

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 April 2014

Public Authority: Warwick District Council
Address: Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

Decision (including any steps ordered)

1. The complainant has requested the release of redacted information relating to a previous request considered under the Environmental Information Regulations (EIR). By the date of this notice Warwick District Council had yet to provide a substantive response to this request. The Commissioner's decision is that Warwick District Council breached regulation 5(2) of the EIR in that it failed to provide a response to the request within 20 working days.
 2. The Commissioner requires Warwick District Council to take the following steps to ensure compliance with the legislation:
 - Issue a response to the request under the EIR by either complying with regulation 5(1) or issuing a valid refusal notice.
 3. The public authority 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.
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Background

4. On 19 September 2011 the Commissioner issued a Decision Notice under the case reference FS50364562 regarding a request for information relating to discussions on the subject of plans to build a hotel and the extension to a conservation area.
5. Warwick District Council had disclosed some information in response to the request, but the Commissioner found that the exceptions at regulations 12(5)(b) and 12(5)(e) were engaged in relation to some information. He also found that the public interest favoured maintaining the exceptions.

Request and response

6. On 14 November 2013, the complainant wrote to Warwick District Council and requested information in the following terms:

"I request that Warwick District Council now release previously redacted information relating to and detailed in

http://ico.org.uk/~media/documents/decisionnotices/2011/fs_50364562.ashx

I note that given the passage of time and the fact that the planning application by Warwick Racecourse has been determined by WDC and that there is no current planning application for a similar hotel on this site; that the reasons for redacting information previously requested presumably no longer apply?"

7. Having received neither an acknowledgement nor a response, the complainant wrote to Warwick District Council again on 14 December 2013 requesting an acknowledgement and asking that it disclose the requested information or provide a reason for refusing to do so.

Scope of the case

8. The complainant contacted the Commissioner on 16 January 2014 to complain about the way his request for information had been handled and in particular the lack of either an acknowledgement or a response.

9. The Commissioner wrote to Warwick District Council on 28 January 2014 asking for a response to be issued within 10 working days. In the absence of any response, the Commissioner wrote again on 19 February 2014 advising that the complaint would be investigated.
10. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

11. In the Decision Notice for the previous case FS50364562 the Commissioner found that the withheld information was environmental information because it was information on plans which were likely to affect an element of the landscape. Therefore he considers that this request is a request for environmental information.
12. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available upon request.
13. Regulation 5(2) states that a public authority should make the information available promptly and in any event not later than the twentieth working day following the date of receipt of the request.
14. From the information provided to the Commissioner it is evident that Warwick District Council did not respond to the complainant within the statutory timeframe in respect of this request.
15. The Commissioner's decision is that Warwick District Council did not deal with the request for information in accordance with the EIR. It breached regulation 5(2) of the EIR by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. As it has still not responded to the request, Warwick District Council is now formally required by the Commissioner to respond to the request of 14 November 2013.

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: 0116 249 4253

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

Alexander Ganotis
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