

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

**Date:** 14 August 2018

**Public Authority:** Horsham District Council  
**Address:** Parkside  
Chart Way  
Horsham  
West Sussex  
RH12 1RL

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to the Wiston Estate. Horsham District Council (the council) provided some information but the complainant considered that the council held more.
2. The Commissioner's decision is that the council holds no further information falling within the scope of the request other than what it provided in its initial response.
3. The Commissioner does not require the council to take any steps.

**Request and response**

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4. On 10 October 2017 the complainant made the following request to the council:

*"Would you please let me know if the Wiston Estate or its consultants during or following the preparation of the Whole Estate Plan, consulted, contacted and/or discussed the Wiston Whole Estate Plan with individual Horsham District councillors of officers or the Council as a whole and, if so, I would like copies of correspondence (emails/letters/any other written communication) that were sent by individual councillors, officers or the Council giving the Council's opinion of the Whole Estate Plan."*

5. The council responded on the 20 October 2017. It advised the complainant that the Local Planning Authority for the Wiston Whole Estate is The South Downs National Park Authority. Therefore the council was not consulted in any formal capacity and no formal opinion on the plan was given by the council or its officers.
6. The council explained to the complainant that contact between the council and the Wiston Whole Estate Plan was limited to the following:
  - On 1 February the Neighbourhood Planning Officer and one other Planning Officer from the council met with the agent and landowner at North Farm and then at the Wiston Estate Offices to be appraised of the Wiston Estate's plans for the North Farm site only. No written comments were made.
  - Elected councillors (local ward members) were invited to an exhibition of the Plan at the Wiston Meeting Place on 27 February 2017. Two councillors of the council attended as did the Neighbourhood Planning Officer from the council. No written comments were made.
7. The council also provided a link to a timetable of the preparation of the Wiston Whole Estate Plan.
8. The complainant requested an internal review on the 28 November 2017 dissatisfied with the response provided as he considered more information would be held.
9. The council provided its internal review response on the 9 January 2018 stating that no further information is held.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 8 February 2018 dissatisfied with the amount information the council has provided him.
11. The Commissioner considers the scope of the request is to determine whether the council holds any further information falling within the scope of the request.

## Reasons for decision

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

12. Regulation 5(1) of the EIR states that "*...a public authority that holds environmental information shall make it available on request.*"
13. 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 must decide whether, on the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
14. The council has provided the Commissioner with some background information to help provide further understanding as to why it does not hold the information that the complainant has requested.
15. It has stated that the Wiston Estate is a large private landholding located in the southern part of Horsham District administrative area and falls within a number of different parish council areas. This includes the parishes of Steyning, Wiston and Washington.
16. The southernmost section of Horsham District has been designated as the South Downs National Park. Although the council retains some functions in the national park, it is not the planning authority, the South Downs National Park Authority (SDNPA) is. As many parishes, including Wiston and Washington, lie within and outside the national park, the two organisations must liaise with each other, if needed, where there are cross boundary issues.
17. The council has explained to the Commissioner that the parishes of Storrington and Sullington, and Washington are in the process of preparing a neighbourhood plan. This is the part within and outside the national park. The council is the leading planning authority in this case as most of the plan area is outside of the National Park.
18. As a result of this arrangement with the national park, officers within the council's strategic plan team have had some limited involvement with Wiston Estate during the preparation of the Wiston Estate Plan as the Wiston Estate had been promoting land for development to the Storrington & Sullington, and Washington neighbourhood plan.
19. The council has told the Commissioner that the Wiston Estate prepared its Estate Plan in its capacity as a private organisation – an Estate Plan being a document prepared by individual landowning organisations

setting out the assets of the organisations and the opportunities and threats which the organisation may encounter, as well as describing its future plans.

20. Due to the location of the Wiston Estate in the South Downs National Park, the council has advised the Commissioner that the Estate has liaised closely with the National Park and the SDNPA, in its planning capacity, has adopted the Estate Plan as a 'material consideration' when determining planning applications in its area. This was adopted by the Park Authority in July 2017.
21. With regards to the request itself, the council has told the Commissioner that it interpreted it in two parts:
  - i. To advise if Wiston Estate or its consultants during or following the preparation of the Whole Estate Plan, consulted, contacted and or discussed the Wiston Whole Estate Plan with individual Horsham District Councillors or council officers and;
  - ii. If yes, provide copies of all correspondence (emails/letter/any written communication) that was sent by individual Councillors or officers of the council giving the council's opinion of the Whole Estate Plan.
22. The council maintains that no information is held falling within the scope of the request, other than what it has provided in its initial response.
23. The council has advised the Commissioner that it contacted its Senior Neighbourhood Planning Officer in its Strategic Planning Team to determine if any information was held falling within the scope of the request.
24. The council has told the Commissioner that this officer was the most appropriate officer to contact as it was known by the council that the Wiston Estate Plan has had very little direct impact on it as a whole and there has been limited officer involvement.
25. The Senior Neighbourhood Planning Officer was asked to assist with the Storrington and Washington neighbourhood plan including to look at North Farm, located on the Wiston Estate. As this request related specifically to neighbourhood planning, there was no need to approach other areas within the council.
26. The council has stated that if any information falling within the scope of the request was held, it would be held electronically and the Senior Neighbourhood Planning Officer ran an email search using the key word "Wiston Estate Plan". None of the email results that came back

contained any record '*giving the Council's opinion of the Whole Estate Plan*'

27. The council has confirmed to the Commissioner that no information has been deleted or destroyed relevant to the request. It has explained that prior to the now Senior Neighbourhood Planning Officer, the previous post holder used the departmental electronics records system to store correspondence in relation to Neighbourhood Plans and any associated work. No further files have been located and the council's IT department has searched the archived records and no information was found.
28. The council has told the Commissioner that the neighbourhood planning process falls within a statutory legislative framework. It is therefore required to retain information it creates in relation to 'live' neighbourhood plans.
29. On review of the above, the Commissioner can see why the complainant would expect the council to hold information within the scope of his request, however, from the council's explanations, there are several authorities involved in the overall neighbourhood plan and different authorities oversee different aspects.
30. The council has confirmed that it has had some contact with the Wiston Estate but, due to its location within the national park it says that the main planning authority for the Wiston Estate is the SDNPA not the council; which is why it (the council) has had limited involvement with this aspect.
31. Although it has stated that it has had some contact with the Wiston Estate, outlined in its initial response to the request, the council maintains no written comments were made during this contact.
32. As the council has confirmed this with its main officer in its Strategic Planning Team who has also advised there has only been limited involvement with the Wiston Estate during the preparation on the Wiston Estate Plan, and relevant searches have been carried out to look for any further information. The Commissioner finds, on the balance of probabilities, that the council does not hold any further information falling within the scope of the request.

## Right of appeal

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33. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

34. 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.
35. 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 .....**

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