meeting - 778(1). The area of land to be excluded from any agricultural contract was detailed in 'Amended Plan D' - it showed that the area of excluded land included the field that is designated as a 'Local Wildlife Site'.

During the six-month period, from 29th January 2019 to 29th July 2019, this resolution was not formally revisited or reversed. Any reference, during that six-month period, to the agricultural use of the 'purchased land off George's Lane' could not reasonably be viewed as referring to the excluded 'Local Wildlife Site' field (or any of the land excluded from being subject to an agricultural contract) unless this reference was made explicit. If explicit reference was made during this period to the excluded area of land, I would like that information to be included in this FOI request.

I would like the information provided to cover all discussions and decisions that relate to Calverton Parish Council changing the area of 'purchased land off George's Lane' that would be included in any agricultural contract from that detailed in 'Amended Plan D' and referenced at the Parish Council Meeting on 29th January 2019. This information should include details of how and when Calverton residents were made aware of these changes. The requested information must include copies of correspondence, including electronic communications, between Calverton Parish Council and their appointed Land Agent - making clear the point at which the Land Agent was informed that the Parish Council had decided to expand the area of the 'purchased land off George's Lane' that could be subject to an agricultural contract."

6. The Council acknowledged receipt of the above request on 13 May 2019.

7. On 15 and 18 October 2019 the complainant reminded the Council that he is still expecting a response to this request.
8. However, this was not followed with any substantive response from the Council to the complainant by the date of this notice.

Scope of the case

9. The complainant contacted the Commissioner on 28 October 2019 to complain about the way her request has been handled, as she had not received a response from the Council.
10. On 13 November 2019 the Commissioner wrote to the Council and asked it to ensure a response was provided to the complainant within 10 working days.
11. The Council failed to provide a response within this time.
12. The Commissioner has considered whether the Council has dealt with this request in accordance with its obligations under section 10(1) FOIA.

Reasons for decision

13. Section 1(1) provides that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

14. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested.

15. The Commissioner considers that the requests in question fulfilled these criteria and therefore constituted valid requests for recorded information under the FOIA.

16. Section 10(1) provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

17. The request was submitted on 12 September 2019 and a response has not yet been provided. The Commissioner therefore finds that the Council breached section 10(1) in failing to respond within 20 working days.

Right of appeal

18. 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

19. 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.
20. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
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Wilmslow
Cheshire
SK9 5AF**