

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

### **Decision notice**

**Date:** 10 December 2024

**Public Authority:** North Lincolnshire Council  
**Address:** Church Square House  
30-40 High Street  
Scunthorpe  
DN15 6NL

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

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1. The complainant has requested information about specific planning applications. North Lincolnshire Council originally withheld information under regulation 12(5)(d) (confidentiality of proceedings) but disclosed it at internal review stage.
2. The Commissioner's decision is that the Council has disclosed all held information.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 23 September 2023, the complainant wrote to the Council and requested information in the following terms:

"I am seeking information concerning the following planning applications: PA/2021/1034, PA/2017/392, PA/2019/164, PA/2021/1253, and PA/2019/339. Specifically, I request details of the guidance provided to the developer, all background documents related to the planning process, records of communications, telephone logs, emails, diary entries of the respective planning officers, and any records of site meetings. Please provide any reports or documentation

received by NLC from [name redacted by ICO] and [name redacted by ICO] in regard to these planning applications including hearsay evidence.

I am aware of one site meeting attended by Cllr [name redacted by ICO] Ward Councillor and [name redacted by ICO] a drainage inspection visit with riparian owners and local residents.

Furthermore, I am interested in obtaining all available information regarding communications and interactions involving [name redacted by ICO] a Flood Risk Management Specialist, and [name redacted by ICO] from Severn Trent Water Ltd, as well as any correspondence with the North Lincolnshire Flood Drainage Team, The Department of the Environment, LLFA, Severn Trent Water Ltd, North Lincolnshire Council Highways Team and Messingham Parish Council in relation to the aforementioned flooding issues and planning applications.”

5. The Council responded on 6 February 2024. It stated that the majority of the information was already published on the planning portal, and the remaining information, being non-statutory planning correspondence, was withheld under the exception provided by regulation 12(5)(d).
6. Following an internal review the Council wrote to the complainant on 30 April 2024. It disclosed the information that was previously withheld under regulation 12(5)(d).

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 June 2024 to complain about the way their request for information had been handled.
8. At that point, both the complainant and ICO understood that the Council was withholding information under regulation 12(5)(d), and the case was accepted on that basis.
9. However, during the course of investigation the Council referred the Commissioner to the content of its internal review outcome on 30 April 2024, and specifically a section headed “Amended Response - EIR2023/01543”. In this section the Council wrote:

“All statutory consultee (LLFA/STW/Parish Council/EA etc) correspondence relating to the planning applications is published in the public domain via the North Lincolnshire Council website for viewing. Please see the attached correspondence documentation in addition to the statutory information already published via the planning portal.”

10. The Council clarified to the Commissioner that all relevant information had been disclosed to the complainant as part of the internal review outcome, and specifically, an "Email Trail (12 Emails) relating to planning application – PA/2021/1034 Scotter Road, Messingham, North Lincolnshire."
11. The Council informed the Commissioner that it considered all held information to have been disclosed in the internal review outcome, and it confirmed that no further information was being withheld under regulation 12(5)(d).
12. The Commissioner notes that this was not recognised by the complainant (or the ICO). The internal review outcome is lengthy document of 31 pages which addresses several requests, and a number of queries directed to a Councillor; the Commissioner perceives that it is not a particularly clear document to follow.
13. However, the Council asserts that it has disclosed all relevant held information and does not seek to withhold any under regulation 12(5)(d). The Commissioner has therefore considered whether the Council has complied with the duty imposed by regulation 5(1) of the EIR to provide all relevant held information in response to the request.

## **Reasons for decision**

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### **Regulation 5(1) – Duty to make available environmental information on request**

14. Regulation 5(1) of the EIR states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions that may apply.
15. In scenarios where there is some dispute between the amount of information located 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 (Information Rights) decisions, applies the civil standard of the balance of probabilities.
16. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any – or additional – information which falls within the scope of the request (or was held at the time of the request).

The Commissioner's conclusion

17. The Council has informed the Commissioner that the following searches were undertaken in respect of the request:
  - Consultation with those officers known to have involvement in the substantive matter (the Development Management Lead; Flood Risk & Surface Water Project Officer; Head of Environment, Assistant Director – Assets & Development; and Head of Economy).
  - Electronic search of the planning application files on the planning system (Salesforce) used by the Council.
  - Electronic search for emails on the email system (Outlook) used by the Council, using the relevant planning application reference number.
18. The Council has elaborated that the majority of known information is already published on the planning portal, with the exception of that disclosed to the complainant in the internal review outcome.
19. The Commissioner has considered the Council's explanation and is satisfied that appropriate searches have been carried out for all relevant held information. There is no evidence available to the Commissioner that suggests further information may be held.
20. The Commissioner is therefore satisfied, on the balance of probabilities, that no further information is held.
21. As such, the Commissioner has decided that the Council has complied with regulation 5(1).

## **Right of appeal**

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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.

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