

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

### **Decision notice**

**Date:** 8 April 2024

**Public Authority:** Bath and North East Somerset Council  
**Address:** Lewis House  
Manvers Street  
Bath  
BA1 1JG

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

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1. The complainant requested information from Bath and North East Somerset Council ("the Council") relating to a specific planning application and planning enforcement matter.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold further information within the scope of the request that has not already been disclosed to the complainant or withheld under an exception.
3. The Commissioner does not require the Council to take any steps.

#### **Request and response**

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4. On 2 January 2023, the complainant wrote to the Council and requested information in the following terms:

"Access is requested to all forms of media including documents, emails, notes of telephone calls and meetings in connection with Planning and Enforcement, PROW for Charmydown Barns and Charmydown Lodge at BA1 8AB between the dates of 17th August 2021 to current day.

Names of persons of interest are [multiple names redacted].

References of interest are 21/00348/UNDEV, 21/04437/FUL, 21/04438/LBA 22/01210/FUL, BA21/9, Dormie Holdings Ltd”

5. The Council responded on 31 August 2023 and provided the complainant with information falling within the scope of the request. However, it also redacted some information citing regulation 12(3) (personal data) and regulation 12(5)(b) (course of justice) of the EIR as its basis for doing so.
6. On 11 September 2023 the complainant wrote to the Council to complain about its response to the request. The Council responded on 3 October 2023 and denied holding further information that falls within the scope of the request.
7. On 18 October 2023 the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 8 November 2023 in which it again denied holding further information that falls within the scope of the request.

### **Reasons for decision**

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8. This reasoning covers whether the Council holds further information which falls within the scope of the request which has not already been disclosed to the complainant or withheld under an exception.

### **The complainant's position**

9. In their initial complaint to the Commissioner, the complainant stated that they consider the Council to hold further information which falls within the scope of their request which has not been disclosed to them or withheld under an exception. Specifically, the complainant considers the Council to hold notes from telephone calls between the Council and a planning applicant and information relating to review meetings which has not been disclosed to them.
10. The complainant stated that as the planning application referred to in their request is still live and as the Council has not taken action against the planning applicant, they expect the Council to hold information relating to a review meeting.

### **The Council's position**

11. In its submissions to the Commissioner the Council stated that with the exception of the information it has withheld under regulation 12(5)(b) and regulation 12(3) of the EIR, it has disclosed all the information it holds that falls within the scope of the request.

12. The Council explained that any information held that falls within the scope of the request would be held in council officer's email accounts and archives, shared drives, and its planning document management system which contains all formal documents associated with planning applications, enforcement cases and pre-planning applications. The Council stated that it would not hold any information falling within the scope of the request as paper records.
13. The Council explained that it has conducted searches of its planning document management system and shared drives for information falling within the scope of the request. It has also conducted searches of relevant council officer's email accounts, including the email accounts of council officers who are no longer employed by the Council, for information falling within the scope of the request. The Council stated that when conducting its searches it used the term 'Charmydown' and the relevant planning application references as search terms.
14. The Council explained that any telephone notes held that fall within the scope of the request would be held electronically and would have been located by its searches of relevant council officer email accounts, its shared drives and its document management system. It stated that it does not hold any notes relating to a case review as a case review did not take place. However, the Council considers that if any information relating to a case review was held, that information would have been located by its searches.

### **The Commissioner's position**

15. The Commissioner acknowledges that the complainant expects the Council to hold further information that falls within the scope of their request, specifically information relating to a case review meeting and telephone notes, as the planning application referred to in the request is still live.
16. However, the Commissioner is satisfied that the Council has carried out reasonable searches of its planning document management system, council officer email accounts, and shared drives for information falling within the scope of the request. He considers that when conducting its searches the Council used appropriate and relevant search terms.
17. Therefore, the Commissioner's decision is that on the balance of probabilities, the Council does not hold further information which falls within the scope of the request which has not already been disclosed to the complainant or withheld under an exception.

## **Right of appeal**

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

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

19. 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.
20. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**