

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 January 2023

Public Authority: Huntingdonshire District Council
Address: Pathfinder House
St Marys Street
Huntingdon
Cambridgeshire
PE29 3TN

Decision (including any steps ordered)

1. The complainant requested information held by Huntingdonshire Council (the Council) about the discharge of a particular condition attached to the planning permission for a local housing development.
2. The Council responded and advised that it did not hold any information in addition to that which was already on its website. The Commissioner is satisfied that, on the balance of probabilities, the Council does not hold any additional information relevant to the request.
3. However, as the Council failed to provide its internal review response within 40 working days, it has breached regulation 11(4) of the EIR.
4. The Commissioner does not require the Council to take any steps as a result of the decision notice.

Request and response

5. The request relates to a particular condition (condition 27) attached to the permissions granted by the Council for the development of dwellings on a particular area of land.

6. Condition 27 stated that submissions for a road widening and footpath should be provided to, and approved by, the Planning Authority (the Council), and that the details "as approved shall then be implemented in accordance with a time to be agreed with the local planning authority."
7. On 7 May 2022, the complainant wrote to the Council and requested information in the following terms:

"Please can you give the details of how and when the implementation part of the requirement contained in Clause 27 [condition 27] of Planning Permission 1401659OUT was discharged."
8. The Council responded on 10 May 2022, directing the complainant to the on-line planning portal. It indicated that all the information it held that was within the scope of the request was available on the planning portal.
9. The Council's internal review response of 16 November 2022, upheld the original decision, indicating that all information held was available on the planning portal.

Scope of the case

10. The complainant states that they believe that the information published online is not complete and that further information is held about matters relating to condition 27 of the relevant planning application.
11. The following analysis covers whether the information available online is everything the Council holds that is within the scope of the complainant's request.

Reasons for decision

Is the information environmental?

12. The information requested in this case relates to a planning application. It is the Commissioner's view that the information falls within the definition of 'measures' set out in regulation 2(1)(c) which will, or will be likely to, affect the environment.
13. Therefore, whilst reference to the Freedom of Information Act 2000 is made in the various sets of correspondence sent between the two parties, the Commissioner considers that the request is for environmental information, and that the EIR is the appropriate access regime.

Regulation 5 – duty to make environmental information available on request

14. Under regulation 5(1) of the EIR, and subject to a number of EIR provisions, a public authority which holds environmental information shall make it available on request.
15. The Council has confirmed to the complainant that it has carried out a complete check of its system and that there is no further information to disclose.
16. The complainant has stated that they believe that the council should have provided additional information about the discharge of condition 27 in response to their request; they have said that the Council should have either confirmed that it has no record of having received an application to discharge condition 27, or that this condition can now only be discharged by following a certain procedure requiring a further application.
17. The Commissioner is only required to make a determination as to whether the Council has identified all the recorded information it holds that is relevant to a complainant's request; he cannot require a public authority to write explanations in response to an information request.
18. The Council has explained to the Commissioner the background to the request and why it should not be expected to hold any additional information within the scope of the request to the information available on the planning portal. Having considered that explanation and in the absence of any evidence to the contrary, the Commissioner is satisfied that the Council has located all the information it holds that is relevant to the complainant's request.
19. The Commissioner therefore concludes that, on the balance of probabilities, the Council has disclosed all the information that it holds that is relevant to the request.

Procedural matters

20. The complainant requested an internal review on 23 August 2022. As the Council failed to provide its response until 16 November 2022 (and only after the intervention of the Commissioner), it has breached regulation 11(4) of the EIR.

Right of appeal

21. 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

22. 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.

23. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF