

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 9 May 2022

**Public Authority:** East Woodhay Parish Council  
**Address:** eastwoodhaypc@gmail.com

#### **Decision (including any steps ordered)**

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1. The complainant has requested information with regards to a Neighbourhood Plan. East Woodhay Parish Council (the council), provided some information but the complainant considered further information to be held.
2. The Commissioner's decision is that the council does not hold further information falling within the scope of the request.
3. The Commissioner does not require the council to take any steps.

#### **Request and response**

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4. On 3 September 2021 the complainant made the following information request to the council:
  - "a) sports and community provision in the area covered by Evingar Ward, in particular:
    - i. since January 2017, facilities for football including for Woolton Hill Argyle Football Club (WHAFC), the grant and operation of its hiring agreement for land at Woolton Hill Junior School (WHJS) (including any annual increase from the initial rent of £3,100pa), the possible termination of that agreement before the end of the term, and proposals for the renewal of the agreement at the end of the term (2027);

- ii. since January 2016 complaints about WHAFC's use of land at WHJS (for example but not limited to parking, noise, generator powered or other floodlights);
- iii. since January 2017 any proposals by the Council or by third parties to identify or acquire new facilities or land for new sport or community facilities for WHAFC alone or in conjunction with other sports clubs;
- iv. since January 2017 any suggestion, proposals or discussions of the actual or potential use of land at Woolton Hill Sports Club, WHJS, or East Woodhay Cricket Club for housing and the need to protect these sites from that use;
- v. since January 2018 any proposals to expand, extend, develop or re-develop, re-locate, merge or provide additional sport or community facilities in Evingar Ward at, adjacent or opposite existing sites or ancillary land or generally;
- vi. since June 2019 any information on proposals for Basingstoke and Deane Borough Council to acquire or to support third parties to acquire land within the East End conservation area for sport or community purposes;
- vii. since January 2017 any information on the potential to designate land at Sungrove Farm as a community facility.

b) since January 2018 information relating to East Woodhay Neighbourhood Plan (EWNP) including minutes of meetings of the East Woodhay Parish Council's EWNP Steering Group and consultation with Chapman Planning and Basingstoke and Deane Borough Council on a) the designation of community facilities and Green Infrastructure in the Neighbourhood Plan and b) the inclusion of clauses supporting the future development of community facilities and c) the use of the term "ancillary land" in the Neighbourhood Plan.

c) since August 2020 information relating to former Ward Cllr [name redacted] involvement in the re-draft of EWNP between September 2020 and July 2021, including the draft of the EWNP which existed before his direct involvement in September 2020 and that at the end of his involvement.

The information is to help understand Cllr [name redacted] of EWPC's Sports Statement June 2021 on WHAFC need for facilities and to protect existing sites from housing development, EWNP policies such as CF1, 9.7-9.9 on page 47 and the decision to change the list of community facilities in the June 2018 draft of the Neighbourhood Plan to include East Woodhay Cricket Club."

5. The council responded on 6 October 2021. For parts a)ii, iv, v, vi and vii of the request the council stated that no information was held.
6. For part a)i of the request the council stated it does hold a lease agreement, but this was shared in confidence and is exempt from disclosure.
7. For part a)iii, the council advised it has a public document outlining the council's stance on the sports facilities on its website, but the information for this part of the request was provided in response to his previous request made in 2018.
8. For part b) the council stated all information on the Neighbourhood Plan minutes and related emails were provided in response to the complainant's 2018 request. It advised as previously informed, all updates are provided via the Neighbourhood Plan Steering Group, published in the EWPC monthly minutes which can be viewed on the council's website.
9. For part c) of the request, the council provided emails it held.
10. The complainant requested an internal review on 22 October 2021 as he considered further information was held by the council.
11. The council provided its internal review response on 22 October 2021 upholding its initial response.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 13 October 2021 to complain that he considers further information is held, specifically he is of the view that there are steering group minutes that have not been released.
13. The scope of the case is to firstly determine whether the request falls under the FOIA or the EIR and then determine whether the council holds further information within the scope of the request.
14. The complainant has not disputed the council withholding the lease agreement in response to part a)i of the request and so the Commissioner has not considered this refusal in his decision notice.

## **Reasons for decision**

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### **Is the requested information Environmental Information?**

15. The Commissioner has first considered whether the requested information would constitute environmental information as defined by regulation 2(1) of the EIR.
16. In this case, the request is in relation to a neighbourhood plan. The Commissioner's understanding is that a neighbourhood plan is by its very nature related to the development of land.
17. The Commissioner is therefore satisfied that the request does fall under the EIR. Regulation 2(1)(c) with (b) is relevant to the request. The information requested would relate to measures affecting, or likely to effect the elements of the environment, namely the landscape.

### **Regulation 5(1) of the EIR – Information held/ not held**

18. 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."

19. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds any further information which falls within the scope of the request (or was held at the time of the request).
20. The Commissioner has asked the council to explain the searches it has carried out to determine that no further information is held that falls within the scope of the request.
21. The council has told the Commissioner that the clerk has carried out numerous searches on email and Dropbox, as this holds all council

documents and since the findings of the previous decision notice FER0795224<sup>1</sup>, the process of saving documents has been improved.

22. The clerk has carried out the searches because the clerk holds all copies of documents and correspondence. The neighbourhood Plan Steering Group was also contacted and it confirmed no other information was held by them.
23. The council has confirmed to the Commissioner that no information has been deleted or destroyed relevant to this request.
24. The council, in its initial response to this request, said some information was previously provided in response to the complainant's 2018 request which it provided following the decision notice FER0795224.
25. However, the complainant has stated to the Commissioner that with regards to this, in particular, he is interested in being provided with Steering Group minutes created and held that post dates his 24 August 2018 request.
26. The Commissioner has asked the council to confirm therefore that it has also focused its searches for information between 25 August 2018 up to the date of this request of 3 September 2021.
27. The council has confirmed that and told the Commissioner there were no Neighbourhood Plan Steering Group minutes created between the complainant's 2018 request and 3 September 2021.
28. The council has explained that in its January 2019 meeting it was anticipated that the steering group would "publish minutes of meetings held on the Parish website and Facebook".
29. The council added that the steering group was never formalised as anticipated at that January 2019 meeting and so the minutes of meetings were never taken by the steering group, primarily because they were not required to be taken. So instead summaries of the reports were recorded in the minutes of the council's meetings which are available on the council's website, as advised in its response to this request.
30. The council maintains that there are no further minutes and that no further information is held falling within the scope of the request.

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<sup>1</sup> [Freedom of Information Act 2000 \(Section 50\) \(ico.org.uk\)](https://ico.org.uk)

31. The Commissioner has reviewed the above, and having reviewed the previous decision notice FER0795224, can understand why the complainant would be of the view that he has not been provided with all the information requested, as that investigation brought to light further information held.
32. However, the council maintains that, in this case, it holds no further information and appears, to the Commissioner, to have carried out reasonable checks in the most relevant places to determine this.
33. On reievw of the explanantions given, the Commissioner has determined that, on the balance of probabilities, no further information is held falling within the scope of the request.

## Right of appeal

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

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

35. 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.
36. 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 .....**

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