

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

Date: 7 July 2020

Public Authority: St Albans City and District Council
Address: Civic Centre
St Peter's Street
St Albans
AL1 3JE

Decision (including any steps ordered)

1. The complainant requested information relating to a planning application.
2. St Albans City and District Council, (the Council), provided some information within the scope of the request but denied holding further information. The complainant considered that the Council held further information within the scope of his request.
3. The Commissioner's decision is that, on the balance of probabilities, the Council is correct when it says that it holds no further information within the scope of the request.
4. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

5. On 4 September 2019, the complainant wrote to the Council and requested information in the following terms:

"All data, in whatever form available to the council in relation to both the above application or in connection with these properties and including both internal and external communications, in the name of either the properties [three addresses redacted]. This

should include, but not limited to all associated case officer reports and meetings records, formal or informal planning and pre-planning advice/communications”.

6. The Council responded on 1 October 2019. It denied holding information relating to two of the specified properties. It confirmed it held some information relating to the third address and provided that to the complainant.
7. It appears that there was then further correspondence between the complainant and the Council prior to him requesting, on 8 November 2019, an internal review of the Council’s handling of his request for information.
8. Following an internal review, the Council wrote to the complainant on 3 December 2019, maintaining its original position. With respect to the complainant’s concern about the level of redactions applied to the information that had been provided, it clarified that, where redactions were applied, this was because the information fell outside of the scope of the request.

Scope of the case

9. The complainant contacted the Commissioner on 21 February 2020 to complain about the way his request for information had been handled.
10. The complainant considered that the information that was provided to him was provided ‘*with excessive redaction*’. He also disputed the Council’s assertion that it did not hold further information within the scope of his request.
11. The analysis below considers whether, on the civil standard of the balance of probabilities, the Council held further information within the scope of the request.

Reasons for decision

Regulation 5 duty to make environmental information available on request

12. Regulation 5(1) of the EIR states that:

“Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request”.

13. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, she will consider any other information or explanation offered by the public authority which is relevant to her determination.
14. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

The Council's position

15. The Council advised the Commissioner that it had provided the complainant with all the information it holds within the scope of his request. It told her it had no reason to withhold any information from him.
16. During the course of her investigation, the Commissioner asked the Council questions, as is her usual practice, relating to how it established whether or not it held further information within the scope of the request.
17. In its submission, the Council confirmed that all officers involved in the planning application were asked to search all electronic records. It told the Commissioner that it did not have paper records, apart from the officers' personal notepads.
18. With regard to the extent of the searches it had conducted the Council told the Commissioner:

"Searches were carried out on [address redacted], planning reference [redacted] and [complainant's name redacted]'s email address. This would have been on the planning officer's emails and on their network folders. It is against our IT Security Policy to keep any work-related information locally on personal computers or laptops".

19. With regard to its records management policy, the Council told the Commissioner:

"Communications relating to planning applications are retained on the planning file for 3 years, in case of re-submissions or appeals. Depending on the capacity of individual mailboxes, emails are normally deleted after 1 year. Emails to the department's general planning enquiry mailbox are deleted after 6 months".

20. In respect of his concerns about the level of redaction on the officers' notes, the Council told the complainant it had only redacted information that does not fall within the scope of his request.
21. During the course of the Commissioner's investigation, the Council provided her with copies of the relevant pages from the officers' notepads, both in redacted and unredacted format.

The Commissioner's view

22. The Commissioner recognises that the requested information is clearly of interest to the complainant. She acknowledges that the complainant provided her with evidence, namely correspondence from a third party, which led him to believe that the Council held further information within the scope of his request.
23. The Commissioner's role is to make a decision based on whether recorded information is held and has been provided.
24. Having considered the information that was provided to the complainant, she is satisfied that the redactions the Council applied were applied to information that did not fall within the scope of the request.
25. With regard to whether the Council held further information within the scope of the request, having considered its explanation and the evidence of searches that it provided, the Commissioner is satisfied, on the balance of probabilities, that no further information within the scope of the request is held.

Right of appeal

26. 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

27. 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.
28. 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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**