

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

### **Decision notice**

**Date:** 1 December 2021

**Public Authority:** Waverley Borough Council

**Address:** The Burys  
Godalming  
Surrey  
GU7 1HR

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

---

1. The complainant requested information from Waverley Borough Council (the Council) about meetings held and discussions between council officers and a specific Councillor regarding land owned by their client, and a planning application. By the date of this notice the Council has not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR, in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - the Council must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The Council must take this step 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 October 2021, the complainant wrote to the Council and requested information in the following terms:

*"As you are aware, we act for (name redacted).*

*We write pursuant to the Freedom of Information Act and the Environmental Information Regulations to request the following information.*

### **1. Follow Up from Previous FOI Request and Response**

*Thank you for the response to our Freedom of Information Request which was submitted on 6 April 2021. The Council's FOI Response was received on 5 October 2021.*

*It appears that the FOI Response only covers information up to the date of our request rather than the date of the Council's Response (i.e. none of the information postdates 6 April 2021).*

*Therefore, in accordance with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, we formally request the information requested in our letter of 6 April 2021 for the period between 6 April 2021 and the date of the Council's Response to this request.*

*In addition, in the Council's FOI Response of 5 October 2021, some redaction has been carried out. In the main, this appears to be aimed at protecting the identity of individuals. However, in some cases, the redaction obliterates entire paragraphs. For example, an entire paragraph has been redacted on page 190 of the Bundle.*

*Please confirm the exemption with the Council considers applies to the withholding of the information contained in this paragraph.*

### **2. New Request for Information**

*Please provide the following information:*

- *All meeting notes, attendance notes and correspondence (including emails) to and from Officers of the Council and from and to Officers and Cllr (name redacted) regarding:*

*o the allocation and/or de-allocation of our client's land known as the (name redacted) (also known as (redacted) in respect of (redacted); or*

*o planning application reference (redacted).*

*We appreciate that this covers a significant range of information. Therefore, in order to reduce the burden on the Council we would ask for any such notes and/or correspondence dated between 28 November 2019 and the date of the Council's response to this request and with particular focus on the following Officers:*

*o (name redacted)*

*o (name redacted)*

*o (name redacted)*

*o (name redacted)".*

6. The Council acknowledged the request on 12 October 2021. To date, a substantive response to the request has not been issued.

### **Scope of the case**

---

7. The complainant contacted the Commissioner on 11 November 2021 to complain about the Councils failure to respond to their request.
8. The Commissioner contacted the Council on 15 November 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 15 November 2021 to explain that the Council had been given 10 working days from 15 November 2021 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 Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

## Reasons for decision

---

12. Regulation 5(1) of the EIR states that:

*"a public authority that holds environmental information shall make it available on request."*

13. Regulation 5(2) of the EIR states that:

*"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."*

14. 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 regulation 5(2) of the EIR.

## Right of appeal

---

15. 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)

16. 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.
17. 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 .....**

**Mike Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**