

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 6 July 2021

Public Authority: Keelby Parish Council

Address: c/o West Lindsey District Council
Guildhall
Marshall's Yard
Gainsborough
Lincolnshire
DN21 2NA

Decision (including any steps ordered)

1. The complainant requested from Keelby Parish Council ("the Council") information regarding a recent planning application. The Council had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations ("the EIR").
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, in accordance with its obligations under the EIR, to the request.
4. The Council 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

5. On 20 April 2021, the complainant wrote to the Council and requested information in the following terms:

"However, in the interests of transparency and public accountability (and in the absence of the opportunity for members of the public to attend and hear the matters discussed), could you please forward me the following information.

I make this request under the Freedom of Information Act 2000.

1. Copies all email correspondence between the Clerk of Keelby Parish Council and Keelby Parish councillors, both individually and collectively (this includes emails sent and received by the clerk) which references Planning Application 142486 (land at South End, Riby Road, Keelby) lodged with West Lindsey District Council.

2. All documents, draft or otherwise, which relate to the preparation of the Keelby Neighbourhood Plan which Keelby Parish Council formally agreed to prepare, in line with the Neighbourhood Plan Regulations 2012 in October 2016. This includes copies of all draft versions of a proposed plan and associated consultation documentation (draft and completed).

I respectfully submit this application to you. I have also formally submitted it to West Lindsey District Council.

Thank you for your cooperation and if there is anything you seek further clarification on, please don't hesitate to ask."

6. The complainant wrote to the Council again on 10 May 2021 regarding their request, as the request had not been acknowledged by the Council.
7. The Council had failed to provide a substantive response by the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 20 May 2021 to complain about the failure, by the Council, to respond to the information request.
9. In line with her usual practice, the Commissioner contacted the Council on 18 June 2021 to highlight the outstanding response. She requested

that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.

10. The scope of this notice and the following analysis is to determine whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

11. 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);*

12. The Commissioner has not seen the requested information but, as it is information relating to a planning application, she believes that it is likely to be information about measures affecting or likely to affect the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.

13. Regulation 5(1) states that: "*a public authority that holds environmental information shall make it available on request.*"
14. Regulation 5(2) states that such information shall be made available "*as soon as possible and no later than 20 working days after the date of receipt of the request.*"
15. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Regulation 5(2) of the EIR.

Other matters

17. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the EIR.

Right of appeal

18. 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

19. 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.
20. 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF