

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 4 April 2024

Public Authority: East Lindsay District Council
Address: Tedder Hall
Manby Park
Louth
Lincolnshire
LN11 8UP

Decision (including any steps ordered)

1. The complainant has requested information relating to planning applications for a specific site. East Lindsay District Council (the Council) provided some information and stated that no further information was held.
2. The Commissioner is satisfied that, on the balance of probabilities, the Council does not hold any further information relevant to the request.
3. The Commissioner does not require further steps

Request and response

4. On 14 September 2023, the complainant wrote to the Council and requested information in the following terms:

“Please provide me with all internal emails which mention the planning applications at FORMER SAND QUARRY SITE, KIRKBY LANE, KIRKBY ON BAIN regarding the current two applications and the previous one which was withdrawn last year.

Please include emails to and from [name redacted].”

5. The Council responded on 11 October 2023, providing information falling within the scope of the request.
6. Following an internal review, the Council wrote to the complainant on 10 November 2023. It provided some further documents which had been omitted from the original response, and stated that all information falling within the scope of the request had now been provided.

Reasons for decision

Regulation 5 – duty to make environmental information available on request

7. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request.
8. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of on the balance of probabilities.
9. The complainant believes that the Council has not disclosed all the recorded information it holds. In particular they have argued that some of the email trails end abruptly, and therefore the full history of the email trail has not been provided. They also complained that not all attachments to emails were provided.
10. The Council has confirmed that, although some of the emails appear to be cut off, this is due to repeated emails being deleted. Meaning that where an email ‘chain’ has been provided once, and there has been a further reply, only the reply has been provided and not the entire email ‘chain’ again.
11. The Council also stated that due to an error in the process of converting attachments to PDFs, some were omitted from the original response but these were provided at internal review.

The Commissioner's conclusion

12. Within its submission to the Commissioner the Council has confirmed that the Head of Planning Support and the Executive Support team identified the various staff involved in the planning applications. These staff were instructed to search files and emails for information falling within the scope of the request.
13. It went on to confirm that these searches were carried out using the relevant planning application numbers and the address of the site.
14. The Commissioner is satisfied that the Council's approach to identifying the information which it holds within the scope of the request was appropriate and proportionate.
15. There is no contradictory evidence available to the Commissioner that indicates the Council's position is wrong.
16. Having considered all of the available information, the Commissioner is satisfied that, on the balance of probabilities, the council has provided all the information that it holds that is relevant to the request.

Right of appeal

17. 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

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ben Tomes
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Wycliffe House
Water Lane
Wilmslow
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SK9 5AF