

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 June 2022

Public Authority: Hertford Heath Parish Council

Address: PO Box 399
Hertford
SG13 9LA

Decision

1. The complainant requested information from Hertford Heath Parish Council ("the Council") relating to a Strategic Environmental Assessment (SEA).
2. The Commissioner's decision is that the Council has failed to carry out adequate searches for the requested information and therefore, on the balance of probabilities, has not identified all information held within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all the information held within the scope of the request
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 13 July 2021:

“Background to the request

The Council carried out a pre-submission consultation in respect of its draft neighbourhood plan between October and December 2020, known as Regulation 14 consultation.

The Council is currently in the process of carrying out Strategic Environmental Assessment (“SEA”) of its proposals for the neighbourhood plan.

Description of information requested

The applicant wishes to be provided with a copy of the following material:

- 2.1.1 a copy of the Scoping Opinion prepared by or for the Council in respect of the SEA
 - 2.1.2 a copy of the instructions provided to AECOM by the Council in respect of the Scoping Opinion and SEA process, including a copy of all communications and correspondence (including but not limited to any records of such communications such as meeting notes, diary entries, telephone notes, reports, e-mails, notes and memos) between any representative of the Council and AECOM; and
 - 2.1.3 a copy of all communications and correspondence (including but not limited to any records of such communications such as meeting notes, diary entries, telephone notes, reports, e-mails, notes and memos) between any representatives of the Council and any other third party in respect of the Scoping Opinion and SEA process.”
6. The final position of the Council was that it has provided all the information it holds within the scope of the request. It stated that it does not hold the scoping opinion or the instructions provided to AECOM.

Reasons for decision

7. This reasoning covers whether the Council stated correctly that it holds no further information within the scope of the request to that which it has already disclosed.
8. The Council considers that it has provided the complainant with all the information it holds within the scope of the request. Specifically, the Council provided the complainant with correspondence relating to AECOM and the SEA for the neighbourhood plan.
9. The Council stated that no scoping opinion was prepared and therefore, it does not hold any information relating to a scoping opinion or any instructions provided to AECOM by the Council regarding a scoping opinion.
10. The complainant considers the Council to hold further information within the scope of their request. Specifically, the complainant considers the Council to hold further correspondence relating to a scoping opinion and the SEA process.
11. The complainant explained that the information the Council has provided in response to their request contains several partial email chains. The complainant considers that the full email chains should be disclosed in response to their request.
12. Furthermore, the complainant explained that in the information disclosed in response to their request, there are references to a liaison between the Council, AECOM and other third parties. The complainant considers that this suggests that the Council holds further information relating to that liaison which has not been disclosed to them and falls within the scope of their request.
13. The Commissioner considers that the Council has failed to conduct adequate searches for the requested information. Therefore, the Commissioner's decision is that on the balance of probabilities the Council has not identified all the information it holds within the scope of the request.
14. The Commissioner requires the Council to issue the complainant with a fresh response to their request following searches aimed at identifying all the information held within the scope of the request. If the Council locates information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF