

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

**Decision notice**

**Date:** 14 August 2017

**Public Authority:** Stockport Metropolitan Borough Council  
**Address:** Ponsonby House  
Edward Street  
Stockport  
Cheshire  
SK1 3UR

**Decision (including any steps ordered)**

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1. The complainant has requested that a Decision Notice be issued against Stockport Metropolitan Borough Council ("the Council") in respect of its breaching the time for compliance set out in regulation 5(2) of the EIR.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.
3. The Commissioner doesn't require any steps to be taken as a result of this notice.

**Request and response**

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4. On 27 February 2017, the complainant wrote to the Council and requested information in the following terms:

*"In light of this planned facility being located close to the two nurseries mentioned above and Parrs Wood High School, and bearing in mind the report into Toxic schools by Sadiq Khan Mayor of London on 24.02.17 and the knowledge that air pollutants are killing many thousands in the UK each year, can you please provide the following information?"*

*1. Please supply a copy of a Health Impact Assessment for this application. If one does not exist could you proffer a reason as to why*

*one does not exist?*

*2. Can you confirm this application does not breach the clean air act?*

*3. Can you confirm this application does not breach AQMA?*

*4. Can you confirm that the application does not breach Stockport's Joint Health and Well Being Strategy 2017-2020?*

*5. Can you please confirm that the application conforms to the The Air Quality Strategy for England, Scotland, Wales and Northern Ireland?*

*6. Can you please confirm and provide evidence from any of the reports accompanying the application to you that the emissions of Nitrogen Dioxide and Sulphur Dioxide from the planned production facility will not breach the EU regulations for Air Quality Standards in relation to concentrations (C), averaging periods (AP) and permitted exceedances (PE) each year? For assistance, they are as follows: -*

*Particulate (C) (AV) (PE)*

*Nitrogen dioxide (NO<sub>2</sub>) 200 µg/m<sup>3</sup> 1 hour 18*

*40 µg/m<sup>3</sup> 1 year n/a*

*Sulphur dioxide (SO<sub>2</sub>) 350 µg/m<sup>3</sup> 1 hour 24*

*125 µg/m<sup>3</sup> 24 hours 3*

*7. Can you please supply a copy of the transport statement and or assessment and if neither exist could you please proffer a reason why they do not exist?*

*8. The authority has accepted documentation in the application which wrongly refers to superseded planning policy. Could you please explain why?*

*9. Members of the Planning and Highways Committee wrongly deferred the matter from the meeting of the planning and highways committee of 16.02.17, without any public vote and without any open debate. Can you please explain the legality for that decision and the rationale?*

*10. As the P&H committee have now requested significant extra information which involves significant amendments to the application, can you state whether this application will go out for further consultation and whether if it does that consultation will only mirror the statutory minimum so far employed by the authority?*

*11. From your Statement of Community Involvement (SCI) dated October 2015, you have a duty to cooperate and consult with bordering authorities for an application of this nature. Can you please provide evidence that you did do this with Manchester City Council or provide an explanation based on your SCI why you did not?*

*12. Has MP Ann Coffey made representations to the council with reference to this application and if yes please give details and copies of her correspondence between Ms Coffey and yourselves?*

*I very much look forward to the above information within the 20 working day statutory allowance or ideally may I request it in a shorter time as it is known that you are likely to make a planning decision within 20 working days. Whilst the FOI is mainly about information that exists, the*

*act and guidance also states that it is helpful where the authority feels the information does not exist to assist requestors in business as usual questions. I have ensured that I have kept the information I require to a minimum to assist, in terms of the time you will need to complete and well within the cost constraints of section 12 of the act."*

5. On 30 March 2017, the complainant wrote to the Council again and requested an update.
6. The Council responded on 19 April 2017. It stated that it did not have the requested information.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 6 April 2017 to complain about the way his request for information had been handled.
8. The Commissioner considers that the scope of the case has been to consider whether the Council dealt with this request in accordance with its obligations under regulation 5 of the EIR.

### **Reasons for decision**

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9. Regulation 5(2) of the EIR states that a public authority should respond to any person requesting information as soon as possible and no later than 20 working days after the date of receipt of the request.
10. From the information provided to the Commissioner it is evident that the Council did not respond to the complainant within the statutory timeframe in respect of his complaint: the complainant submitted his request on 27 February 2017 and only received a response on 19 April 2017.

## **Conclusion**

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11. The Commissioner's decision is that the Council did not deal with the request for information in accordance with the EIR. In this case the Council has breached regulation 5(2) of the EIR by failing to provide the complainant with a response within the statutory time limit.

## Right of appeal

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12. 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)

13. 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.
14. 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** .....

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