

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 31 January 2024

Public Authority: Central Bedfordshire Council
Address: Priory House
Monks Walk
Chicksands Shefford
Bedfordshire SG17 5TQ

Decision (including any steps ordered)

1. The complainant requested information relating to a specific planning matter. Central Bedfordshire Council (the "council") disclosed information but the complainant considered that further information was held.
2. The Commissioner's decision is that, on the balance of probabilities, the council has provided all the information it holds in relation to the request and that regulation 12(4)(a) applies but that it failed to do this in time and breached regulation 5(2) of the EIR.
3. The Commissioner does not require the council to take any further steps.

Request and response

4. On 1 August 2023, the complainant wrote to Central Bedfordshire Council (the "council") and requested the following information:

"1. In relation to the recent road and pavement works on Mill Lane, Houghton Conquest and the S278 agreement, could the plans for the works agreed in this S278 agreement or the planning application number (so I can check it on your planning portal) be provided?

2. In relation to the recent amendments to the road and pavement plans on Mill Lane, Houghton Conquest could the plans for the amended works or the planning application number (so I can check it on your planning portal) be provided?"
5. On 11 September 2023 the council responded and provided a planning application number.
6. On 12 September 2023 the complainant asked the council to review its handling of their request. The complainant stated that a search made with the planning application number provided did not allow them to access the requested information.
7. On 20 September the council issued its internal review response and provided additional planning application numbers to the complainant.

Scope of the case

8. On 16 October 2023 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
9. The complainant raised concerns about the timeliness of the council's responses and also asked the Commissioner to consider whether it had complied with part 2 of their request.
10. In relation to part 2, during his investigation, the Commissioner attempted to establish what plans relating to the amended works were held when the request was received. On 24 January 2024 the council confirmed that no further plans relating to this matter, beyond those published in the online applications in question, were held.

Reasons for decision

Regulation 5 – duty to provide environmental information

11. Regulation 5(1) requires public authorities to provide environmental information on request. Under regulation 5(2) this should be done within 20 working days of the receipt of a request.
12. Where requested information is not held at the time of a request, authorities have a duty under regulation 12(4)(a) confirm this.
13. In this case, on 1 August 2023 the complainant asked the council to provide (or direct them to on their website) a plan showing amended works.
14. The council directed the complainant to relevant information but failed to confirm that a specific plan showing amended works was not held until during the Commissioner's investigation.
15. The Commissioner's decision is that, on the balance of probabilities, the council has provided all the information it holds in relation to the request and that regulation 12(4)(a) applies but that it failed to do this in time and breached regulation 5(2) of the EIR.

Other matters

16. Although they do not form part of this decision notice the Commissioner would like to note the following matters of concern.

Request handling practice

17. The code of practice issued under regulation 16 of the EIR (the "EIR code") provides guidance to public authorities as to the practice that would be desirable for them to follow in connection with discharging their functions under the EIR¹.
18. Amongst other things, the EIR code provides recommendations in relation to the provision of timely responses to requests.
19. The Commissioner considers that following the EIR code not only helps authorities to ensure they are complying with their statutory obligations but can also make it less likely that complainants will need to submit complaints to the Commissioner.
20. In this case, the Commissioner considers that the request was straightforward and that it should not have been necessary for the complainant to seek the Commissioner's intervention to secure a proper response.
21. The Commissioner expects that the council's future handling of requests will conform to the recommendations of the EIR code.

¹ https://ico.org.uk/media/for-organisations/documents/1644/environmental_information_regulations_code_of_practice.pdf

Right of appeal

22. 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

23. 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.
24. 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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF