

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 March 2022

Public Authority: Hampshire County Council

Address: The Castle
Winchester
Hampshire
SO23 8UJ

Decision (including any steps ordered)

1. The complainant requested information from Hampshire County Council ("HCC") relating to communication relating to planning applications.
2. The Commissioner's decision is that HCC has failed to respond to the request within 40 working days and has therefore breached regulation 7(1) of the EIR.
3. The Commissioner's decision is that HCC:
 - Did not issue a response to the request within 40 working days and breached regulation 7(1) of the EIR.
4. The Commissioner requires HCC to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
5. HCC must take these steps within 35 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

6. On 24 November 2021, the complainant wrote to HCC and requested information in the following terms:

"Request 1

All information dated between February 2021 and June 2021 inclusive relating to the proposed ERF at Alton (planning application 33619/007).

The above information may include communications, emails, text messages, instant messages, letters, documents, presentations or minutes within the Council, with or within Project Integra or its partners, or with the applicant Veolia, their planning consultants Axis, or other third parties.

Request 2

a list of the dates, attendees, method (physical or virtual) of all meetings (to include phone calls, conference calls, video calls) between Hampshire County Council Officers and/or Members, and

- Veolia
- Axis PED
- or their agents and contractors

The relevant period is from January 2019 to present, and relates to discussions on any of the following topics:

1. The previously proposed "Super MRF" at Chickenhall Lane, Eastleigh
2. The currently proposed MRF at Chickenhall Lane, Eastleigh
3. The proposed ERF in Alton

For each meeting please provide a full list of attendees from all parties, the affiliation of each attendee, the meeting agenda and meeting minutes. If one or both of the agenda or minutes is not available, please provide an explanation as to why for each meeting.

If GDPR prevents disclosure of some of this information, please provide the remaining information to the fullest extent possible.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in

Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.

Please note that a small amount of the above requested information (relating to the proposed MRF at Chickenhall Lane, Eastleigh, but for a shorter time period to that requested above), is currently the subject of an internal review following my complaint that HCC has failed to provide information in a previous FOI request. For the avoidance of doubt, any such information requested in this FOI request that overlaps with that previous request does not supercede the requirement for internal review of that previous request, nor "reset the clock" for the requirement for HCC to respond to that internal review in the appropriate timescales."

7. HCC wrote to the complainant on 26 November 2021 to acknowledge the request.
8. On 8 December 2021, HCC wrote to the complainant, informing them that HCC would be extending the period to issue a response to 40 working days. This is in accordance with regulation 7(1) of the EIR.

Scope of the case

9. The complainant contacted the Commissioner on 2 February 2022 to complain about HCC's failure to respond to their request.
10. The Commissioner contacted HCC on 7 February 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 7 February 2022 to explain that HCC had been given 10 working days from 8 February 2022 within which to provide a response to their request.
12. The complainant has provided evidence that they have received an acknowledgement from HCC but, by the date of this notice, had not received a substantive response to their information request.
13. The scope of this notice and the following analysis is to consider whether HCC has complied with regulation 7(1) of the EIR.

Reasons for decision

Regulation 5(2) – time for compliance and regulation 7(1) – extension of the time for compliance

14. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

15. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

16. Regulation 7(1) of the EIR states that:

"Where a request is made under regulation 5, the public authority may extend the period of 20 working days referred to in the provisions in paragraph (2) to 40 working days if it reasonably believes that the complexity and volume of the information requested means that it is impracticable either to comply with the request within the earlier period or to make a decision to refuse to do so."

17. In its email of 8 December 2022 (10 working days after the date of the request), HCC sought to apply the extension, stating as follows:

"Having regard to the large amount of complex information you have requested and that it would not be practical to provide the information or make a decision about whether to refuse the request within 20 working days, the County Council is extending the period within which to respond to your request to 40 working days."

18. From the evidence provided to the Commissioner in this case, it is clear that HCC did not deal with the request for information in accordance with the EIR. The Commissioner finds that HCC has breached regulation 7(1) by failing to respond to the request within 40 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

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

Website: 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.

Signed

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF