

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 21 February 2022

Public Authority: Cornwall Council
Address: New County Hall
Treyew Road
Truro
Cornwall
TR1 3AY

Decision (including any steps ordered)

1. The complainant submitted a request to Cornwall Council ("the Council") requesting a copy of the list of properties that had received a Neighbour Notification letter in a specific planning application.
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 Environmental Information Regulations ("the EIR").
3. As a response has been issued, the Commissioner does not require the Council to take any further steps.

Request and response

4. On 12 January 2021, the complainant wrote to the Council and requested information in the following terms:

“How do I now obtain a list of the properties which have received a Neighbour Notification letter on a planning application, specifically in this case PA19_07792 please?”
5. The Council responded on 12 February 2021 confirming that it holds the information but that it should be withheld from disclosure under Regulation 13(1).
6. The complainant requested an internal review on 23 February 2021 on the grounds that the planning application neighbour consultation process should be open and transparent.
7. The Council responded on 18 May 2021 and maintained its original position.

Scope of the case

8. The complainant contacted the Commissioner on 28 June 2021 to complain about the way her request for information had been handled. In further submissions, the complainant drew the Commissioner's attention to data files that had been published by another Council regarding a planning application and it contained a list of neighbours notified.
9. In line with his usual practice, the Commissioner contacted the Council on 11 January 2022 and drew attention to this example and suggested that after having reviewed it, the Council may wish to amend their decision and disclose the requested information.
10. During the course of the Commissioner's investigation, the Council reconsidered its response and disclosed the information requested. The Commissioner has not therefore considered the Council's application of Regulation 13(1) and the scope of the Commissioner's investigation has focused on whether the Council has complied with its obligations under Regulation 5(2) of the EIR.

Reasons for decision

11. Regulation 2(1) of the EIR defines environmental information as being information on:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape, and natural sites including wetlands, coastal and marine areas, biological diversity, and its components, including genetically modified organisms, and the interaction among these elements
 - (b) factors, such as substances, energy, noise, radiation, or waste, including radioactive waste, emissions, discharges, and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
 - (d) reports on the implementation of environmental legislation;
 - (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
12. As the request was for information relating to planning applications, the Commissioner considers that the requested information is about activities affecting or likely to affect the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR.
13. Regulation 5(1) states that: "a public authority that holds environmental information shall make it available on request."
14. Regulation 5(2) states that such information shall be made available "as soon as possible and no later than 20 working days after the date of receipt of the request."

15. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, 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

Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF