

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 October 2021

Public Authority: Guildford Borough Council
Address: Millmead House
Guildford
GU2 4BB

Decision (including any steps ordered)

1. The complainant requested information from Guildford Council (“the Council”) about correspondence concerning two planning applications.
2. The Commissioner’s decision is that the Council failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 July 2021, the complainant wrote to the Council to request information under the Freedom of Information Act in the following terms:

"With respect to the two planning applications 18/P/02456 and 20/P/01461 (Land at Ash Manor) would you please provide, for the period from 26 November 2019 to date of this email, copies of all correspondence between the GBC officers [REDACTED] and [REDACTED] and the developer Bewley and any of Bewley's agents including Neame Sutton."

6. On 5 August 2021, the complainant wrote to the Council for an update on their request.
7. On 9 August 2021, the Council wrote to the complainant to apologise for the delay in providing a response to their request for information.
8. By the date of this notice, the Council had not provided a substantive response to the request.

Scope of the case

9. The complainant contacted the Commissioner on 24 August 2021 to complain about the Council's failure to respond to the request.
10. The Commissioner contacted the Council on 17 September 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 17 September 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
12. On 22 September 2021 the Council acknowledged the Commissioner's correspondence.
13. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

14. Regulation 5(1) of the EIR states that: "*a public authority that holds environmental information shall make it available on request.*"
15. 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.*"
16. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.

Right of appeal

17. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

18. 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.
19. 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

Michael Lea
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