

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 31 October 2024

Public Authority: Ticehurst Parish Council
Address: Ticehurst Village Hall
Lower High Street
Ticehurst
TN5 7BB

Decision (including any steps ordered)

1. The complainant has requested a copy of invoices paid for legal advice and the details of pledges paid in regards to two planning applications. The Ticehurst Parish Council ("the Council") provided some information within the scope of the request, but denied holding anything further.
2. The Commissioner's decision is that, on the balance of probabilities, the Council has failed to conduct adequate searches for the requested information and has now confirmed further information is held.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Conduct a fresh search for the requested information and either disclose the information located or issue an appropriate refusal notice under 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

5. On 3 April 2024, the complainant wrote to the Council and requested information in the following terms:

“Under FOI and EIR could you please send me copies of all invoices paid for legal or other advice in relation to planning applications RR/2022/840/P and RR/2022/2690/P. In addition. Details of any monies received or paid in relation to these applications by third parties. Receipt electronically is acceptable.”

6. The Council responded on 29 April 2024. It provided some information within the scope of the request, but denied holding the remainder. A position which was maintained in its internal review.

Reasons for decision

Is the requested information environmental?

7. 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);
8. As the requested information is information which relates to a planning application, the Commissioner believes that the requested information 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 – duty to make environmental information available on request

9. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request.
10. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of on the balance of probabilities.
11. The Council advised the Commissioner that searches had been conducted in relevant email accounts. It also advised that checks had been conducted on the clerk's laptop. It advised that any information within the scope of the request would have likely been held here.
12. The Council further confirmed to the Commissioner that it did hold information within the scope of the request which had not been provided to the complainant at the time of the request.

The Commissioner's decision

13. As the Council has advised the Commissioner that further information within the scope of the request is held, he is satisfied that, on the balance of probabilities, the Council did not originally conduct adequate searches for the requested information.
14. The Commissioner requires the Council to conduct a further and thorough search for the requested information and either disclose the further information located or provide an appropriate refusal notice under the EIR.

Right of appeal

15. 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

16. 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.
17. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF