

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

### **Decision notice**

**Date:** 25 July 2024

**Public Authority:** North Warwickshire Borough Council  
**Address:** The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1DE

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

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1. The complainant requested information from North Warwickshire Borough Council ("the Council") relating to specific planning applications.
2. The Commissioner's decision is that on the balance of probabilities, the Council holds further information falling within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - The Council is required to carry out further searches aimed at identifying all the information it holds falling within the scope of the request, and to issue the complainant with a new response as required by the EIR.
4. The Council must take these steps within 30 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 Act and may be dealt with as a contempt of court.

## Request and response

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5. On 17 October 2023, the complainant wrote to the Council and requested information in the following terms:

“Under the Freedom of Information Act, we would like to request the following information:

All emails, correspondence and minutes of meetings sent and received (and not limited to) North Warwickshire Borough Council (NWBC) staff, Hartshill Borough Councillors, members of Hartshill Parish Council and NWBC Planning Committee members for the following planning applications:

PAP/2020/0599 from 31/10/2021

PAP/2018/0082 from 31/10/2021

PAP/2019/036 from 31/10/2021

DOC/2022/0044

PAP/2022/0260

PAP/2022/0261

We would like you to provide this information in pdf format.”

6. The Council responded on 14 November 2023 and provided the complainant with information falling within the scope of their request. On 15 November 2023, the complainant requested an internal review.

## Scope of the case

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7. The complainant contacted the Commissioner on 31 January 2024 to complain about the way their request for information had been handled. Specifically, the complainant argued that the Council will hold further information falling within the scope of the request.
8. On 17 May 2024, during the course of the Commissioner’s investigation, the Council provided the complainant with further information. However, the complainant argues that the Council still holds further information which has not been disclosed to them.

9. The following decision notice therefore considers whether the Council holds further information falling within the scope of the request which has not been disclosed to the complainant.

## **Reasons for decision**

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10. The complainant considers the Council to hold further information within the scope of the request. In their complaint to the Commissioner, the complainant stated that they expect the Council to hold further information as their request covers a time period of two years. Furthermore, the complainant explained that they have sent correspondence to the Council relating to the planning applications listed in the request, but the Council has not provided them with that correspondence in response to the request.
11. In its submissions to the Commissioner, the Council explained that it conducted an initial search of its planning case files for information within the scope of the request using the planning application reference numbers listed in the request as search terms. This search located approximately 1600 documents. The Council explained that it then searched the 1600 documents identified during its initial search using specific 'key triggers'; the names of two Councillors, Hartshill Parish Council and the Planning Board. It also said that it limited its search to the time period specified in the request. This search located approximately 200 documents.
12. The Council explained that it has reviewed each of the 200 documents identified by its searches and has provided the complainant with the documents that fall within the scope of the request. However, it said that it excluded any emails sent by the complainant as these will already be held by them.

## **The Commissioner's position**

13. Based on the explanations provided by the Council, the Commissioner is not satisfied that the Council has carried out reasonable searches for information falling within the scope of the request. He notes that when conducting its searches, the Council used the specific key triggers outlined above. The Commissioner considers that by using these key triggers the Council is likely to have excluded information that falls within the scope of the request from its searches as the key triggers used by the Council were too narrow.
14. Whilst the complainant specified that they would like any correspondence sent or received by Council staff, Hartshill Borough Councillors, members of Hartshill Parish Council and NWBC Planning

Committee members, they also clarified that their request is not limited to correspondence from those individuals and organisations. They clarified that they require all correspondence relating to the planning applications listed in the request. The Commissioner therefore considers that, by using the key triggers, the Council has limited the scope of its searches to only correspondence to or from two Councillors, Hartshill Parish Council and the Planning Board, rather than all correspondence relating to the planning applications.

15. Furthermore, the Commissioner notes that when conducting its searches, the Council located some emails from the complainant which fall within the scope of the request. Whilst the Commissioner acknowledges that the complainant may already have copies of these emails, he considers that they should have either been disclosed to the complainant in response to the request, or that a refusal notice should have been issued.
16. Therefore, the Commissioner's decision is that, on the balance of probabilities, the Council holds further information falling within the scope of the request.
17. The Commissioner therefore requires the Council to carry out further searches aimed at identifying all of the information it holds falling within the scope of the request, and to issue the complainant with a new response as required by the EIR.
18. All information located that falls within the scope of the request should either be disclosed to the complainant or an appropriate refusal notice should be provided. This includes the emails sent by the complainant which fall within the scope of the request.

## 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.

**Ian Walley**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**