

**IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL (INFORMATION RIGHTS) UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000**

EA/2015/0003

**BETWEEN:-**

**MRS PAT CUMBERS**

**Appellant**

**-And-**

**THE INFORMATION COMMISSIONER**

**First Respondent**

**-And-**

**MELTON BOROUGH COUNCIL**

**Second Respondent**

---

**CONSENT ORDER**

---

Before the First-tier Tribunal on 24<sup>th</sup> February 2016, sitting at Leicester County Court

Upon hearing the Appellant in person and Counsel for the Second Respondent

Pursuant to rule 37(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, BY CONSENT, it is ordered that:

1. The Second Respondent do by 4pm on 2<sup>nd</sup> March 2016 disclose to the Appellant the information listed in Column 4 of the table in Annex A (where not already disclosed).
2. The Appeal is allowed with the consent of the second respondent
3. The Second Respondent shall issue a written apology to the Appellant by 4pm on 2<sup>nd</sup> March 2016 and pay to the Appellant a sum of £1000.00 towards the appellant's costs, arising from the unreasonable conduct of the second respondent, also by 4pm on 2<sup>nd</sup> March 2016.

**Signed**

**Appellant**

**On behalf of First Respondent**

**On behalf of Second Respondent**

**ANNEX A**  
**Statement of Reasons for Consent Order**

1. The Second Respondent accepts that some items listed in the table below were not supplied to the ICO in accordance with their request of 15<sup>th</sup> October 2014. The reason for this is that it was considered that other documents already disclosed to the Appellant had provided the information necessary to comply with the request. However, on reflection, it is acknowledged that all such documents should have been sent to the ICO for consideration as potentially falling within the scope of the request. There was no attempt to mislead the ICO and amounted to a simple omission on the part of the Second Respondent.
  
2. It is maintained by the Second Respondent that the documents had been revealed by the Second Respondent's searches pursuant to the request, and that appropriate exemptions applied to the documents until such time as they have been disclosed or are now to be disclosed. The Appellant maintains that exemptions were not properly applied. As the appeal succeeds for the reasons given in paragraph 1 and disclosure is now to occur, it is not necessary for the Tribunal to determine that issue.
  
3. The material to be disclosed in total is as follows in the table below. The items not yet provided to the Appellant are to be provided forthwith, shown with a bullet point in the table.

(The list indicates where material has already been disclosed)

Document	Bundle Number (where applicable)	Description	Relevant Item for disclosure	Note (where applicable)
4 March 2009	1876	Full Council -Report	Recommendations 2.5, 2.6, 2.7; Paragraph 3.7	Para 3.7 refers to the £25,000  <ul style="list-style-type: none"> <li>• APPENDIX 1 (REVISED HEADS OF TERMS FOR PURCHASE OF TOWN STATION SITE) not yet disclosed.</li> </ul>
6 July 2009	1915	PFA Special Cttee - Report	Paragraph 3.1 Land Matters	Not '6 July 2008'
28 Sept 2009	1916	Cncl Bus Dev Subcttee -Minutes	BS26 Resolved (1)	Refers to the £31,000
30 Sept 2009	1913	PFA Cttee - Report	Paragraphs 2.1, 3.1	Refers to the £31,000
30 Sept 2009	1924	PFA Cttee - Minutes	P55 Resolved (1)	Minute P55, not P36; refers to the £31,000
<ul style="list-style-type: none"> <li>• 17 Nov 2009</li> </ul>		PFA Cttee - Report	Paragraph 7.4	Refers to diversion of Mucky Lane

• 25 Jan 2010		Cncl Bus Dev Subcttee -Report	Paragraph 6.2 Land Matters	Refers to negotiated terms with Town Estate
• 1 Mar 2010		Cncl Bus Dev Subcttee -Report	Paragraph 6.2 Land Matters	Refers to negotiated terms with Town Estate
29 Mar 2010		Cncl Bus Dev Subcttee -Report	Paragraph 6.2 Land Matters and Appendix E	Refers to the renegotiated terms with the Town Estate and the diversion of Mucky Lane; £50,000 now agreed, replacing the £25,000 and £31,000 – <b>PARAGRAPH DISCLOSED TO THE APPELLANT 16 OCTOBER 2015</b>
• 29 Mar 2010		Cncl Bus Dev Subcttee - Minutes	CB75 Highways Issues – Bullet point 1, plus 'In relation to land matters' and 'Resolved that' items re Mucky Lane	Refers to the renegotiated terms with the Town Estate and the diversion of Mucky Lane
27 Apr 2010		Cncl Bus Dev Subcttee -Report	Paragraph 5.2 Land Matters	The renegotiation with the Town Estate referenced - <b>PARAGRAPH DISCLOSED TO THE APPELLANT 10 NOVEMBER 2014</b>
1 June 2010		Cncl Bus Dev Subcttee -Report	Paragraph 3.8	The renegotiation with the Town Estate referenced – <b>PARAGRAPH DISCLOSED TO THE APPELLANT 10 NOVEMBER 2014</b>
26 July 2010	1925	Cncl Bus Dev Subcttee -Report	Paragraphs 3.4 and 3.9	3.9 refers to the renegotiated terms with the Town Estate and the diversion of Mucky Lane
7 Sept 2010	1926	Overview & Scrutiny Cttee - Report	[Paragraph 3.2]	To Overview & Scrutiny Cttee on 8 Sept 2010, refers to CEO urgency powers
• 24 Jan 2011		Cncl Bus Dev Subcttee -Report	Paragraph 3.2 Site conditions and progress; Paragraph 3.7 Highway works	Not '24 Jan 2010' as shown on report; Mucky Lane now diverted and operational; payment to Town Estate due
• 22 Feb 2011		Cncl Bus Dev Subcttee -Report	Paragraph 3.7 Highway works	Mucky Lane referred to, the payment imminent
June-July 2012	1928	W Saunders Feasibility Report	3.8 Play Close car park options	See Appendix D costings
3 July 2012	1929	W Saunders Feasibility Report – Appendix D costings	the items M,N,P,Q relating to the Play Close car park options – identified as 'Civils work' items	
3 July 2012	1927	PFA Cttee - Minutes	P20 Resolved (1)	Reference to W Saunders exempt

				Appendix D costings
13 Oct 2015		Melton Mowbray Town Estate confirmation re separate contract for resurfacing	Email to Corporate Property Officer	