

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 17 December 2024

Public Authority: Swansea Council
Address: Civic Centre
Oystermouth Road
Swansea
SA1 3SN

Decision (including any steps ordered)

1. The complainant has requested information from Swansea Council (the Council) relating to two planning applications.
2. The Commissioner's decision is that the Council breached regulation 5(2) of the EIR by failing to provide the information within 20 working days. The Commissioner also finds that the Council has breached regulation 11(4) of the EIR as it failed to carry out its internal review within 40 working days.
3. The requested information was provided to the complainant at internal review stage, therefore the Commissioner does not require further steps.

Request and response

4. On 13 May 2024, the complainant wrote to the Council and requested information in the following terms:

"Under a FOI request could you please email me (PDFs, JPEGs, GIFs, .dwg etc) of the following documents for the outline planning application ref: 2001/1035 and reserved matters application ref: 2004/1532 :-

1. The Decision notices
 2. The Delegated panel report
 3. The Application forms
 4. The Application drawings (I'm happy for these to be overlapping photocopies if digital formats don't exist)
 5. The Site plans
 6. Any restriction, covenants or conditions applying to the site or plots on the site.”
5. The Council responded on 13 June 2024. It stated that the information being requested was available to view at the Civic Centre by appointment. It went on to state that if hard copies, including digital copies, were required, these could be made available at a charge under regulation 8 (charging) of the EIR.
6. Following an internal review, the Council wrote to the complainant on 16 September 2024. It withdrew its application of regulation 8 of the EIR and disclosed the requested information.

Scope of the case

7. The complainant initially contacted the Commissioner on 27 August 2024, to complain that the Council had not provided the requested information and had not carried out an internal review.
8. Following acceptance of the complaint by the Commissioner, the Council advised that it had completed an internal review of its original response to the request.
9. Within its internal review decision the Council confirmed that it was withdrawing its application of regulation 8 to the request as it had been incorrectly applied, and was providing the requested information to the complainant.
10. The complainant confirmed that they were still unhappy with the timescales of the Council's responses.
11. The Commissioner therefore considers that the scope of this case is to determine if the Council complied with its obligations under regulations 5(2) (duty to make environmental information available on request) and 11(4) (internal review) of the EIR.

Reasons for decision

Is the requested information environmental?

12. The requested information concerns planning applications, as such, the Commissioner is satisfied that the information sought is environmental information under regulation 2(1)(c) of the EIR.

Regulation 5(2) – duty to make environmental information available on request

13. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request. Under regulation 5(2), authorities should do this within 20 working days.
14. The request was submitted on 13 May 2024. Within its internal review response to the complainant on 16 September 2024, the Council confirmed that it was withdrawing its reliance on regulation 8 of the EIR as it had been incorrectly applied, and provided the requested information to the complainant.
15. Due to the initial reliance on regulation 8 and it later being withdrawn, the information was provided outside of 20 working days.
16. The Commissioner has therefore concluded that the Council failed to comply with regulation 5(2) of the EIR in this case.

Regulation 11 – internal review

17. Regulation 11 of the EIR covers public authorities' obligations in relation to the carrying out of internal reviews of the handling of requests for information.
18. Regulation 11(4) requires authorities to provide an internal review decision within 40 working days of the date of receipt of a request for review.
19. The complainant submitted their request for review on 24 June 2024. The Council issued its response on 16 September 2024, and apologised for the delay.
20. The Commissioner has therefore concluded that the Council failed to comply with regulation 11(4) in this case.
21. As the requested information has been provided, the Commissioner does not require further steps.

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.

Jane Smith
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Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF