

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 2 December 2022

Public Authority: Cumbria County Council
Address: Parkhouse
Baron Way
Carlisle
CA6 4SJ

Decision

1. The complainant requested information from Cumbria County Council ("the Council") relating to a drainage and wetland scheme.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold information within the scope of the request. The Commissioner does not require the Council to take any steps.

Request and response

3. The complainant made the following information request to the Council on 21 January 2022:

"Having spent close to an additional £1.9million on the drainage and wetland scheme, do you hold any documented information in relation to the field at [address redacted], being used to implement this additional scheme.

This request relates specifically to discussions between Highways England and Cumbria County Council and SLDC about this additional work(s).

Property address:

[Address redacted]
Land registry title number [title number redacted]
Also referred to as: [reference redacted]"

4. The Council denied holding information within the scope of the request.

Reasons for decision

5. This reasoning covers whether the Council is correct when it says that it does not hold information within the scope of the request and therefore, is entitled to rely on regulation 12(4)(a) (information not held) of the EIR to refuse to comply with the request.
6. The complainant considers that the Council holds information within the scope of their request. In their complaint to the Commissioner, the complainant explained that they have been informed by National Highways that discussions have taken place between National Highways and the Council relating to a drainage and wetland scheme. The complainant believes that the Council holds information relating to the discussions that took place between National Highways and the Council that falls within the scope of their request.
7. The Council maintains that it does not hold any information within the scope of the request. In its submissions to the Commissioner, the Council explained that if it did hold information within the scope of the request, the information would be held within the email mailboxes of the Flood and Development Management Manager and the Capital Programmes Project Lead.
8. The Council explained that it has conducted a search of the Flood and Development Management Manager's email mailbox and the Capital Programmes Project Lead's email mailbox for information within the scope of the request using the search term '[property address redacted]'. This search did not locate any information within the scope of the request.
9. The Council explained that it has also consulted the Flood and Development Management Manager and the Capital Programmes Project Lead to ask them whether they were aware of any information within the scope of the request. Both the Flood and Development Management Manager and the Capital Programmes Project Lead confirmed that no information relating to the drainage and wetland scheme is held by the Council.
10. Based on the information provided by the Council, the Commissioner is satisfied that the Council has carried out adequate searches for

information held within the scope of the request. Therefore, his decision is that on the balance of probabilities, the Council does not hold any information within the scope of the request and so the exception provided by regulation 12(4)(a) is engaged.

11. As no information within the scope of the request is held, the Commissioner can only find that the public interest in maintaining the exemption at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because there is no information to disclose.

Right of appeal

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@justice.gov.uk

Website: 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

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