

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 October 2023

Public Authority: Pembrokeshire County Council
Address: County Hall
Haverfordwest
Pembrokeshire
SA61 1TP

Decision (including any steps ordered)

1. The complainant requested from Pembrokeshire County Council (the Council) information about a planning statement and justification report regarding planning application 23/0101/PA. The Council refused the request and cited regulations 12(5)(d) (confidentiality of proceedings), 12(3) and 13 (personal information) of the EIR.
2. The Commissioner's decision is that the Council was entitled to withhold all of the information under regulation 12(3) and 13 of the EIR. The Commissioner does not require any further steps as a result of this decision.

Request and response

3. On 8 June 2023, the complainant wrote to the Council and requested information in the following terms:

"Request for information regarding – Planning Statement and Justification Report
Planning Application 23/0101/PA - Land at [name redacted]
I refer to the above subject and request the following information;

I would be grateful if you could arrange to provide me with a copy of Appendix A of "Planning Statement and Justification Report". Personal data and any sensitive information can be redacted - to comply with the data management principles set out in the GDPR and Data Protection Act 2018."

4. On 6 July 2023 the Council responded and confirmed it holds the requested information. The Council withheld the information under regulations 12(5)(d) (confidentiality of proceedings), 12(3) and 13 (personal information) of EIR.
5. Following an internal review, the Council upheld its original response.

Reasons for decision

Regulation 12(3) / regulation 13(1) – third party personal data

6. Regulation 13(1) by way of regulation 12(3) of the EIR provides that information is exempt from disclosure if it is the personal data of an individual other than the requester, and where one of the conditions listed in regulation 13(2A), 13(2B) or 13(3A) is satisfied.
7. In this case the relevant condition is contained in regulation 13(2A)(a). This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR').
8. The withheld information in this instance, consists of a statement provided by the applicant's planning agent, regarding the applicant's current living conditions, to support their planning application.
9. The Council's position is that the withheld information is the personal data of the planning applicant. The information relates to the applicant, members of their family, personal details and circumstances.
10. Having viewed the withheld information, the Commissioner notes that all of the withheld information relates to the planning applicant and it is therefore personal information.
11. In considering any legitimate interest(s) in disclosing the requested information under the EIR, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case-specific interests.

12. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.
13. The Commissioner accepts there is a legitimate interest in the Council operating in an open, honest and transparent manner. The Commissioner also recognises there is a strong public interest in how the Council make decisions regarding planning applications. There is also a clear interest in understanding the basis for planning decisions, which is why planning applications are generally available to the public.
14. The Commissioner acknowledges that the complainant considers he has a legitimate interest in disclosure of the information. The complainant argued; "disclosure of information is in the wider public interest to enable informed comment to be made during the public consultation stage of planning application 23/0101/PA"
15. On consideration of all the factors of this case, the Commissioner finds disclosure of this information (the applicant's statement) is not necessary to meet the legitimate interests of the public, given the information is already in the public domain. The planning statement and justification report is in the public domain which explains the basis of the planning decision. This report also explains the reason for the inclusion of the statement in the planning application. The Council explained; "Accompanying this application in Appendix A is a private and confidential report on behalf of, and, in support, of the family." This report demonstrates the applicants and the family's personal circumstances, therefore, although the information is not in the public domain, it is clear what has been taken into account in the decision.
16. As there is no legitimate interest in disclosure, it is not necessary for the Commissioner to consider the balancing test.

The Commissioner's conclusion

17. The Commissioner concludes that the information is exempt under regulation 13(1) by virtue of 13(2A)(a) of the EIR and the Council was entitled to withhold this information. The Commissioner has therefore, not gone on to consider the Council's application of regulation 12(5)(d).

Right of appeal

18. 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

19. 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.
20. 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

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