

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 6 September 2024

Public Authority: Fylde Borough Council
Address: Town Hall
South Promenade
Lytham St Annes
FY8 1LW

Decision (including any steps ordered)

1. The complainant has requested records regarding two meetings held by Fylde Borough Council (the Council). The Council provided the information it held in relation to the request.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any additional information within the scope of the request.
3. The Commissioner does not require further steps.

Request and response

4. On 17 January 2024, the complainant wrote to the Council and requested information in the following terms:

"RESTIDENTIAL DEVELOPMENT OF 345 DWELLINGS AND ASSOCIATED INFRASTRUCTURE. LAND TO THE NORTH OF FRECKLETON BYPASS/EAST OF WARTON, BRYNING WITH WARTON – now known as BEAUMONT GREEN Please provide the record of two meetings held on the site of the above development.

- 1- The first meeting is referred to in Fylde Council (FC) Development Manager's message dated 9th March 2023, and was held on site on

21st February 2023 attended by Officers ([names redacted] & others). The meeting was held to view progress on implementation of the land drain and drainage works in general. Other matters were also identified at the meeting relating to the site drainage which FC noted they were following up on.

2- The second meeting is referred to in the FC Development Manager message dated 12 November 2023, in which it was noted that an officer from the planning team and the council's engineer attended this site last week with regard progressing the outstanding drainage matters.

NB: Please provide the requested information, either in hard copy or electronically"

5. The Council responded on 14 February 2024. It provided some information within the scope of the request, but advised no further information was held. This position was maintained by the Council during its internal review.

Reasons for decision

Is the requested information environmental?

6. Regulation 2(1) of the EIR defines environmental information as being information on:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
 - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
 - (d) reports on the implementation of environmental legislation;

- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
7. As the request information is information relating to residential development, the Commissioner believes that it is likely to be information on measures which are likely to affect the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR.

Regulation (5)– information not held

8. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request.
9. Regulation 5(2) of the EIR allows a public authority that holds environmental information to be made available no later than 20 working days after the date of receipt of the request.
10. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
11. The complainant advised the Commissioner that it was 'inconceivable' that senior officers are not required to produce records of meetings held with developers and agents, especially when discussing progress or problems with a development.
12. In response to the Commissioner's investigation, the Council explained that, on receipt of the request, it had consulted with the senior officer who attended the meetings referenced in the request. This officer advised that no written record of the discussion was taken at the meetings, but there had been a number of photographs which were taken.

13. The Council confirmed that any information relating to planning would be stored on it's 'DEF Mastergov' planning register/document management system. DEF Mastergov is a server based storage facility that the planning team have access to. It confirmed that if any information within the scope of the request was held, this is where it would be located.
14. The Council explained that within the DEF Mastergov system there are a series of modules. For this request the 'planning' and 'enforcement' modules were the applicable modules that required searches to be undertaken.
15. The Council informed the Commissioner that a search was undertaken within these modules and several application files were located alongside one monitoring file.
16. In order to determine whether information within the scope of the requested was held, the Council reviewed each of the files and extracted any information which was within the scope of the request. The Council confirmed that for this request, the only pieces of information extracted were the images disclosed to the complainant.
17. The Council also confirmed that had any notes been taken at the meeting, they would have been scanned or uploaded to the DEF Mastergov system. As the Council did not locate any notes within the relevant folders, the Council concluded that the information was not held.
18. The Council concluded that there is no record of any information within the scope of the request being deleted.

The Commissioner's decision

19. It is not the Commissioner's position to determine what information ought to be held by the Council in this matter, but rather what is held, and whether appropriate searches have been conducted.
20. Having reviewed the Council's position, the Commissioner is satisfied that by checking the relevant planning and monitoring modules, the Council has conducted appropriate searches for the requested information.
21. As the Commissioner is satisfied that appropriate searches have been undertaken, the Commissioner has determined that, on the balance of probabilities, the Council does not hold any additional information within the scope of the request.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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.

Michael Lea
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Wycliffe House
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SK9 5AF