

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

**Decision notice**

**Date:** 13 December 2022

**Public Authority:** Wealden District Council  
**Address:** Vicarage Lane  
Hailsham  
East Sussex  
BN27 2AX

**Decision (including any steps ordered)**

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1. The complainant has requested information about a planning decision. The above public authority ("the public authority") provided some information and relied on regulation 6(1)(b) of the EIR (publicly accessible) to not provide the remainder.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority holds no further recorded information within the scope of the request. As the public authority disclosed some information outside of the 20 working day timeframe, it breached regulation 5(2) of the EIR.
3. The Commissioner does not require further steps.

**Request and response**

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4. On 20 July 2022, the complainant wrote to the public authority and, referring to a specific planning application, requested information in the following terms:  
  
"I request full disclosure of all documentation and internal meeting decision minutes relating to this application including an audit trail of the Resolution to Approve."
5. The public authority responded on 9 August 2022. It stated that all the recorded information it held could be found on its planning portal and

therefore it was relying on regulation 6(1)(b) to not provide the information – as it was already available in another form or format. It upheld this position at internal review.

6. After the complaint was accepted by the Commissioner, the public authority identified some additional information which it provided to the complainant.

## **Reasons for decision**

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7. As the complainant has not disputed that some of the information is publicly available and easily accessible to him, the following analysis only covers whether it is more likely than not that any further recorded information is held.
8. As the information that has already been disclosed and any further information that was held relates (or would relate) to planning matters, the Commissioner agrees that the public authority was correct to deal with the request under the EIR as the request seeks environmental information.
9. The complainant has argued that the information he has been provided with to date does not indicate (in his view) that the public authority followed the correct process in approving this planning application.
10. The public authority explained that the decision had been approved under delegated powers. Whilst an officer report had been created (which discussed the relevant considerations), there was no need for an audit trail of any resolution to approve and no internal meetings had been required.
11. It is not for the Commissioner to comment on the adequacy of the public authority's decision-making processes but he notes that, if the complainant's assessment of the situation is correct, that would only serve to strengthen the argument that no further information is held.
12. The Commissioner considers that the public authority has put forward a plausible explanation as to why the information it has published is the only information that it holds. On the balance of probabilities, he is therefore satisfied that no further information is held in recorded form.

## **Procedural matters**

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13. As the public authority provided some information outside of the 20 working day timeframe, it breached regulation 5(2) of the EIR.

## Right of appeal

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14. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

15. 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.
16. 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**