

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 25 July 2022

**Public Authority:** Lydney Town Council  
**Address:** Claremont House  
High Street  
Lydney  
GL15 5DX

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Lydney Town Council ("the Council") relating to a proposed "Greenway" path. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has 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 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 Freedom of Information Act and may be dealt with as a contempt of court.

## **Request and response**

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5. On 26 March 2022, the complainant made the following request for information to the Council:

"Due to the above ongoing concerns we would formally request that the following three questions are answered as an open government request under the Freedom of Information Act 2000.

- Question 1 - Please advise when and where the Public Consultation took place in Spring 2021, what format the consultation took, [bearing in mind Covid restrictions at that time] and when and where this was advertised?
- Question 2 - The letter states that following this consultation, there was an overwhelming level of support giving a clear mandate to recommend approval of the application and your duty is to represent the wishes of the majority of your residents. Please provide us with documentation supporting this claim especially in relation to the Norchard Link?
- Question 3 - The letter also states you have a responsibility to do what you can to mitigate anyone disadvantaged by the path, please advise what action Lydney Town Council have taken with regards to the upset caused to Doonaree and The Homestead residents?"

6. The Council acknowledged the request on 29 March 2022. To date, a substantive response to the request has not been issued.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 6 May 2022 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 18 May 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. On 1 June 2022 the Council responded to the complainant's request seeking clarification of all parts of the request (see Annex 1).
10. The complainant provided clarification of the request to the Council on 1 June 2022 starting a new 20 working day clock for the clarified request (see Annex 2).

11. Again, on 1 June 2022 the Council acknowledged receipt of the complainant's clarification and stated that a substantive response would be forthcoming.
12. On 6 July 2022 the complainant contacted the Commissioner to complain about the Council's failure to respond to the clarified request.
13. The Commissioner contacted the Council on 6 July 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
14. Despite this intervention the Council has failed to respond to the complainant.
15. 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**

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16. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

17. 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."

18. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

## **Right of appeal**

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19. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## **Annex 1 – The Council's Request for Clarification**

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"Thank you for your email below and your subsequent reminders.

- **Question 1 - Please advise when and where the Public Consultation took place in Spring 2021, what format the consultation took, [bearing in mind Covid restrictions at that time] and when and where this was advertised?**

I am not sure which Public Consultation you are referring to. If it was specific to the Greenway Project

I suggest that you contact West Dean Parish Council, which is the lead body for the Project. If it was WDPC which undertook the consultation concerned, they are best placed to inform you as to its format and advertising.

You can contact WDPC via this email address: - [admin@westdeanpc.org.uk](mailto:admin@westdeanpc.org.uk)

- **Question 2 - The letter states that following this consultation, there was an overwhelming level of support giving a clear mandate to recommend approval of the application and your duty is to represent the wishes of the majority of your residents. Please provide us with documentation supporting this claim especially in relation to the Norchard Link?**

Whose / which letter are you referring to, please? Was it something from Lydney Town Council, West Dean Parish Council or someone else? Please supply a copy.

- **Question 3 - The letter also states you have a responsibility to do what you can to mitigate anyone disadvantaged by the path, please advise what action Lydney Town Council have taken with regards to the upset caused to Doonaree and The Homestead residents?**

As above - whose / which letter are you referring to, please?

It may help to note that the Greenway Project is led by West Dean Parish Council. The route of the Greenway is the subject of a planning application that will be determined by Forest of Dean District Council in its capacity as the Local Planning Authority. It is not a decision in the hands of Lydney Town Council. I have no doubt that FoDDC will be consulting neighbours in the usual way, it will take their views into consideration and then make its decision in full compliance with planning law. Please be aware that planning decisions are made according to planning merit and not to protect private interests.

Lydney Town Council is not aware of a disadvantage arising from having a traffic-free path from your front door to Lydney, Coleford and Cinderford.

## **Annex 2 – The Complaints Clarification**

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"In response to your e-mail dated 1st June 2022 below, we must put forward concern about the content, which does not address or clarify our previous request under the Freedom of Information Act.[FOI]

Our previous correspondence dated the 26th March 2022, made it perfectly clear that we were writing in direct response to **your** letter dated 14th March 2022, which was enclosed in **your** e-mail of the same date, which is on the attached e-mail string? The opening line states " Thank you for your response the content of which, has left us slightly confused." We trust that you still have a copy of the letter that you submitted to us on the 14th March 2022?"