

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 4 March 2021

Public Authority: Fareham Borough Council

Address: Civic Offices
Civic Way
Hampshire
PO16 7AZ

Decision (including any steps ordered)

1. The complainant requested information regarding planning permission relating to a specific house.
2. The Commissioner's decision is that Fareham Borough Council ("the Council") has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. As a response has now been provided to the complainant, the Commissioner does not require the Council to take any further steps in relation to this request.

Request and response

4. On 22 February 2021, the complainant wrote to the Council and requested information in the following terms:

"Please provide all information relating to planning permission & building regulation applications & documentation relating to [address redacted] during the period 1st January 1937 to 22nd February 2020."

5. The Council acknowledged the request on 24 February 2020, finally issuing a response on 13 November 2020.
6. The complainant does not wish to challenge the content of the response, only complain about the timeliness of the response.

Scope of the case

7. The complainant contacted the Commissioner on 22 January 2021 to complain about the failure, by the Council, to respond to the request within a timely manner.
8. The complainant contacted the Commissioner on 4 February 2021 to request a decision notice considering the Council's compliance with the EIR.
9. The scope of the following analysis is to determine whether the Council complied with regulation 5(2) of the EIR.

Reasons for decision

10. Regulation 2(1) of the EIR defines environmental information as being information on:
 - (a) *the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*
 - (b) *factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*
 - (c) *measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;*
 - (d) *reports on the implementation of environmental legislation;*

- (e) *cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and*
 - (f) *the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);*
11. The Commissioner has not seen the requested information but, as it is information relating to planning , she believes that it is likely to be information on "measures" as referred to in regulation 2(1)(c). For procedural reasons, she has therefore assessed this case under the EIR.
 12. Regulation 5(1) states that: "*a public authority that holds environmental information shall make it available on request.*"
 13. Regulation 5(2) states that such information shall be made available "*as soon as possible and no later than 20 working days after the date of receipt of the request.*"
 14. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
 15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council breached regulation 5(2) of the EIR.

Right of appeal

16. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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
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Cheshire
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