

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 4 October 2022

Public Authority: Huntingdonshire District Council
Address: Pathfinder House
St Mary's Street
Huntingdon
PE29 3TN

Decision (including any steps ordered)

1. The complainant has requested information relating to planning applications. The above public authority ("the public authority") provided some partially redacted information and stated that it did not hold some information.
2. The Commissioner's decision is that the public authority has provided all the information that it holds and was entitled to rely on Regulation 13(1) of the EIR to withhold the remainder. However the public authority failed to provide the information in question within 20 working days and therefore breached Regulation 5(2) of the EIR.
3. The Commissioner does not require further steps.

Request and response

4. The complainant made a request on 3 May 2022 that the public authority dealt with under the reference HDC10952. The request sought the name of the person who had completed a specific certificate in respect of eight planning applications.
5. The public authority responded on 24 May 2022. It provided some general information.

6. Following an internal review the public authority wrote to the complainant on 16 June 2022. It now provided redacted versions of each certificate apart from one which it said that it did not hold as the information had never existed.

Reasons for decision

7. The following paragraphs set out why the Commissioner is satisfied that the public authority has provided the information that it holds and was entitled to make the redactions that it has.
8. When a person seeks planning consent, they must send one of two certificates to the local planning authority: either certificate A, confirming they own the property in question or certificate B, confirming they do not own the property in question but have appropriate authorisation to make the application. The complainant is seeking the names on each certificate A.
9. The requested information is submitted as part of the process for gaining planning consent. The Commissioner is satisfied that this is information that falls within the scope of Regulation 2(1)(c) of the EIR. The public authority was therefore correct to deal with the request under EIR – although nothing of substance turns on this.
10. The public authority has provided the complainant with copies of the certificate A issued for seven out of the eight planning applications. In the eighth case, it has stated that it does not hold a certificate A because none was required.
11. Whilst the complainant has provided a large volume of information, of varying degrees of relevance to the particular request he has made, the Commissioner has not detected any challenge to the statement that the public authority does not hold a certificate A for this application. In any case, the Commissioner understands the application to relate to a property the complainant owns and so any information held would be the complainant's own personal data.
12. In relation to the remaining seven certificates, in providing the certificates, the public authority has disclosed the information it holds. The request sought the names on the certificates and those certificates have been provided. It is difficult for the Commissioner to envisage what further information the public authority could reasonably be expected to hold. The complainant may dispute that those names are the appropriate names, but that is not a matter that the Commissioner is required to consider.

13. The Commissioner is therefore satisfied that the public authority has disclosed all the information that it holds.
14. Finally, the Commissioner has turned to the matter of redaction. The Council appears to have redacted the signatures of individuals and the names of staff members who were employed by agents who submitted some of the planning applications.
15. A public authority may rely on Regulation 13(1) of the EIR to withhold information that would be the personal data of a third party where disclosure is not necessary to serve a legitimate interest.
16. The Commissioner considers that the complainant may have a legitimate interest in understanding which individual(s) made each planning application and whether they were entitled to do so. The public authority has already satisfied that legitimate interest by disclosing copies of the certificates with the names visible. That enables the complainant to challenge each certificate – should he wish to do so. He does not need the signatures themselves or the names of the staff of planning agents (given that the name of the company has been disclosed) to take this step and the Commissioner does not consider that disclosure would serve a legitimate interest.
17. The Commissioner is therefore satisfied that the public authority has applied Regulation 13(1) of the EIR correctly.
18. The Commissioner notes that, whilst the public authority issued its response within 20 working days, that response did not contain copies of the certificates themselves. He therefore finds a breach of Regulation 5(2) of the EIR.

Other matters

19. The Commissioner is aware that the complainant is involved in a long-running legal dispute relating to probate. It is the complainant's right to litigate where appropriate, but not to use either the EIR or FOIA as a cheap alternative to litigation. It is evident to the Commissioner that these matters need to be resolved in a court of law and the public authority needs to consider whether continuing to respond to similar requests remains a proportionate use of resources.

Right of appeal

20. 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

21. 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.
22. 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

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