

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 May 2021

Public Authority: Witherley Parish Council
Address: Cool Hill Farm
Sibson Rd
Sheepy Parva
Atherstone
CV9 3RE

Decision (including any steps ordered)

1. The complainant requested information from Witherley Parish Council ("the Council") relating to the Council's Neighbourhood Development Plan. By the date of this notice the Council had not provided a substantive response to the request.
2. The Commissioner's decision is that Council has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
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 FOIA.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 11 February 2021, the complainant wrote to the Council and requested information in the following terms:

"Given the late publication of the NDP Steering Group Minutes please treat this E Mail as a further Freedom of Information Request relating to the draft NDP. Please provide the following –

Copies of the minutes of the Steering Group meetings minutes on the 11th Sept 17, March 2018 and 16th Dec 19. These do not appear to have been added to the NDP website.

Clarify of the content of the minutes dated 17th June 19 where Cllr Conway is referred to as a member of the E&H Group. My understanding was he was a member of the Housing Group only.

In the Steering Group minutes dated 9th and 15th July 2019 reference is made to the HS Land proposal. Please clarify why this proposal was not included in the draft NDP given that other discounted pieces of land are included in the draft.

Electronic responses to the above are acceptable."

6. The Council wrote to the complainant on 11 February 2021 to acknowledge the request. By the date of this notice the Council has not provided the complainant with a substantive response to her request.

Scope of the case

7. The complainant contacted the Commissioner 15 March 2021 to complain about the Council's failure to respond to her request.
8. The Commissioner contacted the Council on 9 April 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 9 April 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
10. The complainant has provided evidence that she has 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 section 10 of the FOIA.

Reasons for decision

12. Section 10 of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) To be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) If that is the case, to have that information communicated to him.*

13. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

15. 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 section 10 of the FOIA.

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@justice.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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF