

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 18 July 2022

Public Authority: Kinglsey Parish Council

Address: The Boardroom, Kingsley Cemetery
Hollow Lane
Kingsley
Cheshire
WA6 8EF

Decision (including any steps ordered)

1. The complainant has requested information from Kingsley Parish Council ("the Council") about correspondence concerning several planning applications.
2. The Commissioner's decision is that the Council has failed to carry out a reconsideration (internal review) of a response it provided under the EIR within 40 working days. It has therefore breached regulation 11 of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Reconsider how it responded to the original request and inform the complainant of the outcome of that reconsideration in accordance with regulation 11 of the EIR.
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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

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

“Please can you provide all communications (including, but not limited to, notes on phone calls, emails, faxes, letters, advice notes and meetings, etc.) relating to the planning applications (on the same site in Dark Lane, Kingsley): [planning application references redacted].

This includes any communication relating to these applications, such as those between any Parish Councillors and/or the Proper Officer/Parish Clerk (current or past), the local Ward Councillor, the applicants, the agent and architect (Beeston Aspinall Architecture), Chester West and Cheshire Council and all consultees (e.g. the PROW officers, the Biodiversity Team, the Conservation Officers, Local Lead Flood Authority, United Utilities, the Highways Team, all public commentators and any other interested parties).”

6. The Council provided a response to the request on 7 April 2022.
7. The complainant expressed dissatisfaction at the response, which amounted to an internal review request, on 12 April 2022, but the Council had not completed its review at the date of this notice.

Scope of the case

8. The complainant originally contacted the Commissioner on 11 March 2022 to complain about the way this request for information had been handled.
9. The Commissioner contacted the Council on 19 April 2022 to highlight the outstanding internal review and asked the Council to complete its reconsiderations within 40 working days. At the request of the Council, the deadline was subsequently extended to 27 June 2022.
10. Despite this intervention the Council has failed to respond to the complainant. On 28 June 2022, the complainant informed the Commissioner that the internal review remained outstanding.
11. The scope of the Commissioner’s investigation is to determine whether the Council has complied with regulation 11 of the EIR.
12. For the avoidance of doubt, the Commissioner has not yet considered and therefore takes no position on whether the Council holds further information.

Reasons for decision

13. Regulation 11¹ of the EIR states that:

“(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) 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.”

14. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached regulation 11 of the EIR.

¹ <https://www.legislation.gov.uk/uksi/2004/3391/regulation/11>

Right of appeal

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

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

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

Claire Churchill
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