

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 September 2018

Public Authority: Huntingdonshire District Council

Address: Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire
PE29 3TN

Decision (including any steps ordered)

1. The complainant has requested information about a building fire that occurred in 1999. Huntingdonshire District Council ("the Council") responded by denying that it holds the requested information, but directed the complainant to another public authority that may hold some of it.
2. The Commissioner's decision is that the Council does not hold the requested information.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 3 March 2018, the complainant requested information in the following terms:

Background

On either Wednesday 8th or Wednesday 15th of November 1999 lunchtime a member of the public called out the Ramsey Fire Brigade after seeing smoke coming from the roof of the Drill Hall situated behind No 49 High Street in Ramsey. Ramsey's retained firefighters with two tenders and P.C [redacted name] found four teenage boys who had built a small fire in the Drill Hall and Chapel. This information is not held in Planning Application 00/00482/CAC

Request

Please provide me with the complete investigation report by P.C [redacted name] together with any photographs taken by either the Hunts Post Reporter or the residents of the neighbouring properties or Planning and Building Control Officers.

Please provide me with the ages of the four teenagers apprehended by P.C [redacted name] at the scene of the crime.

Please provide me with the name(s) of the owner of the Drill Hall and Chapel in November / December 1999.

5. The Council responded on 3 April 2018. It denied that it held the requested information, but directed the complainant to another public authority that may hold information about land ownership.
6. On 9 April 2018, the complainant asked the Council to undertake an internal review of its response. At the same time he made a further information request (which is not the subject of this Decision notice).
7. Following an internal review of its response, the Council wrote to the complainant on 30 April 2018. It maintained that its response to the request was correct.

Scope of the case

8. The complainant contacted the Commissioner on 3 May 2018 to complain about the way his request for information had been handled. The requested information is about a police investigation into a building fire, and the ownership of the building. The Council has dealt with the

request as seeking information under the FOIA. The Commissioner agrees that the requested information would fall under the FOIA.

9. The Commissioner considers the scope of the complaint is that the Council has not provided a valid response to the request made on 3 March 2018 (and given the reference of 2416). The Commissioner's investigation has therefore been to determine, to the normal civil standard of 'the balance of probabilities', whether the Council holds information described in the request, and whether the Council has otherwise complied with the terms of the FOIA.

Reasons for decision

Section 1 – General right of access to information

10. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
11. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
12. In the circumstances of this case the Commissioner will determine whether, on the balance of probabilities, the Council holds recorded information that falls within the parameters of the request.

The Council's position

13. The Council has maintained to the Commissioner that it does not hold the information sought by the request. In respect of the four specific areas of information that the request seeks, the Council has advised the following:
 - In respect of the police investigation report, the Council would not expect to be the recipient of such a report as it does not fall within the Council's jurisdiction or functions.
 - In respect of any photographs taken of the building following the fire, these (if held) would be contained within the relevant planning application file (00/00482/CAC); this has since been

reviewed, along with associated planning application and building control files, but no such photographs have been identified.

- In respect of the ages of the four individuals found by the police, the Council would not expect to be the recipient of such information as it does not fall within the Council's jurisdiction or functions.
 - In respect of the site's legal owner during November to December of 1999, the Council is not responsible for holding such information, but has referred the complainant to where the information may be publicly accessible (i.e. the Land Registry).
14. The Council has explained to the Commissioner that it does not consider it likely that any relevant information has been held in the past but since destroyed. This is because the information would be associated with planning application and building control files and decisions, which the Council has a statutory duty to retain under the Town and Country Planning Act 1990, and the Building Control Performance Standards 2006.
15. The Council has further explained to the Commissioner that, in respect of the site that the request relates to, the Council is the relevant planning authority, and as such does hold wider information about the site in the form of planning applications. However, this wider information is already publicly accessible through both the Council's public access system on its website, and by inspection upon request at the Council's offices.

The Commissioner's conclusion

16. The Commissioner has considered the Council's position, and recognises that the Council would not hold any reasonable expectation of holding the majority of the information sought by the request.
17. For that information which may have been recorded by the police at the time of the building fire in 1999 (i.e. any 'investigation report' and the 'ages of the four teenagers'), there is no evidence to indicate that the Council would have received this information for any business or statutory reason, and no such information has been identified within the Council's planning application and building control files.
18. The Commissioner likewise notes that the planning application and building control files have been reviewed for any photographs of the building taken after the fire. As no such photographs have been identified within the relevant files that would be expected to contain them, it is reasonable for the Commissioner to conclude that none are held.

19. Lastly, the Commissioner has considered the Council's position that it would not reasonable expect to hold information about the legal owner of the site during November to December 1999. The Commissioner is aware that local public authorities do not hold any statutory responsibility to maintain records about the legal ownership of private land. Whilst an authority may hold the details of parties who are understood to be owners as part of any planning application, such information is incidental, and an authority does not hold any statutory power to record that such a party is the legal owner.
20. The Commissioner understands that the Land Registry is the relevant public authority in respect of the legal ownership of land, and the Commissioner notes that the Council has directed the complainant to that public authority.
21. Having considered the above factors, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold the information requested.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Andrew White
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF