

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 22 January 2014

Public Authority: Curridge Primary School
Address: Curridge
Thatcham
Berkshire
RG18 9DZ

Decision (including any steps ordered)

1. The complainant has requested copies of all School Premises Alteration Requests (SPARs) relating to Curridge Primary School (the School) for a specific time period.
2. The Commissioner's decision is that the School did not hold the required information at the time of the request. He therefore considers the School should have applied regulation 12(4)(a) of the EIR to the request.

Request and response

3. On 21 June 2013, the complainant wrote to the School and requested information in the following terms:
"Please provide copies of all School Premises Alteration Requests (SPAR01, SPAR02 and SPAR03) relating to Curridge Primary School for the period May 2011 through June 2013 inclusive."
4. On 24 June 2013, the School informed the complainant that it did not hold any SPARs for the period specified.
5. On 26 September 2013 the School informed the complainant that it had overlooked the SPAR forms relating to kitchen ventilation. It provided him with these. The School also provided him with additional SPAR forms which it explained West Berkshire Council (the Council) had partially completed on the School's behalf.

6. On 9 October 2013 the complainant informed the School that he did not accept the reasons for failing to provide the requested information at the time of the request.

Scope of the case

7. The complainant contacted the Commissioner on 23 September 2013 and 16 October 2013 to complain about the way his request for information had been handled. He explained he does not accept that the failure to provide the requested information was an oversight. He does not accept that the SPARs were partially completed by the Council as a reason for not providing them at the time of the request.
8. The complainant has argued that the SPAR process is routine to progressing projects of this nature. He has explained that in May 2012 the Council had advised the School that the SPAR process should be completed and then requested specific information from the School in response to queries raised during the SPAR process. In December 2012 the School was also asked by the Council to complete the SPARs for the proposed land acquisition.
9. The complainant therefore does not consider that it is credible that the School would have overlooked the SPAR forms in June 2013.

Reasons for decision

10. The Commissioner notes that the request relates to environmental information and has considered the complaint with reference to the terms of the EIR. This is because the request relates to the proposed purchase of land and meets the definition for environmental information as set out in regulation 2(1)(c).

Regulation 12(4) – refusal where information is not held

11. Regulation 5(1) provides that a public authority which holds environmental information should make it available on request.
12. Regulation 12(4)(a) provides that a public authority may refuse to disclose information where it does not hold that information when a request is received.
13. The School has explained that it had never completed a SPAR document for the proposed field purchase. It has explained that when the Council suggested that the School should prepare SPAR documents, it did not do so as it felt that it had only made tentative enquiries about the purchase of the field. It therefore considered it was not far enough advanced in the process to complete a SPAR.
14. The School has explained that the Council had drafted SPAR documents on behalf of the School but that they were not supplied to the School at the time. They were provided to the complainant by the Council in December 2012 and were only sent to the School after the complainant had made his information request to the School in June 2013.
15. The SPAR documents were then provided to the complainant by the School in September 2013.
16. Therefore at the time of the request the School has confirmed that it did not hold any SPAR documents which fell within the timescale of the request. The kitchen ventilation SPAR document which was provided was dated April 2011 and therefore did not fall between the dates specified.
17. Based on submissions provided by both the complainant and the School, the Commissioner's decision is that on the balance of probabilities the School did not hold the required information at the time of the request.
18. The Commissioner finds that when refusing the request, the School should have applied regulation 12(4)(a) of the EIR. As the School has now provided the information to the complainant he has not gone on to consider the public interest test.

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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Rachael Cragg
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
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Wilmslow
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SK9 5AF