

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 June 2021

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

Decision (including any steps ordered)

1. The complainant requested information from Witherley Parish Council ("the Council") relating to the Council's Neighbourhood Development Plan. By the date of this notice the Council had not provided a substantive response to the request.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 8 February 2021, the complainant wrote to the Council and requested information in the following terms:

"Please supply the following information. Electronic responses are fine.

- 1. All Parish Councillors are being asked to consider a motion, that this Council confirms it's committment [sic] to produce a Neighbourhood Development Plan which includes Witherely[sic], Ratcliffe Culey, Atterton and Fenny Drayton, as formally designated by Hinckleyy [sic] & Bosworth Borough Council in 2017 at the PC meeting on the 11th Feb 2021. Can the Clerk confirm that the HBBC report was officially circulated to all Parish Councillors, with sufficient notice to read this detailed 23 page document, noting that only 10 minutes' discussion time has been allocated on the Agenda.*
 - 2. Please provide a copy of the Housing Group presentation material (including any slides) with conclusions, used at the Steering Group Minutes held 5/2/20.*
 - 3. At the NDP Committee, dated 25th June 2020, Cllr Flude asked for reassurance that the report she submitted 'highlighting areas missing on a map' would be addressed. Cllrs Conway and Robinson said it would be discussed. This is minuted under 'Approval and Signing of Minutes'. Please supply a copy of Cllrs Fludes report."*
6. The Council wrote to the complainant on 8 February 2021 to acknowledge the request. By the date of this notice the Council had not provided a substantive response to the request.

Scope of the case

7. The complainant contacted the Commissioner on 14 April 2021 to complain about the Council's failure to respond to her request.
8. The Commissioner contacted the Council on 14 May 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 14 May 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to her request.

10. On 7 June 2021, the Commissioner contacted the Council to ask for an update on the its response to the request. The Council informed the Commissioner that it intended to provide the complainant with a response to her request by 10 June 2021.
11. 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.
12. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

13. Section 10 of the FOIA states that:

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

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

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached section 10 of the FOIA.

Right of appeal

16. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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