

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 15 June 2023

Public Authority: Welsh Newton and Llanrothal Parish Council
Address: clerk@welshnewtonllanrothalgroup-pc.gov.uk

Decision (including any steps ordered)

1. The complainant requested information with regards to a War Memorial. The Commissioner's decision is that West Newton and Llanrothal Parish Council (the council) has provided all the information held falling within the scope of the request but breached regulation 5(2) of the EIR as it did not provide all the information held within the required timeframe of the request being made.
2. The Commissioner does not require any steps.

Request and response

3. On 19 March 2023 the complainant made the following information request to the council:

"...please provide me with details of all relevant information you hold on plans to be undertaken on the land around the Welsh Newton War Memorial.

For example please:

Clarify design details for the proposed work to be undertaken on land around the War Memorial.

Clarify details of any additional structures planned to position on the land surrounding the War Memorial.

Detail information the Parish Council has sought to ensure the safety of pedestrian access to the War Memorial which is sited on a dangerous road junction.

Detailed costs for this project."

4. On 20 March 2023 the council responded that the majority of the information has already been provided and then on 27 March 2023 the council provided further information advising the labour for installing grit mats is being donated and it provided a list of the material being used and the cost, which was being covered by a grant.
5. The council also advised that once a contractor has been chosen to clean the memorial, it will be able to provide those costs and scope of the work.
6. The complainant requested an internal review on the 28 March 2023 asking to receive all information held by the council.
7. The council responded stating that all the information held was detailed in the council minutes and provided the link to the complainant. The council confirmed no further documents were held.
8. The complainant queried the council further on 29 March 2023 that the minutes stated "It was reported that the PCC would be shown the plans for the area for their thoughts" and "To consider and approve the design and installation of an interpretation board". The complainant asked why this information had not been provided.

9. The council responded on the same day explaining that the plans were all verbally discussed and the only recorded information was what had been provided. It also advised that the "interpretation board¹" had yet to be drawn up.
10. The complainant contacted the Commissioner on 4 April 2023 as they believed that they had not been provided with all the information held by the council that fell within the scope of their request.
11. During the Commissioner's investigation the council advised that it held two tenders falling within the scope of the request, one in November 2022 and one in January 2023 and had not provided them as it was still awaiting a third tender. The Commissioner asked that the council either provide this information to the complainant or issue a valid refusal notice.
12. The council provided one of the tenders to the complainant on 12 May 2023 and the other one on 1 June 2023.

Scope of the case

13. The complainant considers that further information is still held by the council.
14. The scope of the case is for the Commissioner to determine whether the council holds any further information falling within the scope of the request.

¹ Interpretation boards are a common feature at visitor attractions, nature reserves, and wildlife areas. They provide information and context about the surrounding environment and the natural history of the area.

Reasons for decision

Regulation 12(4)(a) of the EIR – Information held/ not held

15. Regulation 5(1) of the FOIA requires a public authority that holds environmental information to make it available on request.
16. Regulation 12(4)(a) of the EIR allows a public authority to refuse to provide the requested information if it does not hold it at the time of the request being received.
17. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
18. In this case, the complainant does not consider that the council has provided all the information it holds within the scope of the request.
19. Along with the two tenders, the council has told the Commissioner that there is one paper file and one email folder on the war memorial and they have both been searched. The complainant has also been referred to the council minutes where the information can be found.
20. It has confirmed to the Commissioner that there is very limited information held, all of which has been provided to the complainant. The council has also confirmed that no other information is held elsewhere.
21. The council explained in its response to the complainant that the plans were all verbally discussed and the "interpretation board" has yet to be drawn up and therefore this specific information that the complainant refers to is also not held.
22. The council has told the Commissioner that the area of land in question is very small and the information held is limited.
23. The Commissioner has reviewed the council's responses to his enquiries and is satisfied that the council has searched for the information it holds in the most relevant places and that, on the balance of probabilities, that the council has provided all the information it holds.
24. The Commissioner therefore finds that the council holds no further information within the scope of the request and so regulation 12(4)(a) of the EIR is engaged.

Regulation 5(2) of the EIR – Time for responding

25. Regulation 5(2) of the EIR requires a public authority that holds environmental information to make it available upon request within 20 working days.
26. In this case, the request was made on 19 March 2023 and the council did not provide all the information it held until 1 June 2023. This is outside the required 20 working day timeframe and therefore the Commissioner finds that the council breached regulation 5(2) of the EIR.
27. As all the information has now been provided, the Commissioner does not require any steps.

Right of appeal

28. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.
30. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF