

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 August 2022

Public Authority: Shropshire Council
Address: Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Decision (including any steps ordered)

1. The complainant has asked Shropshire Council ('the Council') to comment on a series of allegations he put to it. The Council refused the request, citing section 14 (Vexatious requests) of FOIA.
2. The Commissioner's decision is that only one part of the request correspondence met the requirements of section 8 (Requests for information) of FOIA and thus constituted a valid request for information. He is satisfied that the Council was entitled to rely on section 14 of FOIA to refuse that part of the request.
3. The Commissioner requires no steps as a result of this decision.

Background

4. Prior to making the request under consideration here, the complainant corresponded with the Council regarding apparent discrepancies he had identified between approved plans for the new housing development on which he lived, and aspects of the final build. His complaint about the matter was considered under the Council's complaints procedure and also by the Local Government Ombudsman ('the LGO') which, in 2018, found that the Council was empowered to approve certain changes to the agreed design of the estate, as the development progressed.
5. The complainant has continued to correspond with the Council on the subject of apparent discrepancies between the plans and the final

development and to characterise the issue as being one of the Council's failure to comply with its own planning conditions in respect of the development.

6. Prior to submitting the correspondence under consideration in this decision notice, on 14 January 2021, the complainant submitted a series of questions to the Council, which he says it did not respond to.

Request and response

7. On 6 June 2021, the complainant wrote to the Council and made a request for information under FOIA. His letter comprised a series of comments and allegations about the Council's conduct, interspersed with requests for its response. In view of its length, the full text of his correspondence is contained in an annex at the end of this decision notice. The specific questions themselves were as follows:

"Can you please provide me with copies of the Councils [sic] written answers to the following questions submitted to the Council on 14 January 2021?

...

QUESTION 1: How can the public have confidence in a Council prepared to make unsubstantiated statements?

...

QUESTION 2: Why did Shropshire council allow or manipulate this compliance failure?

...

QUESTION 3: What confidence can the public have in Shropshire Council when its policies and procedures are regarded as 'a menu of convenience' by its Officers?

...

QUESTION 4: Is this considered by the Council to be an acceptable performance level?

...

QUESTION 5: Is this the low-quality response Shropshire Council expects the public to consume?

...

QUESTION 6: Why does Shropshire Council operate in contravention of the law?

...

Can you please provide me with copies of the Councils [sic] written answers to the following questions submitted to the Council on 14 April 2021?"

8. The Council responded on 20 October 2021. It refused the request in its entirety, on the grounds that it considered it vexatious within the meaning of section 14(1) of FOIA.
9. The Council referred the complainant to correspondence it had sent him on 8 July 2021, regarding its Unreasonably Persistent and Vexatious Customers Procedure. It said he had been warned then that repeated requests for information about the road to which the request related would not be responded to.
10. The complainant requested an internal review on 27 October 2021.
11. The Council provided the outcome of the internal review on 17 November 2021, upholding the application of section 14 of FOIA to refuse the request.

Scope of the case

12. The complainant contacted the Commissioner on 18 November 2021 to complain about the Council's decision to apply section 14 to refuse the request.
13. The analysis below considers whether the individual questions were valid requests for information under section 8 and whether the Council was entitled to rely on section 14 of FOIA to refuse any questions which were valid requests.
14. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the FOIA. The FOIA is concerned with transparency and provides for the disclosure of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. The FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.

Reasons for decision

Section 8 – request for information

15. Section 8(1) of FOIA defines a valid request for information under FOIA as a request which:
 - (a) is in writing,
 - (b) states the name of the applicant and an address for correspondence, and
 - (c) describes the information requested.
16. Section 84 (Interpretation) of FOIA defines “information” as: “...information recorded in any form”.
17. Therefore, in order to constitute a valid request for information under FOIA, not only must the complainant’s request satisfy the criteria in section 8 of FOIA, but it must also be a request for **recorded** information.
18. FOIA only provides a right of access to information that is ‘held’ by public authorities. A public authority is not required to create new information in order to comply with a request for information under FOIA. Public authorities are not required to answer a question or give an opinion if they do not already hold that information in recorded form.
19. The correspondence in this case was made in writing and the complainant provided his name and an address. It follows that the only issue remaining for the Commissioner to consider is its validity in terms of whether it describes recorded information.
20. Questions (1), (3), (4), (5) and (6) all ask for the Council’s opinion on assertions the complainant makes about its conduct. With these questions, the requestor is not seeking recorded information that the Council holds. Rather, he is requiring the Council to take a particular action (ie offer its opinion on his allegations). These are not valid requests within the meaning of section 8 of FOIA, as responding to them would require the Council to create new information in order to answer them.
21. As such, the Council was not obliged to deal with questions (1), (3), (4), (5) and (6) under FOIA.
22. There is also a further, unnumbered question at the end of the correspondence:

"Can you please provide me with copies of the Councils [sic] written answers to the following questions submitted to the Council on 14 April 2021?"

23. It is followed by a series of statements, comments and allegations regarding the Council's conduct, but no specific questions. As above, the Commissioner cannot identify any recorded information which is being sought by the question. He is therefore satisfied that it was not a valid request within the meaning of section 8 and the Council was not obliged to deal with it under FOIA.

24. The full text of question (2) of the request, is as follows:

"FAILURES TO COMPLY WITH COUNCIL POLICY:

For unknown and unrecorded reasons, Shropshire Council has failed to comply with its own policy and specification titled, Specification for Residential/Industrial Estate Roads, dated 2000. It has been confirmed that this is still the latest applicable policy document and applied in 2013 when development plans for [redacted] Walk were submitted. The only noted variation on the Council website is detailed as the changed name of the Council. Furthermore, the specification claims to provide the Council with an economic maintenance provision for its road infrastructure.

Importantly, the Council, by somehow manipulating the omission of raised plateau speed tables as defined in drawing TS/14/4 has failed to ensure adequate road safety afforded by the document. The reason for this omission is not recorded and has resulted in speeding. There is now a history of RTA's and 'near misses' on the estate.

In addition, drawing C6132-200_P0 s38 Highway Proposals submitted by the developer was compliant with the policy. However, the plan subsequently agreed by the Council C6132-200_P5 s38 Highway Proposals, was not compliant.

No formal technical assessment of the original plans submitted by the developer is on record at Shropshire Council. It is noted that Shropshire Council did not request the developer to omit the raised speed plateaus at the junction of roads A & B, only to include a kerb. The Council did not request the developer to omit the speed table at the junction with [redacted] Road. **QUESTION 2: Why did Shropshire council allow or manipulate this compliance failure?"**

25. The Commissioner considers that it is possible to identify within question (2) a request which might be responded to with recorded information on a particular highways decision the Council has made (assuming the Council holds such information). The Commissioner is therefore satisfied

that this question does meet the requirement in section 8(1)(c) and it is a valid request for information under FOIA. This is the only part of the request which the Commissioner finds to be valid.

Section 14 – Vexatious request

26. Section 1(1) of FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
27. However, section 14(1) of FOIA states: “Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious”.
28. Section 14(1) of FOIA is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
29. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
30. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or which have a disproportionate impact on a public authority.
31. In his published guidance on dealing with vexatious requests¹, the Commissioner considers the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
32. In that respect, his guidance advises public authorities that:

“A useful starting point is to assess the value or purpose of the request before you look at the impact handling the request would have on you”.
33. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal in the leading case on section 14(1), Information Commissioner vs Devon

¹ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

County Council & Dransfield [2012] UKUT 440 (ACC), (28 January 2013).

34. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues:
- (1) the burden imposed by the request (on the public authority and its staff);
 - (2) the motive of the requester;
 - (3) the value or serious purpose of the request; and,
 - (4) harassment or distress of and to staff.
35. The Upper Tribunal did, however, caution that these considerations were not meant to be exhaustive. It emphasised that:
- “...all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The complainant's position

36. The complainant disagreed that the request was vexatious. In his request for an internal review, he said he had been forced to make the request against a background of previous requests which he felt had either gone unanswered or had revealed information which contradicted statements the Council had previously made about the road.
37. In his complaint to the Commissioner, he said: “I consider the Council is using section 14 to avoid disclosure of its non-compliance with policy.”
38. He also alleged that the Council “continues to misuse an adjudication by the LGO” and that it failed to engage with his concerns.
- “In short, I have uncovered issues within the Council indicating errors lies and lack of compliance with policy and procedures. They are using whatever methods are available to avoid the truth emerging. This includes corrupting an investigation by the Local Government Ombudsman, uncovered by a previous information request.”
39. He also commented that the Council's reliance on its Unreasonably Persistent and Vexatious Customers Procedure was irrelevant, as the Council had only drawn his attention to the procedure on 8 July 2021, which was some time after he had submitted the request.

The Council's position

40. The Council said that it was applying section 14 on the grounds that compliance with this request would cause a disproportionate and unjustified level of disruption and distress to the council.
41. The Council saw the request as the latest in a long line of correspondence it had engaged in with the complainant, regarding concerns he has repeatedly expressed about related matters. The complainant believes that he has identified discrepancies between the designs that were agreed in the original plans for his housing development, and what was subsequently built by the developer and retrospectively agreed by the Council.
42. The Council said that his concerns about this had been considered by the Council, and also by the LGO, to whom the complainant had complained. It regarded the request as an attempt to re-open matters which had been thoroughly dealt with at both levels, the LGO having issued its final decision in October 2018. However, the complainant had continued to correspond frequently regarding these matters.
43. In its refusal notice of 21 October 2021, it stated:

"The basis for [section 14] being applied to your request of the 9th June is as follows:

- The Council has expended considerable time and effort into responding to the recurring themes of your requests relating to the issues raised, particularly regarding [redacted] road to the extent that it is diverting resources from Council service delivery and placing a significant burden on the authority.

In addition it was confirmed to you also in an email by [redacted] on the 8th June that your questions/complaints about the road design of [redacted] Way have been investigated previously and considered by the Ombudsman who found no fault with the Council in their letter of 20th November 2020² and the Council considers the matter closed.

- Unreasonable persistence, attempting to re-open issues which have already been appropriately addressed, which you have then raised with other individuals and that we have addressed

² A further complaint the complainant submitted to the LGO in 2020

previously on other occasions. This is further increasing the burden on the Council.

- Frequent or overlapping requests on the same or similar issues that have previously been addressed.

In addition to this we have also taken into account that we also wrote to you separately on the 8th July 2021 regarding the Unreasonably Persistent and Vexatious Customers Procedure. This was on the basis of the frequency of your correspondence relating to the same issue, [redacted] Road, which is placing considerable demand on officer time and despite receiving multiple formal complaint responses and informal correspondence it appears that we are no nearer to finding a resolution to your satisfaction”.

44. The Council advised the Commissioner as follows:

“It is considered that the questions ... would place an unnecessary burden on the authority and staff. Shropshire Council considered that the issues raised within the correspondence has [sic] previously satisfactorily addressed and further responses to the points raised, would place an unnecessary burden on the authority during a time of limited resource. It is not considered that [the complainant] within his correspondence raised any new issues or request [sic] any specific information or documents, and on this basis it would not be in the public interest for Shropshire Council to provide a response.

It was considered that the questions raised by [the complainant] within his correspondence sought to accuse Shropshire Council as an Authority and officers of not upholding the truth. This is an accusation that [the complainant] has directed at a number of Shropshire Council officers since moving to [location redacted]. Please refer to correspondence regarding [name redacted] (Street lighting) and [name redacted] (Operations Manager). It is considered that this has caused unnecessary distress to staff.

...

It is acknowledged that the safety concerns raised by [the complainant], were done so as he considered it to be in the public interest and for the overall benefit and safety of residents and road users of [location redacted]. However, Shropshire Council considered that [the complainant] has continued to challenge Shropshire Council for what he considers to be alleged wrongdoing without any clear and logical basis for doing so.

In terms of the questions raised it was considered that the matters had been previously subject to comprehensive investigation, and a number of officers had scrutinised the issues raised by [the complainant], this included Highways Development Control officers,

Operations Manager, Head of Highways, Head of Planning Services, Interim Assistant Director of Infrastructure and Communities, Director of Place and Shropshire Council Local Member Cllr [name redacted]. In addition to the scrutiny of Shropshire Council Officer, the matters raised have also been subject to a review by the Local Government Ombudsman. [The complainant] has received an apology from Shropshire Council where it has been deemed appropriate."

45. The Council provided the Commissioner with copies of some of the correspondence it had had with the complainant, and a table summarising the exchanges that had taken place on related matters since 2017.
46. The Council told the Commissioner that, initially, it had not dealt with the request under FOIA because it considered it to be a series of questions about matters which it had already addressed with the complainant multiple times. However, as noted above, the Commissioner considers that question (2) was a valid request for information.

The Commissioner's decision

47. As discussed in the Commissioner's guidance on dealing with vexatious requests, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it.
48. The Commissioner's guidance considers that the key question a public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
49. When considering this issue, the Upper Tribunal in Dransfield asked itself: "Does the request have a value or serious purpose in terms of there being an objective public interest in the information sought?" (paragraph 38).
50. In his guidance, the Commissioner recognises:

"The public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:

 - holding public authorities to account for their performance;
 - understanding their decisions;
 - transparency; and
 - ensuring justice."

51. The complainant's request alleges that the design of a local road does not comply with the Council's published policy on traffic calming measures³. He has asked to know why it was approved, given that an earlier iteration of the plan showed particular traffic calming measures ('speed tables') in place.
52. On the face of it, this is a request that does have merit, as it asks for information on the subject of traffic calming and road safety. However, the Council has shown that it has already addressed the complainant's concerns about the road in considerable detail. It provided the Commissioner with correspondence dated 10 December 2019, which referred to a meeting the complainant attended on 5 September 2019 with several senior Council staff. The letter set out, and answered, several questions the complainant had asked at that meeting regarding speed tables on the road in question, including:
- "Why were the raised plateau speed tables removed from the [redacted] Road design at the request of Shropshire Council and what process was followed?"
53. The Council explained to the complainant that, in terms of the removal/amendment to the speed tables, these were amended during the construction phase, in line with current standards. During the development process, there are often changes/amendments to design that are agreed with the developer and contractor and the Council, as Highway Authority. It said that the amended speed tables were intended to still provide a contrasting material without the need for physical measures. The impact of amending the design was being assessed, and whilst the Council did not accept that the amendment to the speed tables increased the risk of accident, it would be subject to a safety review.
54. The Council also commented that it had previously provided all documents relating to the technical approval process to the complainant⁴ and it asked him to indicate what he considered was outstanding. It did, however, note that it did not hold any documentation formally consenting to the removal of the raised speed table at the junction in question and therefore there were no documents it could share on that matter. It also told the complainant:

³ <https://shropshire.gov.uk/media/5683/specification-for-industrial-and-housing-estate-roads.pdf>

⁴ The correspondence supplied by the Council shows this was done on 14 June 2018

"For your information Manual for Streets replaced Design Bulletin 32 - it is a policy, not law and in that context, it is material to a planning consideration but not determinative in the context of the planning decision.

Planning officers did visit the site in response to your queries and have considered the materials as implemented and that these are acceptable from a planning perspective. I note that there are horizontal strips at the junction in a contrast in colour which I consider would be acceptable in the context of planning Condition 3.

An informative is just that - it is advisory but not binding on a planning permission in the same way as a planning condition and explains to the applicant the process for discharging planning conditions and the consequences of not doing so.

The supervision, construction and final detailing of the highway network is controlled through the S38 Highways Act adoption process and ultimately it will determine what is appropriate in the context of the development having regard to highway safety."

55. The Commissioner notes that the Council's powers to approve certain changes to plans have already been confirmed, through previous correspondence with the complainant and the LGO's investigation. In light of all the above, he has taken into consideration any public good that would come from the disclosure of the requested information.

56. While the Commissioner understands that the complainant has expressed concerns about speeding on the road, he notes that the "policy" he refers to in the request describes itself in the following terms:

"The purpose of this guide is to provide advice on the procedures to be followed to secure the adoption of estate roads and to set down the appropriate standards and criteria to achieve the following objectives:

- To ensure an acceptable quality and standard of construction for adoptable areas which can be satisfactorily maintained at reasonable cost.
- To allow for the efficient provision of public utilities and other services".

57. The section on traffic calming states: "It is suggested that the combination of the following features and restraints may be effective in reducing vehicle speeds..."

58. It goes on to state: "To minimise inconvenience to residents and drivers, every effort should be made to keep to a minimum the number of speed restrictions used."
59. The Commissioner considers that these statements make it clear that there are multiple factors which must be considered when designing estate roads. As with the Manual for Streets, referred to in paragraph 54, this guide appears to be informative rather than determinative. While the complainant may disagree with a decision not to install a particular traffic calming measure at a particular location, this does not equate to it being a "compliance failure". Rather, it is another decision regarding changes the Council has made to the approved plans for the estate, with which, unfortunately he disagrees.
60. Seen in the content of all the information the complainant has already been given on the subject, which shows that the decision was lawfully made and is subject to safety review, the request does appear to the Commissioner to be an attempt to use FOIA to reopen matters which have already been thoroughly considered under the Council's formal complaints procedure, and by the LGO. The complainant's approach for information in this case would therefore appear to have the effect of disrupting the Council's work for no justifiable gain.
61. The Commissioner also notes that disclosing the requested information would be unlikely to have value in terms of resolving the concerns the complainant has expressed, as he has already been given clear explanations as to why the Council is empowered to make certain changes retrospectively to the design of the development, yet he persists in pursuing the same matters.
62. The Council also referred the Commissioner to individual officers finding the accusatory tone of some correspondence to be stressful. The Commissioner considers the complainant's tone, has, at times, been combative. He also notes that the correspondence in this case levels criticisms and allegations against the Council in forceful terms. Where a request has the intention of causing offence, venting anger or otherwise attacking a public authority, this can reduce its purpose and value. The Commissioner also considers that the complainant's refusal to accept the considered responses to the concerns he has expressed could be regarded as unreasonably persistent and intransigent.
63. The Commissioner considers the presence of these factors to lessen the value of the request. He therefore finds there to be little objective public interest in the information being disclosed and that the purpose and value of the request is limited.

The negative impacts of the request

64. As in many cases which give rise to the question of whether a request is vexatious, the evidence in this case shows an extensive history of previous engagement between the two parties. The Council considers that the particular context and history of this engagement strengthens its position that, at the time of the request, it was vexatious. The Council's arguments referred to the cumulative burden of dealing with previous approaches for information on related subjects, combined with the burden imposed by this request, and the likelihood of further requests.
65. In other words, the burden in this matter arises from the resources and staff time that it has already spent on dealing with the complainant's correspondence and the likelihood that this pattern of behaviour will continue. The Council considers it unreasonable to have to expend further resources on dealing with a request when it considers the central issue from which it stems to be closed.
66. The Commissioner has considered the Council's representations about the impact of dealing with this request, in light of the time it has already spent responding to the complainant's concerns on related matters.
67. Although it said that compliance would be burdensome, the Council has not described in detail the impact on it of allocating more resources to deal with this request, nor has it said what work would be involved in locating, reviewing and communicating the information. Nevertheless, the Council has demonstrated that it has already spent a considerable amount of time and resources on addressing the complainant's concerns, and responding to other requests on this subject and, that by responding to this request, it is being asked to devote further time on the same subject matter. It supplied the Commissioner with a table setting out details of over 60 occasions on which the complainant has approached it since 2017. Over 40 of those approaches occurred after the LGO issued its decision in 2018. Some were complaints about matters which the Council could reasonably be expected to have to respond to (eg a repair to a loose manhole cover) but a large number were on matters which related to these same underlying concerns.
68. In view of the fact that the information being requested here is on related matters (changes to agreed designs), the Commissioner considers it was reasonable for the Council to take account of the time and resources it has already spent dealing with the complainant's correspondence on the same subject matter, when determining that this request was burdensome.
69. Compliance with this request would involve some additional degree of work – namely searching for whether any information on decisions

relating to the road in questions was held - and, if it was held, then determining whether any or all of it was unsuitable for disclosure. Any individuals identified in the information would also need to be consulted regarding whether they objected to their names being disclosed.

70. Whilst the Council must expect to have to allocate some resources to responding to requests for information under FOIA, having considered all of the above, the Commissioner considers that compliance with this request, when considered against the work already incurred, would impose a burden on the Council which would divert resources away from dealing with other matters which also need its attention. From the evidence he has seen, the Commissioner also gives weight to the argument that responding to this request would be likely to result in the complainant submitting further requests on the subject.
71. The Commissioner notes the accusatory tone in the request, and the complainant's persistence regarding the matter, despite having had the position explained to him. The Commissioner's guidance recognises that both these factors may be harassing to the staff who deal with the requests, and that this may be borne in mind when considering the negative impacts of complying with a request.

Balancing the value of the request against those negative impacts

72. In reaching a decision in this case, the Commissioner has balanced the limited purpose and value of the request against the detrimental impact on the Council, of complying with it.
73. He has also considered, in light of the nature and degree of the dealings between the complainant and the Council, whether, at the time, the request crossed the threshold of what was reasonable.
74. The complainant presumably believes it was a reasonable request, in view of the fact he remains dissatisfied with the Council's response to questions and complaints he has previously submitted. In contrast, the Council has characterised the request as a means to pursue a grievance. His original allegations about the Council have previously been considered by the appropriate, independent body, with no evidence of wrongdoing found. The Council considers the complainant's repeated criticisms of it to be unfounded and unreasonable.
75. The purpose of section 14 of FOIA is to protect public authorities and their employees in their everyday business. In his guidance, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

76. In this case, when balancing whether the limited objective public interest the Commissioner has identified can justify the negative impact of complying with the request, the Commissioner has paid particular attention to the following:

- the request appears to be an attempt to re-open matters which the Council is entitled to consider have been dealt with. The request forms part of a pattern of requests and interaction between the complainant and the Council, on the same subject. The Council has already expended significant resources on trying to allay his concerns, including disclosing information covered by this request, in June and December 2018;
- related matters, which established that the Council had powers to make the sort of changes the complainant disagrees with, have received external scrutiny via the LGO, with no fault found; and
- the likelihood that the complainant would continue to make requests and approaches on related matters: disclosure would not, itself, address his concerns and it may result in him making further requests which would themselves consume further FOIA resources.

77. Having considered the value of the request against the above factors, the Commissioner is not satisfied that the detrimental effects of dealing with the request are justified by its limited purpose and value.

78. On the basis of the evidence provided, and taking into account the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner is satisfied that the negative impact of complying with the request significantly outweighs its limited purpose and value. The Council was therefore entitled to consider the request vexatious and to rely on section 14(1) of FOIA to refuse to comply with it.

Right of appeal

79. 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: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

80. 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.

81. 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

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

Annex – full text of request dated 9 June 2021 (names and road names have been redacted to prevent identification of individuals)

“Can you please provide me with copies of the Councils written answers to the following questions submitted to the Council on 14 January 2021?”

Please note that section 10 of the Freedom of Information Act 2000 requires the Council to respond within 20 working days of receiving a request.

UNSUBSTANTIATED CLAIMS BY SHROPSHIRE COUNCIL:

The Council made the following statement to a question raised from the public at a council meeting: "In response to concerns raised by residents, as an Authority we have reviewed the vehicle speeds at the [redacted] junction and are satisfied that the amendments to the design do not result in a significant increase in vehicle speeds".

I therefore made a FOI request for data supporting this statement on 6 March 2020. After nearly a year and an intervention by the Information Commissioner, the Council has finally provided a reply and conceded it has no objective evidence to support this statement.

The alleged visits by Council Officers are nothing more than transient visits, subjective personal assessments and have little relevance compared to the 'living space' observations of local residents.

QUESTION 1: How can the public have confidence in a Council prepared to make unsubstantiated statements?

FAILURES TO COMPLY WITH COUNCIL POLICY:

For unknown and unrecorded reasons, Shropshire Council has failed to comply with its own policy and specification titled, Specification for Residential/ Industrial Estate Roads, dated 2000. It has been confirmed that this is still the latest applicable policy document and applied in 2013 when development plans for [redacted] Walk were submitted. The only noted variation on the Council website is detailed as the changed name of the Council. Furthermore, the specification claims to provide the Council with an economic maintenance provision for its road infrastructure.

Importantly, the Council, by somehow manipulating the omission of raised plateau speed tables as defined in drawing TS/14/4 has failed to ensure adequate road safety afforded by the document. The reason for this omission is not recorded and has resulted in speeding. There is now a history of RTA's and 'near misses' on the estate.

In addition, drawing C6132-200_P0 s38 Highway Proposals submitted by the developer was compliant with the policy. However, the plan subsequently agreed by the Council C6132-200_P5 s38 Highway Proposals, was not compliant.

No formal technical assessment of the original plans submitted by the developer is on record at Shropshire Council. It is noted that Shropshire Council did not request the developer to omit the raised speed plateaus at the junction of roads A & B, only to include a kerb. The Council did not request the developer to omit the speed table at the junction with [redacted] Road. **QUESTION 2: Why did Shropshire council allow or manipulate this compliance failure?**

Shropshire Council will have an array of policies, procedures and specifications applicable to all areas of governance including Social Care, Education, Finance and Highways Development. **QUESTION 3: What confidence can the public have in Shropshire Council when its policies and procedures are regarded as 'a menu of convenience' by its Officers?**

In anticipation of the Council referring to the Local Government Ombudsman (LGO) decision reference 17016380. The LGO has been unable to confirm that the policy specification above was considered during their investigation. This policy specification was withheld by the Council. Furthermore, the LGO is not qualified to assess the technical aspects of road design as inferred by subsequent Council comments.

For added information, there was another 'near miss' head on collision at the junction of [redacted] Road and [redacted] Road reported on the estate Facebook page (by others) on 8 January 2021. This is the location where the raised speed table plateaus have been omitted by the Council.

FAILURES TO PROVIDE INFORMATION:

At a meeting on 5 September 2019, the Council promised to provide me with a copy of an independent assessment of the road design on [redacted] Walk. The assessment (SA2798) was apparently done in January 2020 but was not provided to me until 4 January 2021.

I raised additional matters of road safety with [redacted] via an email on 21 May 2020, and was promised a reply 'asap'. Once again, I received nothing. I had to ask again in December 2020 for this reply and I assume the email dated 4 January from [redacted] is the promised 'letter'.

QUESTION 4: Is this considered by the Council to be an acceptable performance level?

LIES MADE IN REPLY TO PUBLIC QUESTIONS IN COUNCIL:

Shropshire Council has lied in Council (SCC Cabinet meeting January 2019) to a question raised by a member of the public. In reply to a challenge about this reply the Council has provided a further statement which verges upon absolute nonsense in a manner that insults public intelligence.

The question asked why the speed tables on [redacted] Road and [redacted] Way, originally included in the development design for the estate, had been omitted.

The Council reply states that the raised plateau speed tables have been constructed. **This is a lie.**

When challenged about this lie, the Council replied by stating that the raised plateau speed tables had been constructed but the raised element had not been included.

This second statement is an absolute nonsense. A plateau is a raised level and the omission of the raised element is neither a plateau or a speed table. There is no specification available anywhere to support this bizarre statement. **QUESTION 5: Is this the low-quality response Shropshire Council expects the public to consume?**

Further to this point, I have asked the Council for a meeting with the author of the lie and associated nonsense for a site meeting. This has been ignored. I can only presume this is due to the authors embarrassment. My request for a meeting still stands.

REPEATED FAILURES TO COMPLY WITH LAW.

Due to the Councils evasive culture, I have felt it necessary to use the Freedom of Information Act (FOIA) to obtain information relevant to my enquiries. If my recall is correct, Shropshire Council has failed on three occasions to meet the requirements of the FOIA. I have therefore, had to ask the Information Commissioner to use their powers to ensure Shropshire Council complies with the law.

QUESTION 6: Why does Shropshire Council operate in contravention of the law?

Can you please provide me with copies of the Councils written answers to the following questions submitted to the Council on 14 April 2021?

Whilst writing I have had reason to again consult the Shropshire Council specification for residential road design and I urge you to read the following in order to appraise yourself of the demonstrable failures in your organisation. I respectfully ask for the following to be added to my earlier enquiry.

2.1 Specification Objectives

The standards and advice contained in this part of the guide have been produced to ensure the construction of roadworks to a standard suitable for adoption by the highway authority and which can be maintained by them at reasonable cost.

None of the traffic calming measures identified in 2.13 below have been provided on the [redacted] Walk development. Shropshire Council has deliberately manipulated the originally submitted road design in direct conflict with its published specification requirements for undocumented reasons. **As such, [redacted] Road (RDR) is unadoptable according to your defined specification [sic].**

2.13 Traffic Calming

2.13.1 General

Traffic calming is becoming an essential design consideration for all residential estate roads whether higher order or lower order type roads. Consideration is required, therefore, to take into account vehicle speeds and methods to restrain them.

Restricted visibility alone cannot be considered a safe means of reducing vehicle speed. For safety, drivers must be able to see potential hazards and be able to slow down or stop before reaching them. It is necessary therefore to consider alternative means of slowing vehicle speeds and by introducing both vertical and horizontal changes this can be achieved.

It is essential to give the impression to drivers that through the road hierarchy they drive progressively slower.

Vehicle speeds can be reduced by a number of design features without causing discomfort and inconvenience to cyclists, drivers and their passengers and pedestrians.

It is suggested that the combination of the following features and restraints may be effective in reducing vehicle speeds:

- Road alignments with short straights or frequent bends.

There is a lengthy straight road on RDR toward [redacted] way of around 200m.

- Reduced forward visibility on bends in the road
The visibility from the junction of RDR and [redacted] Road is around 200 metres toward [redacted] Way.

- Tighter radii on bends
No details provided to make a comparison.

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- Varying carriageway widths by the introduction of chicanes, narrowings and entrance details
Shropshire Council deliberately manipulated the original planning application to increase the width of RDR to 6.1 metres to enable higher speeds.

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- Entrance details and gateways at the beginning of the road/development.
Not even considered by Shropshire Council.

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- Changes in the road surface material using block paviers
Shropshire Council deliberately manipulated the original planning application to remove the presence of block paviers.

- Junction plateau and tables
Shropshire Council deliberately manipulated the original planning application to remove the compliant junction plateaus originally proposed by the developer. When challenged about this in a public question at a Council meeting, the Council lied about the construction, claiming they had been constructed. **I will repeat, for the fourth or fifth time, my request for the author to meet me on site and show me where they have been constructed.**

- Mini islands
None present.

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- Reducing the apparent width of the carriageway by markings
None present.

- Shared surface roads
None present.

Note: The above measures are not in priority order.

To minimise inconvenience to residents and drivers, every effort should be made to keep to a minimum the number of speed restrictions used.

It is essential therefore that the Highway Authority is consulted at an early stage in the design process to agree suitable traffic calming measures.

Shropshire Council were consulted and deliberately ignored the content of their policy specification.

Appropriate warning signage and street lighting will be required where any traffic calming is provided. Street lighting will be required to illuminate chicanes, tight radii bends, islands and raised junctions and platforms.

End of extract."