

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 21 November 2018

Public Authority: Northumberland County Council
Address: County Hall
Morpeth
Northumberland
NE61 2EF

Decision (including any steps ordered)

1. The complainant has requested information relating to a particular planning application.
2. The Commissioner's decision is that Northumbria County Council ("the Council") has 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. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the EIR, to the request.
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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 3 August 2018, the complainant's solicitors wrote to the Council on his behalf and requested information in the following terms:

"In relation to the Dissington Garden Village planning application ("the Application"), for the period 8th May 2017 to 31st January 2018, we request :-

- 1. Dates of formal or informal meetings relating to the Application involving and/or between Cllr Jackson, Cllr Riddle, the Chief Executive, Deputy Chief Executive and Interim Director of Place.*
 - 2. Notes and reports relating to all formal and informal meetings referenced above at point 1.*
 - 3. Emails and any notes of telephone conversations relating to the Application involving and/or between Cllrs Jackson and Riddle, the Chief Executive, Deputy Chief Executive and Interim Director of Place."*
6. The Council acknowledged the request on 23 August 2018, but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 26 September 2018 to complain about the way his request for information had been handled.
8. In line with her usual practice, the Commissioner contacted the Council on 24 October 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was acknowledged later the same day but no further response was provided.
9. The Complainant contacted the Commissioner on 19 November 2018 to request a decision notice considering the Council's compliance with the EIR.
10. The Commissioner considers that the scope of her investigation is to determine whether the Council has complied with 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;

12. The Commissioner has not seen the requested information but, as it is information relating to a planning application, she believes that it is likely to be information about "measures" affecting the elements of the environment. For procedural reasons, she 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Ben Tomes
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