

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

### **Decision notice**

**Date:** 24 June 2020

**Public Authority:** South Cambridgeshire District Council  
**Address:** Cambourne Business Park  
Cambourne  
Cambridge  
CB2 4BG

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

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1. The complainant has requested information regarding an outline application for the building of nine dwellings. South Cambridgeshire District Council answered some questions. It also explained that it did not hold some of the requested information, citing regulation 12(4)(a) (information not held at the time of the request) of the EIR.
2. The Commissioner's decision is that South Cambridgeshire District Council has relied on regulation 12(4)(a) of the EIR in relation to some of the requested information, appropriately. The Commissioner considers that in relation to a requested report, South Cambridgeshire District Council was not correct to state, on the balance of probabilities, that it does not hold some additional information. The Commissioner also considers that the council has breached regulation 5(2) (Duty to make available environmental information on request), 11(4) (Representations and reconsideration) and 9(1) (Advice and assistance) of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - To reconsider whether it holds the requested report in relation to question 17(2) of the request. If it does, to either disclose it to the complainant or explain which exception(s) it is relying on.

4. South Cambridgeshire District 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**

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5. On 10 February 2019 the complainant wrote to South Cambridgeshire District Council (the council) and requested information in relation to an outline application for the building of nine dwellings. Please see attached redacted copy of the full request.
6. The council responded on 19 March 2019. It refused to comply with the request, citing regulation 12(4)(b) (the request for information is manifestly unreasonable) of the EIR.
7. Following an internal review the council wrote to the complainant on 12 July 2019. It answered some questions, applied regulation 12(3) personal data of the EIR where the requested information was personal data and regulation 12(4)(a) (information not held) where it did not hold any recorded information. The council also explained that it had not answered questions that it considered were not requests for recorded information e.g. opinions.

## **Scope of the request**

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8. The complainant contacted the Commissioner on 2 August 2019 to complain about the way his request for information had been handled. He explained that he considered that the council had not answered the questions in his request and that all of the requested information should be disclosed. He also considers that the requested information should have been dealt with under the Freedom of Information Act 2000 (the FOIA), not the EIR.

Having considered the information provided by the complainant, the Commissioner noted that the complainant had confirmed to the council that he accepted some of its answers. She contacted the complainant to clarify which questions he was complaining about. The complainant confirmed that the following questions, remained outstanding:

*2.2-2.4; 3.1-3.1.4;4.1.1-4.1.4;12.2 -12.6;13-19;20.4-20.6;20.7-20.10;21.1;21.1.5-6;22.1-2;23.1-4;26;29-31;32.1-2;33.1-4;34.1-5;34.7;35.1;36.1-3.*

9. During the Commissioner's investigation, the council provided the complainant with an amended response on 20 January 2020 (the amended response) to his request. The complainant remained dissatisfied following the council's amended response and identified the following questions as outstanding:

*3.1-3.1.4; 4.1-4.1.4 and 4.1.6; 5.1;5.3-5.9;6.1-6.2;7.1-7.2;8;9;10.1-10.2;17.1-17.3;18;26.1-26.2;31.1.*

10. The Commissioner notes that there is no question 5.9 and contacted the complainant about this. He withdrew his complaint about that. The Commissioner also notes that in the complainant's response to the council's amended response, he confirmed that he did not want the council to respond to questions 5.1 or 5.8. The Commissioner will not consider these questions any further.
11. The complainant also explained to the Commissioner that in relation to questions 17.2-17.3 the council had referred him to its response to question 2.1 which was: "Please see attached – 4734 redacted responses." The complainant explained that he considered that referring him to the response to question 2.1 did not answer questions 17.2 and 17.3.
12. The Commissioner asked the council about this and it explained that it considered that the redacted information was third party personal data.
13. The council explained that it did not hold any further information in relation to questions 17.2-17.3.
14. The complainant did not complain about the council redacting any personal data.
15. The Commissioner will therefore consider how the council dealt with the following outstanding questions:
- 3.1-3.1.4;4.1-4.1.4;4.1.6;5.3-5.7;6.1-6.2;7.1-7.2;8;9;10.1-10.2;17.1-17.3;18;26.1-26.2;31.1.*
16. She will also consider how the council dealt with the request generally under the EIR, including the length of time taken to deal with it.

### **Reasons for decision**

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17. The complainant considers that his request should be dealt with under the FOIA.

### **Is the requested information environmental?**

18. 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);*

19. The Commissioner considers that any information within the scope of the request would be information relating to the outline application for the building of nine dwellings. She considers that it would be likely to be information about "measures" affecting the elements of the environment, and therefore would be environmental information under regulation 2(1)(c). She is therefore satisfied that the council was correct to deal with the outstanding questions under the EIR.
20. The Commissioner will therefore consider how the council dealt with the outstanding questions under the EIR, including the time taken to deal with it.

### **Responses provided**

21. The complainant has complained that the council did not answer all of his questions and that he considers that all of the requested information should be disclosed. The Commissioner notes that initially the council

claimed regulation 12(4)(b), so did not comply with the request. However, when it carried out an internal review, the council answered the request. The Commissioner will not consider its application of regulation 12(4)(b) any further.

22. The council provided responses to the following questions:

*3.1-3.1.4; 4.1; 4.1.1- 4.1.4; 4.1.6 5.3; 5.5-5.7; 17.1-17.3*

23. The Commissioner does not have the remit under the EIR to investigate whether the responses to questions are accurate or not. However, the council did not answer these questions until the internal review. The Commissioner notes that the council took longer than 20 working days to answer these questions. She will deal with this in her consideration of regulation 5(2) (Duty to make available environmental information on request) of the EIR.

### **Non-responses**

24. The complainant also explained that the council had not responded to the following outstanding questions:

*5.4;6-6.2;7.2;8;10.1-10.2;18;26.1-26.2;31.1*

25. The Commissioner has considered whether these questions have been answered.

26. In relation to 5.4;6;10.1-10.2;26.1-26.2: The Commissioner notes that 6 is a statement rather than a question, but that 6.1 is a question. She will therefore consider whether the council has answered question 6.1, rather than question 6. The council did not answer these questions until its amended response. The Commissioner notes that the council took longer than 20 working days to answer these questions. She will deal with this in her consideration of regulation 5(2).

27. In relation to questions 18 and 31.1: the council did not respond to these questions until the Commissioner's investigation. The Commissioner notes that the council took longer than 20 working days to answer these questions. She will deal with this in her consideration of regulation 5(2).

28. In relation to questions 6.2 and 8: the council did not respond to these questions. The Commissioner will deal with this in her consideration of regulation 5(2).

29. During the Commissioner's investigation however, the council explained that it did not hold information in relation to these two questions. The Commissioner will deal with this in her consideration of regulation 5(2).

The Commissioner will also consider whether the council holds the requested information or not in her consideration of regulation 12(4)(a) (information not held at the time of the request) of the EIR.

30. In relation to question 17.1: the council did not respond to this question until its internal review. The Commissioner notes that the council took longer than 20 working days to respond to this question. She will deal with this in her consideration of regulation 5(2). During the Commissioner's investigation, the council explained that it did not hold any additional information. The Commissioner will consider whether the council holds any additional information in her consideration of regulation 12(4)(a).
31. In relation to questions 17.2 and 17.3: in its internal review, the council referred the complainant to its response to question 2.1. The Commissioner notes that the council took longer than 20 working days to answer these questions. She will deal with this in her consideration of regulation 5(2). During the Commissioner's investigation, the council explained that it did not hold any additional information. The Commissioner will consider whether the council holds any additional information in her consideration of regulation 12(4)(a).

### **Regulation 5 – Duty to make available environmental information on request**

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

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

33. 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."*

34. The request for information was received on 10 February 2019. The council did not respond to the request until 19 March 2019, citing regulation 12(4)(b). The Commissioner considers that the council has breached regulation 5(2) as it did not respond to the request within 20 working days after receipt.
35. Furthermore, in relation to questions 3.1–3.1.4; 4.1; 4.1.1- 4.1.4; 4.1.6; 5.3;5.5-5.7; 7.1; 9; 17.1-17.3 the council did not respond until the internal review.
36. In relation to questions 5.4; 6.1; 7.2; 10.2 and 26.1-26.2 the council did not respond until its amended response of 20 January 2020.

37. In relation to questions 18 and 31.1 the council did not respond until the Commissioner's investigation.
38. The Commissioner therefore considers that the council has breached regulation 5(2) as it took longer than 20 working days to respond to questions set out in paragraphs 35-37.
39. In relation to questions 6.2 and 8: the council did not respond to these questions. The Commissioner considers that the council has breached regulation 5(2) as it did not respond to these questions.

### **Regulation 11 – Representations and reconsideration**

40. The complainant requested an internal review on 10 April 2019. The council responded on 17 July 2019.
41. Regulation 11(4) of the EIR provides that -  
  
*"A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations."*
42. The Commissioner considers that the council has breached regulation 11(4) as it took longer than 40 working days to respond to the request for an internal review.

### **Regulation 9 – Advice and assistance**

43. The complainant complained about the links provided by the council, in relation to questions 7.1 and 9.
44. Regulation 9(1) of the EIR provides that -  
  
*"A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants."*
45. In relation to question 7.1: the council responded to this question in its internal review. However, during the Commissioner's investigation it provided assistance to the complainant, confirming that the extract in question was from a document called 'Councils Constitution' and provided him with a link to it. The council also clarified that page 64 sets out the Scheme of Delegation for planning applications. The Commissioner considers that the assistance provided to the complainant by the council during her investigation should have been provided in its original response to question 7.1. She therefore considers that the council has breached regulation 9(1).

46. In relation to question 9: the council responded to this question in its internal review. The complainant explained that he was dissatisfied with the link provided as it did not direct him to a document that answered his question. During the Commissioner's investigation the council provided the complainant with assistance locating the requested reports. The Commissioner considers that this assistance should have been provided in its original response to question 9. She therefore considers that the council has breached regulation 9(1).

### **Regulation 12(4)(a) – information not held at the time of the request**

47. During the Commissioner's investigation, the council explained that it did not hold information in relation to question 6.2: *"Please provide copies of email correspondence between [name redacted] and [name redacted] from 1st March to 25th March 2017. If none, please state that to be the case."*
48. Regulation 12(4)(a) provides that –
- "For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –*
- (a) it does not hold that information when an applicant's request is received".*
49. In cases where a dispute arises over the extent of the recorded information held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments.
50. She will also consider the actions taken by the public authority to check whether the information is held and any reasons offered by it to explain why the information is not held.
51. The Commissioner is required to make a judgement on whether, on the balance of probabilities, the requested information is held or not.
52. The Commissioner asked the council what searches it had carried out. The council explained that it had searched its archive emails via its 'mimecast' system, which allows searching of its whole email system current and historic. The council also explained that a variety of search terms were used, including; dates, names, and subject matter.
53. The Commissioner also asked if any searches included electronic data, to explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails. The council explained that its email archive holds all organisational emails that would be in its mail



boxes. It also confirmed that there are no separate local mail boxes. Staff personal drives and IT accounts are deleted 3 months after employees leave the council.

54. In addition, the Commissioner asked if searches included electronic data, which search terms were used. The council explained that it had used the following search terms: '[name redacted]', '[name redacted]', 'Planning committee', 'Longstanton, Mills Lane'. The council also explained that its search engine takes each search term as an individual word and will search 'to', 'from', 'body', 'subject' and 'content' for any of the words sought. The council also explained that the searches were undertaken with and without the specified time frame '1st to 25th March 2017'.
55. The Commissioner also asked if the information was held, would it be held as manual or electronic records. The council confirmed that it would be electronic. Additionally, the Commissioner asked was any recorded information ever held relevant to the scope of the complainant's request but deleted or destroyed. The council explained that this was unknown as individuals working for it have control over their own mailbox content.
56. The Commissioner asked what the council's formal records management policy says about the retention and deletion of records of this type. She also asked that if there is no relevant policy, could the council describe the way in which it has handled comparable records of a similar age. The council explained that as email is considered as transient information and as a communication tool, it is not managed as a separate data set. It also confirmed that any relevant emails relating to a council matter are held on the relevant formal file in the relevant system, e.g. planning, housing or council tax.
57. The Commissioner also asked whether there is a business purpose for which the requested information should be held and if so, what was that purpose. The council explained that if deemed relevant to a business matter, officers will place the material on to the relevant organisational file.
58. The Commissioner also asked whether there were any statutory requirements upon it to retain the requested information. The council confirmed that there were not, explaining that it is not a statutory duty for it to retain all email correspondence.
59. Taking everything into account, the Commissioner does not consider that there is any evidence that show that the council holds the emails in relation to question 6.2 of the request.

60. The Commissioner is therefore satisfied that, on the balance of probabilities, the council does not hold any recorded information in relation to question 6.2 of this request and that regulation 12.(4)(a) is engaged.
61. Regulation 12(4)(a) is subject to the public interest test. However, the Commissioner considers this is an unnecessary exercise where she has found that a public authority did not hold the requested information at the time of the request. The Commissioner cannot consider the public interest factors for and against disclosure when she has found that there is no recorded information held for potential disclosure.
62. Taking the above into account, the Commissioner does not consider that there is a breach of regulation 12(4)(a).
63. During the Commissioner's investigation, the council explained that it did not hold information in relation to question 8: *"Please provide a copy of the email messages passing between [name redacted] and [name redacted] between September 2016 and May 2017, in which the words "Mills Lane" appear. Reason: to identify the involvement of [name redacted] or alternatively the absence of the supervision he should have provided."*
64. As explained above, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any reasons offered by it to explain why the information is not held.
65. The Commissioner is required to make a judgement on whether, on the balance of probabilities, the requested information is held or not.
66. As with the response to question 6.2, the Commissioner asked the council what searches it had carried out to locate information within the scope of question 8. The council provided the same explanations for question 8 as for question 6.2, which can be found above at paragraphs 53 to 59. The Commissioner will not repeat those here. However, she notes that the council explained that it had used the following search terms: [name redacted], [name redacted], 'Mills Lane'. The council also explained that its search engine takes each as an individual word and will search 'to', 'from', 'body', 'subject' and 'content' for any of the words sought. The council also explained that the searches were also undertaken with and without the specified time frame September 2016 to May 2017.
67. Taking everything into account, the Commissioner does not consider that there is any evidence that show that the council holds the emails in relation to question 8 of the request and that regulation 12(4)(a) is engaged.

68. As explained in paragraph 61, regulation 12(4)(a) is subject to the public interest test. However, the Commissioner considers this is an unnecessary exercise where she has found that a public authority did not hold the requested information at the time of the request. The Commissioner cannot consider the public interest factors for and against disclosure when she has found that there is no recorded information held for potential disclosure.
69. The Commissioner is therefore satisfied that, on the balance of probabilities, the council does not hold any recorded information in relation to question 8 of this request. Accordingly, she does not consider that there is a breach of regulation 12(4)(a).
70. During the Commissioner's investigation, the council explained that it did not hold information in relation to questions 17.1: "the Council's instructions to her to prepare her report" and any further information in relation to question 17.2: "her report and covering letter as they were received by the Council."
71. The council explained that the member of staff concerned is a conservation officer. It is part of her role to produce an officer report which collates consultee comments in the Delegation Report for the Planning Committee at which planning decisions are made. The conservation officer produced a report for this planning matter which is available on the council's website. It also confirmed that the complainant had a copy of that report.
72. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any reasons offered by it to explain why the information is not held.
73. The Commissioner is required to make a judgement on whether, on the balance of probabilities, the requested information is held or not.
74. The Commissioner asked the council what searches it had carried out. The council explained that all planning files, committee meeting minutes, agendas and papers were searched and confirmed that no request for a report was found or that no covering letter had been found.
75. The council also explained that all material relating to a planning matter will be retained in the relevant planning file; no other areas would hold any material relevant to a planning matter. The Commissioner asked the council if searches carried out included electronic data, to explain whether any search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.

76. The council explained that any material used or considered for formal decision making is available on the relevant file; committee meeting minutes and papers being widely available for decision making processes. Additionally, the Commissioner asked the council if searches included electronic data, which search terms were used. It explained that it had used the following search terms: 'report' and [name redacted] but no information was found. The council also explained that its search engine takes each as an individual word and will search 'to', 'from', 'body', 'subject' and 'content' for any of the words sought. It explained that the searches were also undertaken without the specified time frame.
77. The Commissioner also asked if the information was held, would it be held as manual or electronic records. The council confirmed that it would be held electronically. In addition, the Commissioner asked whether any recorded information ever held within the scope of the complainant's request had been deleted or destroyed. The council confirmed that nothing had been deleted or destroyed within the scope of the request.
78. Furthermore, the Commissioner asked whether there was a business purpose for which the requested information should be held and if there was, what the purpose would be. The council confirmed that there was a business purpose for it to hold the requested information. It explained that internal officer and delegation reports are collated and provided to the planning committee for planning decision making purposes.
79. The Commissioner also asked whether there any statutory requirements upon the council to retain the requested information. The council confirmed that there was. It confirmed that planning files are retained indefinitely as planning decision making is a statutory responsibility of the authority.
80. The Commissioner notes that the council has explained that it does not hold the requested information in relation to questions 17.1 and does not hold any additional information in relation to 17 2.
81. In relation to the explanations provided in relation to question 17.1, the Commissioner considers that, on the balance of probabilities, there is no evidence to show that the council holds the requested information and therefore regulation 12(4)(a) is engaged. She also considers that in relation to question 17(2) and the requested cover letter, on the balance of probabilities, there is no evidence to show that the council holds the cover letter and therefore regulation 12(4)(a) is engaged.
82. As explained above, regulation 12(4)(a) is subject to the public interest test. However, the Commissioner considers this is an unnecessary exercise where she has found that a public authority did not hold the requested information at the time of the request. The Commissioner

cannot consider the public interest factors for and against disclosure when she has found that there is no recorded information held for potential disclosure.

83. In relation to the explanations provided by the council in relation to question 17.2 in relation to the requested report, the Commissioner considers that, on the balance of probabilities, the council is not correct to state that it does not hold this report.
84. Taking the above into account, the Commissioner is satisfied that regulation 12(4)(a) has been applied appropriately in relation to question 17.1. She also considers that regulation 12(4)(a) has been applied appropriately in relation to the covering letter requested in question 17.2.
85. However, in relation to the requested report in question 17.2, the Commissioner notes that the council has confirmed that the report in question is "freely available" on its website. Given that question 17.2 asks for a copy of that report, the Commissioner considers that, on the balance of probabilities, the council is not correct to state that it does not hold it.
86. The Commissioner requires the council to take the following steps to ensure compliance with the legislation. Issue a fresh response to the complainant in relation to the part of question 17.2 that asks for a copy of the report.
87. The council also explained that it did not hold any additional information in relation to question 17.3: "her subsequent correspondence with [name redacted] between October and January 2017."
88. As explained above, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the public authority to check whether the information is held and any reasons offered by it to explain why the information is not held.
89. The Commissioner is required to make a judgement on whether, on the balance of probabilities, the requested information is held or not.
90. As with questions 6.2 and 8, which were also concerned with correspondence between named officers, the Commissioner asked the council the same questions regarding the searches it undertook for information within the scope of question 17(3). The council provided the same explanations as those given in response to question 6.2 and 8 and detailed at paragraphs 53 to 59. The Commissioner will therefore not repeat those here. However, the Commissioner notes that the council had used the following search terms: [names redacted], 'Planning committee', 'Longstanton, Mills Lane'. The council also explained that its

search engine takes each as an individual word and will search 'to', 'from', 'body', 'subject' and 'content' for any of the words sought. It explained that the searches were also undertaken with and without the specified time frame of '1st October 2016 to 31 January 2017'.

91. Taking the above into account, the Commissioner is satisfied that there is no evidence to show that the council holds the requested additional information. She therefore considers that regulation 12(4)(a) is engaged.
92. As explained above, regulation 12(4)(a) is subject to the public interest test. However, the Commissioner considers this is an unnecessary exercise where she has found that a public authority did not hold the requested information at the time of the request. The Commissioner cannot consider the public interest factors for and against disclosure when she has found that there is no recorded information held for potential disclosure.
93. The Commissioner is therefore satisfied that, on the balance of probabilities, the council does not hold any additional information in relation to question 17.3. Accordingly, she does not consider that there is a breach of regulation 12(4)(a).
94. The Commissioner uses intelligence gathered from individual cases to inform her insight and compliance function. This aligns with the goal in her draft "Openness by design"<sup>1</sup> strategy to improve standards of accountability, openness and transparency in a digital age. The Commissioner aims to increase the impact of EIR enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in her "Regulatory Action Policy"<sup>2</sup>.

## Other matters

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95. The Commissioner notes that the council did not respond to some of the questions initially, explaining that it considered that they were asking for opinions. In her guidance on the EIR on her website<sup>3</sup>, the Commissioner explains that a request does not have to specify or describe the information. Any clear sign that someone wants environmental information is likely to count as a request under the EIR, even if a public authority is not sure exactly what information is being requested. In line

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<sup>1</sup> [https://ico.org.uk/media/about-the-ico/documents/2615190/openness\\_by\\_-design\\_strategy\\_201906.pdf](https://ico.org.uk/media/about-the-ico/documents/2615190/openness_by_-design_strategy_201906.pdf)

<sup>2</sup> <https://ico.org.uk/media/about-the-ico/documents/2259467/regulatory-action-policy.pdf>

<sup>3</sup> <https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/receiving-a-request/>

with regulation 9 (advice and assistance), the Commissioner would expect a public authority to contact the requester to clarify the request if it was unsure what was being requested. This can help to avoid confusion as has been evident in this case with answers provided and information disclosed over a prolonged period.

96. The complainant has expressed his dissatisfaction with the fact that the council had disclosed further information to him and considered that it was not the Commissioner's role to facilitate this. However, if during the Commissioner's investigation there is information that can be disclosed to the requester, the Commissioner considers that this should be done.

## Right of appeal

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97. 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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

98. 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.

**Signed .....**

**Laura Tomkinson**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**



**Annex**

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The request in full is set out below:

On 10 February 2019 the complainant requested information of the following description:

**'Resolute Estates Ltd**  
**Freedom of information request**  
**to**  
**South Cambridgeshire District Council**

*concerning*

|                        |   |
|------------------------|---|
| <i>Proposal:</i>       | <i>Outline Application for 9 x Self-Build Dwellings</i> |
| <i>Application Ref</i> | <i>2482/16/OL</i>                                       |
| <i>Location:</i>       | <i>Land at Mills Lane, Longstanton, CB24 3DT</i>        |
| <i>Applicant:</i>      | <i>Resolute Estates Ltd</i>                             |

*This document is drawn by [name redacted].  
Dated 10/02/2019.*

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*This document has been delivered to the chief executive of the Council. Accordingly, the replies provided will be accepted as true and complete and given with the full authority of the Council. In making these requests, the applicant wishes to make clear that he has no objection to paying a reasonable sum to the Council for the extent of work required in providing replies.*

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***In these questions:***

*Reference to "Proposal", "Site" and "Applicant" are defined above.*

*"LCA" means Longstanton Conservation Area. It refers to the total area after enlargement in November 2005.*

"CAA" means the Conservation Area Appraisal prepared and adopted in 2005.

"Added Land" means all of the land added to the pre-existing two small conservation areas, in 2005.

### **Pre-app and access to specialist officers**

1. At a date in 2014 the Local government Association published the document "the Pre-application Suite". This document can be downloaded at

The NPPF provides an obligation by an LPA at paragraphs 39 to 42 to engage with an applicant in the round.

The policy of the Council relating to pre-application discussions is at

<https://www.scambs.gov.uk/planning/planning-applications-and-Guidance/pre-application-advice/>

Both of the above authorities specify or imply that an LPA should provide a range of services. The Council's services appear to be limited to written advice or one meeting with the planning officer followed up by written advice. This fails to comply with either of the two authorities specified above.

### **Questions**

- 1.1. Precisely what arrangements are possible today in order to enable a prospective applicant to discuss specific issues with **the appropriate specialist officer** of the Council and at what cost?
- 1.2. Why has the Council chosen not to comply with "the 10 commitments checklist" provided by the LGA?
- 1.3. What is the Council's written policy on the procedure for pre-applications, as it relates to:
  - 1.3.1. the period of time that elapses between receiving payment from an applicant and meeting to discuss the applicants proposals.

*1.3.2. the period of time that elapses between the meeting and the full letter which provides the explicit summary advice which the system exists to provide.*

*2. In assessing any planning application, the decision maker should have access to the case documents put forward by both the applicant and the LPA. Furthermore, each side should have access to the case documents put forward by the other of them.*

*In the course of the subject application the Council provided to the applicant actual or extract responses by consultees. However, the Council failed to provide responses by individuals, whether consulted in their formal capacity or simply as objections received.*

*The Planning Portal provides the following advice to a planning applicant at:*

*[https://www.planningportal.co.uk/info/200126/applications/58/the\\_decision-making\\_process/4](https://www.planningportal.co.uk/info/200126/applications/58/the_decision-making_process/4)*

*"You are generally entitled to see and have a copy of any report submitted to a local government committee. You are also entitled to see certain background papers used in the preparation of reports. The background papers will generally include the comments of consultees, **objectors and supporters** which are relevant to the determination of your application."*

*Because extracts of individual objections were included in the delegation report, including several which contained points not relevant to planning law, each objection is a document "in the case".*

*Two of the objectors were Councillors. One was the local Councillor, the other represented Cottenham – some miles distant. As a matter of law, a decision maker and should not prejudice the outcome of an application by expressing his personal opinion publicly with a view to influencing the decision-maker – whether a senior case officer or the Planning Committee.*

*A local councillor may reasonably express an opinion in his private capacity provided that capacity is made clear when his approval or objection is made. If it is not clear, then it should be assumed that it is made with a view to influencing the decision-maker, as explained above.*

*It is also likely that the submission of objections by not only the local councillor but also by his friend in the adjacent parish would strongly influence other local people who otherwise might not have been sufficiently concerned to make a formal objection at all.*

*In this case a personal objection was made by the counsellor for Cottenham. This should not have been accepted because the reason for his making the objection could only have been in order to influence the decision-maker.*

*The local councillor lives in a fine house close to the subject site and would be entitled to express an opinion relating to the effect of the proposal on his house – or the home of his parents in law which is virtually adjacent to the site. However, he did not frame his objection in those terms but instead expressed a general objection in very strong terms, showing bias and clearly intending to influence the decision-maker.*

*In this case the decision was delegated to a case officer who would certainly have had difficulty in opposing these strongly worded decisions by two of his councillors.*

### **Questions**

- 2.1. *Please provide a copy (not a transcription) of **every** non-statutory response, including the initial response from the chairman of the parish council, which was later updated with a different version.*
- 2.2. *Please explain why the objections from each of the two councillors were accepted.*
- 2.3. *Please explain why an objection was accepted from a Councillor outside the Parish who may have been in a position to vote as a decision maker.*
- 2.4. *Please explain why these unlawful objections were also submitted to the Inspector on appeal.*

### **Delegation report and subsequent activity**

3. *The following questions relate to the procedure whereby Senior Planning Officer [name redacted] ("case officer") was authorised to*

*accept delegation of the decision in this case and the subsequent **Delegation Report 2482\_DR.pdf** which was uploaded to your website.*

### **Questions**

- 3.1. *Please provide a copy of the Council's internal procedure documents which cover the entire procedure in relation to delegation of the decision to allow or refuse any planning application **for nine houses in a sensitive location in the Conservation Area**, including in particular the following points:*
  - 3.1.1. *how a planning application is allocated to a case officer;*
  - 3.1.2. *at what stage a case is considered as to whether or not it is suitable for delegation;*
  - 3.1.3. *the status and level of authority of the person who decides whether a case is suitable for delegation;*
  - 3.1.4. *list all matters relevant to the decision as to whether a case is suitable for delegation.*
4. *In the case of a delegated decision, when the case management has been substantially completed, there must be a procedure leading to approval of the decision.*

### **Questions**

- 4.1. *Please provide a copy of the Council's internal procedure document which sets out the procedure leading to grant or refusal of a planning application, including:*
  - 4.1.1. *to whom (at what level of authority) a delegation report is submitted by the case officer;*
  - 4.1.2. *the duty of that more senior person to assess the delegation report;*
  - 4.1.3. *the action that should be taken by that more senior person to progress the case either to issue the refusal notice or to place the case on the agenda for the next Planning Committee meeting;*

- 4.1.4. *in a case where the decision to grant or refuse has been delegated, who should write the decision notice;*
- 4.1.5. *who should sign the decision notice;*
- 4.1.6. *in what circumstances the decision notice and the circumstances of the case are drawn to the attention of the Head of Planning or Deputy Head of Planning.*

**5. Questions relating specifically to this case only.**

- 5.1. *On what date did T employment formally terminate?*
  - 5.2. *What was the date of Thompson's last day at work?*
  - 5.3. *Who wrote the delegation report and what was the status of that person?*
  - 5.4. *Why did that person not sign and date the delegation report?*
  - 5.5. *On what date was the delegation report approved by a principal planning officer?*
  - 5.6. *Who drew the refusal notice and passed it for publication?*
  - 5.7. *Who was the highest ranking officer to consider the case before the refusal notice was published?*
  - 5.8. *Has this case reference number appeared on any Planning Committee agenda between September 2015 and July 2018? If yes, please provide a copy of that agenda document.*
6. *This case was to be decided by the Planning Committee. At some time in March 2017, [name redacted] was told by Cllr [name redacted] that the case had now been delegated to him, as he confirmed to me on 23 March.*

**Questions**

- 6.1. *By what authority did Cllr [name redacted] Act?*
- 6.2. *Please provide copies of email correspondence between [name redacted] and [name redacted] from 1st March to 25th March 2017. If none, please state that to be the case.*

7. *You have previously supplied to me page 60 of an un-named document, which reads:*

*"Applications will be dealt with under delegated powers unless: .  
. . . .*

*c) If approved, the application would represent a significant departure from the approved policies of the Council (officer delegation is still permitted if the application is to be refused). Significant departures will include but are not limited to development which requires referral to the Secretary of State;"*

*This case was not delegated at the outset. I was told curtly and explicitly by the case officer that the case had been delegated to him, only after I had enquired of him as to whether he would agree to distribute my final notes of my case to members a day or two before the decision was due to go before the Planning Committee.*

### **Questions**

### **Questions**

- 11.1. *Please provide the name of every person who was a district Councillor at any time during 2005.*
- 11.2. *Specify within the above list, the Councillors who were members of the Planning Committee and the person who generally chaired that committee.*
- 11.3. *Provide copies of the minutes of every meeting of the Planning Committee in 2004 and 2005 at which either the words "conservation area" or the word "Northstowe" or the word "Qube", or any combination of them, appear.*
- 11.4. *Please provide a copy of the Cabinet meeting agenda for 08 September 2005, including item 7: "Report to "leader and Cabinet" from "Development Services Director" - and its appendix "Responses to consultations on Conservation Area Appraisal".*
12. *By email, in response to my question, [name redacted] ("case officer") stated that the Longstanton Conservation Area Appraisal dated 2005 ("the CAA") was written by "a firm named Qube together with the Council's Conservation Advisory Group and Portfolio Holder". Please now provide:*

- 12.1. a copy of the Council's' invitation to tender;
- 12.2. a copy of the contract or instruction to Qube to write the reports;
- 12.3. a copy of the report produced by Qube for Longstanton. (Note that the CAA appraisal now available on the Council's website is not the report as produced by Qube.)
- 12.4. a copy of Qube's covering letter when it sent the report;
- 12.5. a copy of any document presented to the Cabinet introducing the CAA as an agenda item;

*Note to help you: all of the above may be referenced to Oakington and Rampton or with reference to Northstowe, rather than specifically to Longstanton.*

- 12.6. the name of each portfolio holder at any time during 2005;
- 12.7. details of the status of the Advisory Group;
- 12.8. a note of the qualifications required for membership of the Advisory Group;
- 12.9. every actual qualification of each member which related to a specific qualification in any of these professional spheres:
  - architectural or historic interest*
  - the historic environment*
  - landscape judgement*
  - visual appraisal.*
- 12.10. a list of those professional areas which the Council considers the CAA to cover with specialist authority?

### **The CAA document**

- 13. The CAA document alleges that the Added Land is "fundamental to the setting of the adjacent fields." Please:

### **Questions**

- 13.1. What adjacent fields are referred to here?
- 13.2. What is the "setting" of the adjacent fields in the context of historic value?



- 13.3. *What is the historical or architectural feature or property of the adjacent fields such that their setting requires protection?*
- 13.4. *The settings of **which historic features** of the village are improved by the addition of the land to the two pre-existing conservation areas?*
14. *The delegation report refers to a record of the two villages going back to the date 1216. What does the Council allege is the connection between the paddock land today and those two tiny villages in 1216?*

*The CAA refers to:*

*"This footpath provides attractive vistas across the fields to Grove Cottage and the trees and hedgerow enclosing the fields, which display prominent 'ridge and furrow' patterns."*

*and*

*"Many of the fields display evidence of medieval ridge and furrow up farming."*

*and*

*"The lane, along with its enclosing hedgerows/tree belts, is fundamental to the setting of the adjacent fields with their 'ridge and furrow' patterns and should therefore be incorporated into the Conservation Area."*

*and*

*"These fields include some visible 'ridge and furrow' patterns and are important to the landscape setting of the village."*

### **Questions**

- 14.1. *Please provide just one single viewpoint from Long Lane from which topographical ridge and furrow can be seen.*
- 14.2. *Please specify, by reference to a plan or an OS reference, which fields are alleged to show topographical ridge and furrow.*
- 14.3. *Please provide an appropriate extract of the list of locally listed historic buildings **which includes topographical ridge and furrow** in any part of the Parish of Longstanton.*

- 14.4. *If ridge and furrow is not listed among historic buildings, please provide other evidence of it being recorded.*
- 14.5. *Please provide a copy of the District wide policy of the Council with regard to preservation of evidence of ridge and furrow cultivation.*
15. *The refusal notice includes:*

*"This part of the conservation area has an undeveloped character and the open nature of the fields clearly reference their historic significance as paddock land between the ancient settlements of St. Michaels and All Saints.*

*Both the CAA and the delegation report refer to a "patchwork" of fields and give the impression that it is a large number of fields on the east side of Longstanton which together provide the historical context which justified their inclusion in the Conservation Area.*

### **Questions**

- 15.1. *Please state, by reference to a map, precisely which fields constitute the "patchwork" so frequently referred to.*
- 15.2. *Please provide copies of historical records, other than Ordnance Survey maps (which we have already), which demonstrate or support the Council's contention that the "patchwork" of agricultural land between Rampton Road in the North and "The Mount" in the South has a collective character with historic significance.*
- 15.3. *Please provide copies of any documents which mention a patchwork of fields anywhere in the District apart from Longstanton.*
- 15.4. *The Park Homes site which is located off the north-west corner of Mills Lane, is within the Added Land. What contribution does it add to the historic significance of the "patchwork".*

### **With reference to the refusal notice**

- 15.5. *In the context of significant historic value, please explain the meaning of "open nature of the fields", being two very small hedged paddocks which constitute the site in question.*

- 15.6. *Please explain the character, feature or property of the open nature of the fields which can "reference" historic significance.*
- 15.7. *Please explain the connection between "undeveloped character" and "historic significance".*
- 15.8. *What is the historic significance on account of the land being "**between**", rather than part of either of the two "ancient settlements"?*
- 15.9. *Does the Council claim that the Added Land has any other "historic" association which could have justified adding it to the Conservation Area?*
16. *The CAA refers frequently to the attractions of Long Lane. That Lane is a "byway open to all traffic". As the highways authority, it is owned by Cambridgeshire County Council. The southern end, running off St Michael's Lane is impassible in the winter through mud and almost impassable in late summer through the growth of *Rubus fruticosus* ("common bramble").*

### **Question**

- 16.1. *What contractual arrangements are in place today between the Council and the County Council or between the Council and any Northstowe developer which effectively enforce and safeguard the Council's policies in connection with Long Lane?*
- 16.2. *Since Long Lane is alleged to be such an important feature of the southern end of Longstanton, what arrangements has the Council made with the County for proper and continuing maintenance?*
17. *In response to the application, the Council submitted a report from, inter alia, one [name redacted]. [name redacted] report includes a number of statements and assertions which are patently untrue. Accordingly, please provide copies of:*
- 17.1. *the Council's instructions to her to prepare her report;*
- 17.2. *her report and covering letter as they were received by the Council;*
- 17.3. *her subsequent correspondence with [name redacted] between October 2016 and January 2017.*

18. *The Council refers to "Toad Hall". It does not exist. The Council also refers to the significant historic value of the two cottages and house at 49 to 51 Mills Lane. Neither Toad Hall nor these two cottages nor the house are locally listed. To what does the Council attribute their alleged significant historic value and when and how has this been recorded?*
19. *Part of the land added to the two previous conservation areas in 2005 consisted in two small belts of trees – the first is on the west side of Woodside, providing a screen against the Thatcher's Wood development. The second is behind bungalows and houses on the east side of Woodside. Both of these belts of woodland appear to be no more than 70 years old. Neither is natural woodland. Neither has public access. Neither of them are contained within the area which includes any other part of the Conservation Area.*
- 19.1. *What historic or architectural value does the Council attribute to these tree belts which justifies their inclusion within the Conservation Area?*

### **Contradictions in policy NH/1**

20. *Policy NH/1 states:*

#### ***"Conservation Area and Green Separation at Longstanton***

#### ***Policy NH/1: Conservation Area and Green Separation at Longstanton***

*Areas of countryside within the conservation area at Longstanton will form part of the green separation between Longstanton and Northstowe. Public access to this area of countryside will be controlled to protect the conservation area. The area will contain only open land uses, such as playing fields, allotments and cemeteries, which will contribute towards effective separation between these communities. The open aspect of the fields affording views of All Saints Church will be maintained. Elsewhere the landscape character of a series of hedged paddocks, small copses and tree belts will be maintained and enhanced.*

*The green separation between Longstanton village and the new town of Northstowe is designed to ensure the maintenance of the village character of Longstanton. Most of the area of green separation is covered by the Northstowe Area Action Plan, but part of the area lies outside its boundary and is covered by this policy. The land within the conservation area has a valuable*

*character which should be preserved or enhanced. The predominant historic character of the open land comprises a series of paddocks with hedgerows and small copses, bounded by the tree-lined bridleway of Long Lane. Historically this is an important area and includes fields which still demonstrate remnants of the early ridge and furrow field system. Long Lane is a long established right of way and its Sylvan character is a key part of the setting of Longstanton."*

*Long Lane is not a mere bridleway but a byway open to all traffic. The Council has now granted planning permission over all of this land.*

*The grant of planning permission for Northstowe Phase 2 does not specify what this valuable character is nor how it should be preserved or enhanced.*

*The subject site is not visible from any part of Long Lane.*

*The uses specified include allotments, playing fields and cemeteries. All three of these uses require road access, car parking and service provision.*

*Any assessment of the historic landscape value of this land at any time since 2005 should have taken account of the fact that the proposed uses must alone substantially reduce whatever significance the area might otherwise have on account of the fact of the reduced likelihood that the significant characteristics will continue into the future.*

*There is no reference in the correspondence between the Council and the Local Development Plan inspectors to the conflict between continuing preservation of the Conservation Area on the one hand and development for the permitted uses by the Northstowe developers on the other hand.*

### **Questions**

*20.1. Please specify by reference to a map exactly what areas are controlled by this policy.*

*20.2. What is the "valuable character" which should be preserved or enhanced?*

*20.3. How will the valuable character be preserved as part of the Northstowe development for playing fields et cetera?*

- 20.4. *Please specify what damage by the general public is anticipated, such that public access should be controlled.*
- 20.5. *Please specify how public access will be controlled.*
- 20.6. *Is t Council aware of any application having been made to the County Council for the restriction of motorised vehicles on Long Lane?*
- 20.7. *Please provide a map showing an approximate viewpoint from which **the subject site** can be seen by a pedestrian **anywhere** on Long Lane.*
- 20.8. *What change will development of Northstowe make to the **historic significance** of the land controlled by this policy?*
- 20.9. *What change will development of Northstowe make to the **landscape significance** of the "patchwork" controlled by this policy?*
- 20.10. *What change will development of Northstowe make to the significance of the **remainder of the land** not controlled by Housing England?*
21. *As regards the Council's **planning permission document for Northstowe Phase 2 dated 09/01/2017**: playing fields and cemeteries require extensive service provision, large areas of car parking and the construction on small buildings. The only access points to this area are: Rampton Road, Long Lane and Mills Lane.*

### **Questions**

- 21.1. *Please specify by reference to a map, the identity of land described as "Longstanton Paddocks".*
- 21.2. *What decision been made by the Council as to which of the above access points will be used?*
- 21.3. *Why has no provision been made in the planning conditions for the retention of the hedges and topography of the land so as to retain the historic pattern of ancient paddocks and the views which constitute the historical attraction and value as specified in the CAA as the justification for including the land in the Conservation Area in 2005?*

- 21.4. *Since there is no access to this land other than via Rampton Road, Long Lane, or Mills Lane, please specify what will be the historic value of the land following development of access roads, traffic circulation, parking and service installations for which planning permission has now been granted.*
- 21.5. *Please provide evidence that the **Local Development Plan inspectors** were informed, and not misled, as to the planning permission having been granted to the Northstowe developers over 90% of the open land within the Conservation Area.*
- 21.6. *Apart from usual plan consultations, what specific information has been provided to the **residents of Longstanton** to inform them that certain provisions of the above planning permission strongly affect The Paddocks and other open land which the Council has for 13 years declared to be of inestimable importance.*
22. *It has been part of the case of the Council consistently that the subject site provides a necessary buffer of green space between Longstanton and Northstowe.*

*and*

*From 2004 onwards, every document relating to the plans for Northstowe, mentions the importance of leaving a green gap between Northstowe and Longstanton. How that green gap is managed has been in the direct power and control of the Council for 14 years since that date. The Northstowe planning application for Phase 2 describes in great detail the separation that has been achieved, maintaining the proposition that it satisfies the requirement of the Council for separation from Longstanton*

### **Questions**

- 22.1. *Why did the Council fail to make adequate provision for green space when considering the Northstowe proposals between 2005 and 2016?*
- 22.2. *On what legal basis does the Council rely for its proposal that the subject site should be preserved as green space for the financial benefit of an adjacent developer?*

**Policy NS/4**

**23. Policy NS/4 states:**

**"MITIGATING THE IMPACT OF NORTHSTOWE ON EXISTING COMMUNITIES**

**POLICY NS/4 Green Separation from Longstanton and Oakington**

*1. Green Separation will be provided between the village frameworks of Longstanton and Oakington and the built-up area of Northstowe. The green separation will have a high degree of public access where appropriate to character and amenity, having particular regard to the character of conservation areas. It will contain only open land uses, including playing fields, allotments and cemeteries, which will contribute towards effective separation between these communities. Where the public has access to land adjoining Longstanton and Oakington, mitigating measures to protect the privacy and amenity of potentially affected properties will be provided.*

**Extent and Treatment of Green Separation:**

*2. Conservation Area, Longstanton St Michael's: Public access to countryside west of Long Lane will be controlled to protect the Conservation Area. The open aspect of the fields affording views of All Saints Church will be maintained. Elsewhere the landscape character of a series of hedged paddocks, small copses and tree belts will be maintained and enhanced.*

*3. Conservation Area, St Michael's Mount, Longstanton: The landscape character will be maintained and enhanced adjoining St Michael's Mount.*

*Planning law relates to the public good. The specific rights of an individual should not be taken into account.*

**Questions:**

*23.1. We note that St Michael's Mount is the only private house mentioned in the entire library of documents relating to Northstowe. What are the properties or characteristics of this*



*(unlisted) house such that it warrants enhancement of its adjacent land?*

23.2. *In view of the obvious significance of this house, why does the preservation of the house and its setting not appear in any policy relating to the District as a whole (as opposed to this Northstowe policy)?*

23.3. *Since planning permission has now been granted for Northstowe Phase 2 please provide a list of the "potentially affected properties" the privacy and amenity of which will be subject to the Council's mitigation measures?*

23.4. *Please describe the mitigation measures the Council will take to protect the privacy and amenity of other potentially affected properties?*

### **Northstowe - other**

24. *Please provide a copy of each document relating to a burial ground as specified in paragraph 62 of the Northstowe Phase 2 decision notice.*

25. *Please provide copies of documents exchanged between the Council and Northstowe developers consequent upon paragraph 30 of the planning permission.*

### **Landscape, distinctiveness and ecology**

26. *The CAA clearly specifies that the Council regards the landscape quality of the Added Land to be sensitive. Furthermore the Delegation Report includes an extensive section by the District Council Landscape Design Officer. Most of it is taken from the CAA. However the officers final words are **"the wider landscape impact is considered to be greater than moderate and far in excess of low significance."***

*The Council has produced no landscape report. This fact, in combination of the reference to a non-existent Toad Hall indicate that no member of the Council staff has been near the site.*

26.1. *What assessment has been prepared since 2005, as advised by the NPPF, paragraph 170, which includes the subject **site and which justifies the hypothesis in bold italics above?***

26.2. *Please provide a copy of any landscape assessment made since the CAA, including any specific assessment of the subject site. If none, please so confirm.*

27. *Local Plan Policy NE/4 states:*

*"Over the years many features of local character and distinctiveness have been lost as a result of changing practices in land management and through development. This is particularly so in South Cambridgeshire where there has been much development in recent decades and where farming is largely arable and intensive. It makes even more important the need to retain the remaining elements of local distinctiveness, and, where possible, to add or restore them".*

*Please state:*

27.1. *what document, page or other description identifies local distinctiveness so as to enable a prospective developer to understand this hurdle to development?*

27.2. *Does "local character" refer to each particular village in isolation, or does it refer to the larger area?*

27.3. *Under what circumstances will the Council require a developer to "restore" local distinctiveness where it has already been lost?*

27.4. *Please provide a document specifying how a prospective developer is to assess local distinctiveness. If this assessment is largely by reference to architecture, please specify what particular period of time should be used in an assessment at Longstanton.*

27.5. *Please provide a document which describes the local distinctiveness of Longstanton.*

### **Design issues**

28. *Multiple references in the Local Plan and supplementary planning documents indicate that development must **comply with local character**.*

*The Design Guide is a scholarly and thorough work . It runs to approximately 135,000 words – about the length the medium novel. It*

*was clearly not written as a design guide and most probably not by an employee of the Council . Nonetheless it has been adopted for that purpose.*

### **Questions**

*28.1. What is the local character referred to?*

*28.2. Please provide the name and status of the author of the Design Guide.*

*28.3. Please refer by url, to any more explicit publication which provides help to a prospective developer as to what the Council seeks by way of design in a new development. Please differentiate between compulsory elements and flexible elements.*

*28.4. If there is no such document, please explain at what point in the application process and applicant may seek advice on design issues.*

### **Archaeology issues**

*29. The writer has seen on the Council's website, the document which is no longer available namely the minutes of a meeting of the Council or its authorised committee, which approved the sub-contracting of archaeological responsibilities and reports to the County Council. The proposal to enter into the subcontract was approved. It was reported that the Council would make a useful profit from each transaction whenever an applicant required an archaeological report.*

### **Request**

*29.1. Consequent on the above, provide a copy of the contract between the Council and the County Council whereby the County Council carries out the statutory functions of the Council in relation to archaeology.*

*30. The Council's document providing planning permission for Northstowe Phase 1 and Phase 2 specify as a condition that appropriate archaeological excavation and investigation shall be undertaken by the developers.*

### **Question**

*30.1. Please provide copies of the reports received by the Council consequent upon that condition. (None appears in the list of Northstowe documents on the Council's website).*

### **Self build**

*31. South Cambs is one of 11 LPAs selected to take part in the self-build pilot scheme "2010 to 2015 government policy: housebuilding".*

*31.1. Please provide copies of reports submitted to the Minister for the Department of Communities and Local Government, describing the activity of the Council in compliance with appendix 11 of the policy document, which you will find at:*

*<https://www.gov.uk/government/publications/2010-to-2015-government-policy-house-building/2010-to-2015-government-policy-house-building>*

*32. The Council's Strategic Housing Market Assessment ("SHMA") **is dated 2013.***

*Planning Guidance reference: Paragraph: 011 Reference ID: 57-011-20160401 states:*

*"Local planning authorities should use the demand data from the registers in their area, supported as necessary by additional data from secondary sources (as outlined in the housing and economic development needs Guidance), when preparing their Strategic Housing Market Assessment to understand and consider future need for this type of housing in their area."*

### **Question**

*32.1. How has the SHMA been edited to enable the Council's plan-making procedure in order to comply with the Guidance?*

*32.2. Please provide a copy of the document which sets out the Council's policy with regard to the promotion of self-build.*

*33. Guidance Paragraph: 012 Reference ID: 57-012-201707208 provides:*

*"Relevant authorities are encouraged to publish, in their Authority Monitoring Report, headline data on the demand for self-build and custom housebuilding revealed by their register and other sources. This can support development opportunities*

*for self-build and custom housebuilding by increasing awareness among landowners, builders and developers of the level and nature of demand for self-build and custom housebuilding in the local area.*

*Relevant authorities should consider what additional optional information (for example, general location within the authority's area, plot size preferences and type of housing intended to be built) could be requested of applicants and made available to increase opportunities for self-build and custom housebuilding in their area, having regard to data protection obligations.*

*The types of information relevant authorities are encouraged to publish include:*

*the number of individuals and associations on their register;*

*the number of serviced plots of land sought; and*

*the preferences people on their register have indicated, such as general location within the authority's area, plot sizes and type of housing intended to be built, where this information has been requested by the authority and provided by an applicant."*

### **Questions**

- 33.1. What is the reason why the Authority Monitoring Report published in January 2019 does not contain even one word of reference to "self-build"?*
- 33.2. What action has the Council taken during the last 24 months or intends to take during the next 12 months to increase awareness among landowners, builders and developers of the demand for self build and the opportunities in the Council's district, as the Guide provides?*
- 33.3. What additional optional information does the Council seek from a person requesting that his name should be added to the self-build register?*
- 33.4. Where, on the Council's website, is information made available as to the number of individuals and associations on the self-build*

*register; the number of serviced plots of land sought; and the preferences people on their register have indicated?*

34. *Guidance Paragraph: 023 Reference ID: 57-023-201760728 provides:*

***"What does having a 'duty to grant planning permission etc' mean?"***

*Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period.*

*The first base period begins on the day on which the register (which meets the requirement of the 2015 Act) is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period. Subsequent base periods will therefore run from 31 October to 30 October each year.*

*At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period."*

*In compliance with this statutory obligation, please state:*

*34.1. How many names were on the register at 20h of February 2019?*

*34.2. How many names were in Part 1 of the register?*

*34.3. How many names in Part 1 of the register have been on the register for over three years since the date the register opened?*

*34.4. How many plots have been provided by the Council, directly or via a land owner or developer, since the date the register opened?*

*34.5. How many self-build plots have been sold to date on any part of the Northstowe development?*

- 34.6. *If no plots yet been sold at Northstowe, Please state what contractual arrangement has been made for self-build plots to be available at Northstowe for sale by 31/12/2020.*
- 34.7. *What and other actions are being taken by the Council currently to fulfil its legal obligations under the Act?*
35. *Guidance: Paragraph: 025 Reference ID: 57-025-201760728 states:*

***"How can relevant authorities increase the number of planning permissions which are suitable for self-build and custom housebuilding?"***

*Relevant authorities should consider how they can best support self-build and custom housebuilding in their area. This could include:*

- 3 *engaging with landowners who own sites that are suitable for ho names using and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and*
- 4 *working with custom build developers to maximise opportunities for self-build and custom housebuilding."*

**Question**

- 35.1. *What steps has the Council taken to comply with items 3 and 4 above?*

**Starter homes**

36. *Guidance Paragraph: 001 Reference ID: 55-001-20150318 states:*

*". . . . . Local planning authorities should work in a positive and proactive way with landowners and developers to secure a supply of land suitable for Starter Homes exception sites to deliver housing for young first time buyers in their area."*

**Questions**

- 36.1. *How many starter homes have been granted planning permission in the last two years under the "Starter Homes" initiative in 2017 and 2018?*

*36.2. How many households are on the Council's starter homes register as required by the Guidance?*

*36.3. How does the Council propose to comply with the above Guidance?*

*36.4. Why are the Councils proposals for starter homes not mentioned in the Authority Monitoring Review 2018?*

***End'***