

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 25 January 2022

Public Authority: Shropshire Council ("the Council")

Address: Shirehall
Abbery Foregate
Shrewsbury
SY2 6ND

Decision (including any steps ordered)

1. The complainant requested information from the Council relating to viability appraisals and communications relating to an affordable housing development.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 1 September 2021, the complainant wrote to the Council and requested information in the following terms:

“Could I please have a copy of:

1. The viability appraisal dated July 2021 prepared by [REDACTED] on behalf of [REDACTED]
 2. The Financial Viability Appraisal (FVA) carried out by [REDACTED]
 3. Copy of all communications between officers, officers and the applicant, and officers and members in relation to the affordable housing provision on the Shrewsbury West Urban Extension (SWSUE), to include any notes recorded from conversations”
6. The Council wrote to the complainant on 1 September 2021 to acknowledge the request.

Scope of the case

7. The complainant contacted the Commissioner 18 December 2021 to complain about the Council’s failure to respond to his request.
8. The Commissioner contacted the Council on 7 January 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. The Commissioner also contacted the complainant on 7 January 2021 to explain that the Council had been given 10 working days from 7 January 2021 within which to provide a response to their request.
10. The complainant has provided evidence that they have received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to her information request.
11. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

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

"a public authority that holds environmental information shall make it available on request."

13. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

14. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.

Right of appeal

15. 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

16. 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.
17. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF