

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 April 2022

Public Authority: Chalvington with Ripe Parish Council

Address: chalvingtonwithripeclerk@gmail.com

Decision (including any steps ordered)

1. The complainant has requested from Chalvington with Ripe Parish Council ('CRPC') information about a public consultation it had conducted with local residents. CRPC refused the request under section 14(1) (Vexatious or repeated requests) of FOIA.
2. The Commissioner's decision is that CRPC was entitled to rely on section 14(1) to refuse the request.
3. The Commissioner requires no steps as a result of this decision.

Background

4. CRPC was in receipt of Community Infrastructure Levy ('CIL') funds of just under £40,000 to be spent on infrastructure projects in the parish¹. Around £10,000 was earmarked for a defibrillator and improvements to the village hall. In July 2019, CRPC posted messages on parish notice boards and in the parish magazine inviting local residents to suggest how the remaining funds might be spent.
 5. Following this consultation, CRPC proposed to take forward several suggestions it had received from parishioners, including the remodelling
-

¹ <https://www.chalvingtonwithrieparishcouncil.co.uk/community/chalvington-with-ripe-parish-council-19894/cil-information/>

of two traffic islands and providing bicycle parking. In July 2020, CRPC invited local people to comment on draft plans for these projects.

6. A standard letter objecting to the proposals ('the petition letter') was drafted by a group of residents who disagreed with the proposals ('the Objectors' Group') and circulated in the community. 207 petition letters were subsequently returned to CRPC, objecting to the projects. 118 signatures were received from the residents of a residential park home site, expressing support for the projects. CRPC also received 45 free text responses commenting on the projects.
7. When considering all the consultation responses it had received, CRPC excluded two free text letters and 58 petition letters from consideration, deeming them to be 'invalid'. CRPC said that, overall, it had received 161 expressions in favour of the projects.
8. At a meeting in November 2020, CRPC voted for the CIL projects to go ahead. It commented that the majority of consultation responses supported the projects.

Request and response

9. On 28 February 2021, the complainant wrote to CRPC and requested the following information about the handling of the second public consultation:

"The Counting and Rejecting of Letters

Duplicated Letters - The CRPC removed 13 of the 207 "petition" letters for being duplicates. I was one of the "petition" group of people who collected and collated the 207 letters and I am quite sure that there were no duplicate letters within these 207 as they were all checked before they were sent to the CRPC.

1. **FOI Request** - There were two letters from two couples where each couple signed one letter. A copy of each letter was submitted along with the originals to reflect the true number of signatories. These should not have been treated as duplicates. Were they treated as a duplicate resulting in the removal of 2 letters from the 207 "petition" letters? Please confirm.
2. **FOI Request** - Can the CRPC please clarify where, outside of the 207 "petition" letters they found 13 duplicate letters? Were these the letters that the Parishioners had sent into the CRPC earlier, prior to them signing one of the 207 objection letters or were the duplicates something else?

Spoiled Paper – The CRPC removed 8 of the 207 “petition” letters for being “spoiled”. i.e., names, addresses illegible or content abusive. I acknowledge that it is considerably easier to recognise names and signatures if you know who lives where. I agree that when the “petition” group checked the letters, there were 3 letters which might be considered illegible and one letter that had been scribbled across so I would expect to see 4 “petition” letters spoiled. I find it difficult to understand how the CRPC found 8 spoiled letters. Also, I am certain that if any of the 207 “petition” letters had been abusive we would have noticed and removed them before sending.

3. **FOI Request** – Please send me redacted copies of the 8 spoiled letters within the 207 “petition” letters, including the abusive letters. (I understand that some people might find the abusive nature of the letters upsetting but I am just confirming that I am happy to receive them). The copies can be in either paper form or PDF electronic. Whatever is easiest.

Not on Electoral Roll - The CRPC found that 37 of the “petition” letters were signed by people not on the electoral roll for the parish.

4. **FOI Request** – Were any of the people on the 13 duplicated or 8 spoiled / abusive letters also included in the count for the 37 not on the electoral roll?

The [residential park home site] ‘Survey’

From my understanding Councillor [redacted] and Councillor [redacted] obtained permission from the [residential park home site] Management, to carry out a ‘survey’ regarding the ‘Ripe Island’ proposals. They obtained 118 signatures in favour of the proposal and none against.

Survey Details Required

5. **FOI Request** – Were all residents, (approximately 640) at [residential park home site] surveyed or was it a chosen number of residents only? Please confirm.

6. **FOI Request** – On what date did the ‘survey’ take place?

7. **FOI Request** – The [residential park home site] rules did not allow Councillors [redacted] and [redacted] to distribute their 4-page proposal leaflets so going door to door and explaining the detail within the leaflet with everyone at [residential park home site] would have been a mammoth task.

- Was a shortened version of proposal details used when discussing them with all of the [residential park home site] Residents?

- If a shortened version was used, please provide the content?
 - Was the same message given to all Residents? Please confirm.
 - Was there a survey question and if so, what was the question?
 - Did the Councillors make it clear to the [residential park home site] residents that the cost of the work to the islands and the bike posts totalled £22,000.00?
8. **FOI Request** – Did any Councillors survey Ripe and Chalvington Parishioners in the same way or only [residential park home site]?
9. **FOI Request** – Did the Councillors inform the [residential park home site] residents that they, the CRPC were already aware that many of the Parishioners of Ripe and Chalvington had already distributed a “petition” letter, strongly objecting to the proposals for reasons including cost, safety and aesthetics amongst other reasons?
10. **FOI Request** – Please send me a copy of the redacted survey form. Electronic or hard copy is fine. Whatever is easiest.

The Counting of the Letters

When counting the letters, the CRPC counted 118 signatures, from [residential park home site] which were all in favour of the proposals and none against. Also, the CRPC counted another 45 letters received in response to the CRPC’s earlier request for comments on CIL proposals. All 45 were counted in favour and none against. There were 2 abusive letters removed.

11. **FOI Request** – The minutes of the November Meeting say that the CRPC received 50 letters and not 45? Can the CRPC please confirm the reason for the discrepancy?
12. **FOI Request** – As associated with the previous question, the minutes also say that “The clerk received 50 letters with comments on CIL proposals. The intention was to allow residents to comment on intended CIL projects. The majority of letters were in favour of the CIL project with amendments.” Why does it say that “The majority of letters were in favour” when all 45 were counted as ‘in favour’?
13. **FOI Request** – Please send me the redacted copies of all 45 letters that were counted as being in favour of the proposals and any others that you have if the count was 50. Electronic or hard copy is fine.

14. **FOI Request** – Please send me redacted copies of any abusive letters. Electronic or hard copy is fine.
15. **FOI Request** – Can the CRPC please confirm that within the 58 “petition” letters removed for being duplicated, spoiled, not on the electoral roll or abusive that there were no overlaps. i.e., no letters were counted twice within the 58 removed from the count.”
10. CRPC responded on 12 March 2021. It refused to comply with the request, describing it as “manifestly unfounded” and “intended to cause disruption”:

“The excessive nature of these FOI [sic] along with the request you make are unsubstantiated accusations against the Parish Council and there is malicious intent and accusations of wrongdoing. You are using the FOI to harass an organisation with no real purposes other than to cause disruption.”
11. CRPC added that the requested information was available on its website. It said that any information which was not published there “is personal to residents and under the GDPR are [sic] not for public circulation”.
12. CRPC did not cite its basis under FOIA for refusing this request. However, it advised the complainant to complain to the Commissioner if he was dissatisfied with its response.
13. The complainant requested an internal review of CRPC’s decision on 16 March 2021. He refuted each of the points CRPC made in its refusal notice.
14. As he did not receive a response to his internal review request, he complained to the Commissioner. On 18 May 2021, the Commissioner wrote to CRPC and asked it to conduct the internal review within 10 working days. However, the complainant received no further response regarding it.

Scope of the case

15. In the absence of an internal review, the complainant contacted the Commissioner on 4 June 2021 to complain about CRPC’s refusal to comply with his request. He disagreed with CRPC’s stated reasons for refusing his request.
16. In view of the background to the matter, the Commissioner accepted the complaint for investigation without requiring the complainant to wait any longer for the internal review.

17. The analysis below considers whether CRPC was entitled to rely on section 14 of FOIA to refuse to comply with the request.

Reasons for decision

18. In its initial response to the Commissioner's enquiries, CRPC confirmed that it intended the request to be refused under section 14(1) of FOIA.

Section 14 – vexatious request

19. Section 1(1) of FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
20. However, section 14(1) of FOIA states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. The section is not subject to a public interest test.
21. The term 'vexatious' is not defined in FOIA. However, the Commissioner considers that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
22. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (ACC), (28 January 2013)². It defined the purpose of section 14 as follows:
- "The purpose of Section 14...must be to protect the resources (in the broadest sense of that word) of the public authority from being squandered on disproportionate use of FOIA..." (paragraph 10).
23. In further exploring the role played by circumstances, the Upper Tribunal placed particular emphasis on the issue of whether the request had adequate or proper justification. In doing so it approved a First-tier Tribunal's conclusion from an earlier case that "vexatious" could be defined as the: "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27 of the Upper Tribunal's decision in *Dransfield*).

² <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

24. This clearly establishes that concepts of "proportionality" and "justification" are central to any consideration of whether a request is vexatious.
25. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues:
 - (1) the burden imposed by the request (on the public authority and its staff);
 - (2) the motive of the requester;
 - (3) the value or serious purpose of the request; and,
 - (4) harassment or distress of and to staff.
26. The Upper Tribunal did, however, caution that these considerations were not meant to be exhaustive. It emphasised that:

"...all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

The complainant's position

27. The complainant disagreed that his request was vexatious. He said that it was a reasonable request, made to understand precisely how CRPC had conducted the consultation, given that it had rejected so many of the responses it had received.
28. The complainant explained that, from the outset, some local residents disagreed with the some of the proposals for spending the CIL:

"For various reasons many Parishioners were very unhappy with the Ripe traffic islands & bike stands proposals. Some thought it was a waste of money, some didn't want the aesthetics of this rural farming village suburbanised, others felt it was unsafe to put benches and encourage people to sit on traffic islands and others wanted the money divided across several other suggestions / proposals. They also felt that the CRPC had not really consulted at all with Parishioners other than ask for initial suggestions."
29. The complainant had understood the second consultation to be an opportunity for locals to comment on the projects under consideration. He was concerned that it had actually been treated by CRPC as a poll on whether or not to go ahead with the projects. He queried whether the result had been arrived at fairly. He said that at the November meeting,

CRPC's explanation of how it had determined that the expressions in favour outweighed the objections was "garbled" and "unclear".

30. The complainant said that around 118 of the 161 expressions in favour of the projects were obtained from a residential park home site. The complainant said that site management had refused to give permission for the Objectors' Group to enter the site to circulate their petition letter. The complainant believed that a CRPC councillor lived on the site and he surmised they may have canvassed residents' opinions on the projects in a biased manner, which favoured the proposals.
31. In late 2020, a member of the Objectors' Group wrote to CRPC and requested information on the process CRPC had used to validate consultation responses. CRPC responded to that request, but the complainant says that it failed to respond to a follow up request, dated 18 December 2020, which had asked for a breakdown of the grounds on which individual letters had been rejected. The complainant then chased CRPC for a response to that request and, on 12 February 2021, CRPC provided him with the reasons why the 58 petition letter responses had been rejected.
32. The complainant said that by this point the Objectors' Group had stepped back from the matter. However, the complainant said that there was resentment in the community about how objections to the CIL proposals had been treated by CRPC. He said:

"...to quash bad feeling within the villages, I would like to establish how the CRPC carried out this exercise and the only way of doing this is for me to have access the [sic] information request [sic] in the FOI".
33. He added:

"I submitted this FOI request so that I can determine whether the CRPC acted fairly and in the best interest of the Parishioners they are supposed to represent, when they made the decision to proceed".
34. He argued that the request was not burdensome, stating:

"...the request is not excessive. There are 11 Y/N questions, a request for copies of 53 redacted letters which the Clerk already has redacted copies, confirm 1 date, provide 1 redacted 'survey form', provided [sic] details of what was put to the [residential park home site] Residents and answer 2 questions regarding anomalies with CRPC meeting minutes".

35. He concluded:

"This is a legitimate FOI request and is the only request I have submitted. I have neither emailed nor called the CRPC regarding this request and the only contact I have made for this information is the email chain (Second attachment). This contains my full correspondence with the CRPC on this matter."

CRPC's position

36. CRPC provided the following background:

"CWRPC had previously consulted with residents over the use of CIL projects which included the installation of a defibrillator, new church gates and improvements to church heating/hot water system.

Following public consultation in 2020, two further projects in Ripe were approved by the Parish Council namely the installation of bike posts and the refurbishment of two traffic islands. Details of the consultation and the Minutes confirming the lawful decisions made by the Parish Council were listed on the CWRPC website. Of those residents who commented, the majority supported the proposed projects. It should be noted that certain residents in Ripe remain dissatisfied with the outcome of the consultation and disagree with the lawful decisions made by CRWPC.

The protesting residents formed a well organised and orchestrated campaign against the Parish Council to oppose the two new CIL projects. This 'Objector's group' continues in their attempts to seek to reverse the decision made by CWRPC. The Parish Council took the unusual decision to put in place a "Unreasonably Persistent or Vexatious Complaints Policy" as the Clerk, Chairman and Councillors were overwhelmed with a barrage of emails and information requests relating to the CIL projects."

37. CRPC said that the complainant was a member of the Objectors' Group. It provided copies of letters signed by the Group, which included the complainant's name as a signatory.

38. CRPC believed that the complainant's request was the continuation of a wider, organised campaign to disrupt and interfere with its decision making regarding the spending of the CIL, by people who objected to the proposals.

39. CRPC said that approaches for information about the CIL projects were occupying a significant proportion of its limited resources. It had received a total of 13 FOIA requests since December 2020, and only one request was for information unrelated to the CIL projects.

40. CRPC said it employs a single member of staff, the Clerk, who works for seven hours per week. Those seven hours are intended to provide support for all parish council business but they had increasingly come to be dominated by dealing with requests and approaches made by members of the Objectors' Group in connection with the CIL projects. CRPC said that the Clerk's records showed that at the time of the request they were spending the majority of their contracted time responding to approaches regarding the CIL projects. CRPC noted that this was at a time when responding to the ongoing Covid-19 pandemic was placing additional pressures on its resources.
41. Although the complainant said that the Objectors' Group had stepped back from involvement in December 2020, CRPC provided the Commissioner with details of 9 requests for information made over the 13 month period of December 2020 to January 2022 from various individuals who had been signatories to letters sent by the Objectors' Group. Each request related to the CIL projects. CRPC said it had responded to them by supplying the requested information, by referring the requester to information on its website or by providing them with valid grounds as to why the information could not be disclosed.
42. As regards the work involved in complying with this particular request, CRPC said:

"The information requested was in 15 parts, each requiring a detailed and complex answer. To respond to this excessive request would have exhausted the available hours to the Clerk in the time required meet [sic] the FOIA deadline."
43. CRPC said that it was satisfied that if it complied with this request, any resultant disclosure would result in further requests for information being made by people affiliated with the Objectors' Group. It believed that despite having followed correct and publicly documented procedures for deciding on the projects, which had been scrutinised by another local authority, any information it disclosed would simply be used as a fishing expedition for grounds on which to try to delegitimise its decision and would continue to create unnecessary work which distracted it from fulfilling its core duties.
44. CRPC said that its relationship with the Objectors' Group had deteriorated. It said that the language used by some people affiliated with the Objectors' Group had at times been intemperate and inflammatory when communicating with CRPC, leading to some councillors and staff feeling personally threatened. Some consultation responses were removed from consideration because they were abusive.
45. CRPC gave specific examples of what it considered to be unreasonable conduct by the Objectors' Group, including denigratory and unfounded

criticism of councillors and staff and the persistent placing of deadlines on the Clerk that could not be met due to Covid 19 restrictions.

46. CRPC alluded to certain behaviours by individual Objectors' Group members as constituting harassment. It said that the Clerk and certain councillors had been visited at home by a member of the Objectors Group, in circumstances they considered inappropriate. It said the police were made aware of CRPC's concerns and were in attendance when work commenced on one CIL project as, previously, some local residents had threatened to disrupt it. CRPC also said that in the months leading up to the request, two solicitor's letters were issued instructing a member of the Objectors' Group to desist from communicating with the Clerk about the projects (the Clerk subsequently resigned their post).
47. The Commissioner would clarify that CRPC has not alleged that the complainant himself engaged in such actions. Its position is that the complainant's request should be considered as being part of the wider, orchestrated campaign against it. He is part of a coordinated pattern of behaviour which has significantly disrupted CRPC's work and caused irritation and distress to people working on its behalf.
48. In summary, CRPC's position was that when the current request was considered in the context of this wider campaign, it was a disproportionate, manifestly unjustified, inappropriate and improper use of FOIA.

The Commissioner's decision

49. In his guidance on dealing with vexatious requests³, the Commissioner recognises that FOIA was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable. Therefore, engaging section 14(1) is a high hurdle.
50. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority.
51. The Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

³ <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

52. As his guidance explains:

“Although satisfying section 14(1) is a high hurdle this does not mean that you can only apply it in the most extreme circumstances, or as a last resort. You should consider using it if, after taking account of all the circumstances, you believe the request is disproportionate or unjustified”.

Was the request vexatious?

53. As discussed in the Commissioner’s guidance on dealing with vexatious requests, the relevant consideration is whether the request itself is vexatious, rather than the individual submitting it.
54. The Commissioner’s guidance considers that the key question a public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Doing so inevitably requires some assessment of the value and purpose of the request.

Was the complainant acting as part of a campaign?

55. Where several different requesters are acting together as part of a campaign to disrupt a public authority by submitting FOIA requests, this can be taken into account when determining whether any of those requests are vexatious.
56. There needs to be sufficient evidence to substantiate any claim of a link between the requests when considering whether section 14(1) applies on these grounds. Some examples are:
- the requests are identical or very similar;
 - email correspondence has been received in which other requesters have been copied in or are mentioned;
 - there is an unusual pattern of requests, for example a large number have been submitted within a relatively short space of time; or
 - a group makes an explicit reference to a campaign against a public authority.
57. On this point, the Commissioner notes that of the 13 requests for information CRPC received since December 2020, only one request was for information unrelated to the CIL projects. Of the remaining 12 requests, nine were made by known members of the Objectors’ Group (CRPC has not been able to verify the identities of the remaining three requesters). The Commissioner further notes that the complainant’s

request explicitly acknowledges his own active involvement in the Objectors' Group.

58. CRPC provided copies of solicitor's letters to a member of the Objectors' Group, instructing him to cease contacting the Clerk about the CIL project. Other correspondence shows that the member (incorrectly) interpreted this as an instruction that the Objectors' Group itself should cease contacting CRPC. It was shortly after this that the Objectors' Group said it was stepping back from resisting the CIL projects. However, FOIA requests from its individual members persisted.
59. In view of the above, and despite the complainant's claim that the Objectors' Group was stepping back, the Commissioner has little difficulty in concluding that its members have continued to act together as part of a deliberate campaign to resist the CIL projects and that the complainant's request was part of this.
60. It is important to recognise that campaigns are not in themselves vexatious. The existence of a campaign may be the result of a legitimate public concern about an issue and so reflect a weighty public interest in the disclosure of the information. Residents are entirely within their rights to band together in order to scrutinise (and object to) a local authority's proposals – this is a well established and effective way of public involvement in democratic processes.
61. It is therefore necessary to differentiate between cases where requesters are using FOIA as a channel to obtain information that will genuinely assist their campaign and those where the requesters are abusing their information rights to engage in a campaign of disruption. The Commissioner has considered this below.

Is the request likely to cause a disproportionate or unjustified level of disruption, irritation or distress?

62. CRPC considers that the subject matter of this request falls within a topic that the Objectors' Group has repeatedly requested information about, namely the overarching theme of the spending of the CIL on the two projects.
63. The complainant argues that he has not requested this or similar information previously. However, as has been addressed above, the Commissioner considers that this request forms part of a wider campaign against CRPC. It is therefore reasonable to take account of the requests for information made by other Objectors' Group members, and the likelihood that by CRPC responding, further requests for information will be generated.
64. As in many cases which give rise to the question of whether a request is vexatious, the evidence in this case shows a history of previous

engagement between the parties. CRPC considers that the particular context and history of this engagement strengthens its position that, at the time of the request, it was vexatious.

65. The Commissioner understands from CRPC's submissions that it believes that complying with this request alone would take up considerable time and resources. Of the 15 questions in the request, only four ask for copies of stand alone documents which might be straightforward to locate and provide (ie copies of consultation responses). To provide a response to the remaining questions, it would be necessary to assemble information (assuming it was held in recorded form) from a number of sources and to consult with various individuals. CRPC has not provided an estimate for how long the work involved in complying with the request would take. However, it commented:

"To respond to this excessive request would have exhausted the available hours to the Clerk in the time required meet [sic] the FOIA deadline".

66. The statutory time for compliance with a FOIA request is 20 working days. The Clerk would be contracted for 28 hours work in that period. The Commissioner has therefore interpreted this as meaning that the work involved in complying with the request would exceed the 28 hours available to the Clerk. The Commissioner notes that while CRPC has not argued for the application of section 12 (Cost of compliance exceeds appropriate limit) of FOIA to the request, that section allows a small public authority like CRPC to refuse to deal with a request where it estimates that doing so would exceed 18 hours work.
67. CRPC's arguments also refer to the collective burden of dealing with previous requests on the same or similar subject matter, combined with the burden imposed by this request, and the likelihood of further requests.
68. In other words, the burden in this matter also arises from the resources and staff time that it has already spent on the Objectors' Group requests and the likelihood that this pattern of behaviour, namely submitting numerous and regular correspondence, will continue.
69. The Commissioner is satisfied that the request in this case, although not obviously vexatious in itself, does form part of a wider pattern of requests and interaction between the Objectors' Group and CRPC on the subject of the CIL projects. He notes that the aforementioned solicitors' letter alleges that, amongst other things, it has:
- sent an excessive amount of email communications to the Clerk, and set demanding and unrealistic deadlines for responses or actions;

- attempted to impose shorter deadlines than the statutory provisions demand in respect of FOIA requests; and
 - hand delivered hard copies of voluminous information which had already been sent by both mail and email.
70. The solicitor's letter goes on to state: "It is evident from the enclosures that this conduct has been continuing for some time".
71. As regards further requests the Commissioner notes that following the complainant's request, CRPC received seven more requests for CIL information from people who had previously been signatories to letters sent by the Objectors' Group, which does suggest an active and ongoing pattern of requesting. From the evidence he has seen, the Commissioner gives weight to the argument that responding to this request would be likely to result in further requests and contact on the subject matter, and runs the risk of diverting CRPC from dealing with other matters.
72. The Commissioner considers that this pattern of behaviour strengthens CRPC's argument that responding to the current request would impose a disproportionate and unreasonable burden on what is a very small public authority with very limited resources. It is a burden which CRPC would be unable to absorb without diverting resources away from dealing with other matters which also need its attention.
73. The Commissioner accepts that the tone and wording of the request in this case is not aggressive or objectionable in any way. However, a request which would not normally be regarded as vexatious in isolation may assume that quality once considered in context.
74. The Commissioner considers that the strength of feeling about CRPC's handling of the CIL proposals among members of the Objectors' Group is evidenced by the poor relationship that now exists between the two parties. The Commissioner is concerned to note the evidence provided by CRPC about the involvement of the police and solicitors. While the Commissioner considers that public officials can and should be subject to scrutiny and criticism, it appears that the Clerk and certain councillors have at times been subjected to behaviour from some members of the Objectors' Group which goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive. He is satisfied that some people have genuinely felt distressed and harassed as a result of the actions of some members of the Objectors' Group.
75. The Commissioner considers that this, together with the pattern of requests and approaches to CRPC by other members of the Objectors' Group on related subjects, and the time it would take to comply with this request, supports the argument that compliance would be likely to cause CRPC a significant level of disruption, irritation or distress.

Does the value and purpose of the request justify its impact?

76. The key question to consider is whether the value and purpose of the request nevertheless justifies the distress, disruption or irritation that would be incurred by complying with it. In other words, would a reasonable person think that the value and purpose of the request are enough to justify the impact on the authority?
77. When considering this, the Upper Tribunal in Dransfield asked itself, "Does the request have a value or serious purpose in terms of there being an objective public interest in the information sought?" (paragraph 38). It did not go on to clarify what it considered that interest to be, but the Commissioner's view is that the public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:
- holding public authorities to account for their performance;
 - understanding their decisions;
 - transparency; and
 - ensuring justice.
78. In his guidance, the Commissioner recognises that the context and history of the request is often a major factor in determining whether the request is vexatious and may support the view that section 14(1) applies. He also accepts that, equally, the context and history may weaken an argument that a request is vexatious.
79. The Commissioner is mindful that the evidence provided to him by both parties confirms that, prior to the request in this case, there had been ongoing contact between CRPC and the Objectors' Group for a period of time. (In recognising this, he accepts that members of the Objectors' Group are entitled to their views on the CIL proposals and to express them in a reasonable manner.)
80. From the evidence he has seen, the Commissioner gives weight to the argument that responding to the request would be likely to result in further requests and contact on the subject matter, and runs the risk of diverting CRPC from dealing with other, important matters.
81. The request asks for granular information about the way the consultation was conducted. The Commissioner considers that, while the requested information is clearly of interest to the complainant, the subject matter may only be of very limited interest to the wider public. Specifically, it is likely to be of interest only to members of the Objectors' Group.

82. If the information that was requested was concerned with, say, the safety of the CIL proposals, or with some aspect of their legality, there would clearly be some tangible benefit that would flow from the requested information being disclosed and the request would have value. As it is, the request appears to be an attempt to use FOIA to conduct an investigation into the second consultation, on the grounds that the complainant believes it was a de facto vote on the CIL proposals. CRPC's position is that the projects had already been approved and that the second consultation was a request for further comments on the plans, and not a poll.
83. It is not clear how compliance with the request would facilitate a better understanding of CRPC's decision to press ahead with the CIL proposals. CRPC has already provided a breakdown of how consultation responses were treated. It is difficult to see what more it could do in terms of explaining its decision that would satisfy the complainant, or the Objectors' Group, short of reversing its decision to take forward the CIL proposals. The Commissioner does not consider that to be a realistic outcome of the request being complied with. The minutes of the meeting of 1 June 2020⁴ show that a vote was taken by the CIL working group to take forward the two CIL projects and that the second consultation should invite comments on the draft plans. The subsequent consultation letter of 6 July 2020 stated:
- "CRPC is now at the stage of fine-tuning the above schemes that were agreed at its June meeting. Please read the attached documents and get in touch if you have any suggestions for alterations/improvements to the schemes. The closing date is August 21st. After August 21st CRPC will collate your suggestions and report back at the CRPC September 2020 meeting."
84. Nowhere is it suggested that this second consultation constituted a vote on whether or not to go ahead with the proposals.
85. The draft statement for a meeting on 2 November 2020⁵ does remark that "Overall a majority of people responding by letter and e-mail supported the new churchyard gates and modest improvement to the

⁴ <https://www.chalvingtonwithrieparishcouncil.co.uk/shared/attachments.asp?f=9b8da0e2%2D2e5f%2D4217%2D8a0d%2D744ff95b81fc%2Epdf&o=CWR%2D%2D%2DJune%2DMinutes%2D2020%2Epdf>

⁵ <https://www.chalvingtonwithrieparishcouncil.co.uk/shared/attachments.asp?f=0451a351%2De771%2D44d5%2D9895%2D67b0ad8bf46a%2Epdf&o=Presentation%2DNov%2D2020%2Epdf>

islands and the installation of bicycle post". However, this is presented as an observation, rather than as being the driving factor behind the final CRPC vote in support of the CIL plans.

86. Furthermore, the Commissioner has seen correspondence indicating that the District and County Councils were aware of the consultation, and of the disagreement between the Objectors' Group and CRPC. The correspondence indicates that they were satisfied that the purpose of the consultation had been clear, and that neither the consultation nor CRPC's subsequent decision-making were defective.
87. Taken together, and mindful of the Upper Tribunal's comments in Dransfield, the above lead the Commissioner to conclude that there is little "objective public interest in the information sought" and thus there would be little public interest in further resources being expended in complying with this request. Seen in this context, he finds the request to have limited purpose and value.

Conclusion

88. In reaching a decision in this case, the Commissioner has taken into account that section 14(1) of FOIA is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
89. He also recognises that public authorities must keep in mind that meeting their underlying commitment to transparency and openness may involve them absorbing a certain level of disruption and annoyance.
90. The Commissioner has balanced the purpose and value of the request in this case against the detrimental effect on the public authority of complying with it.
91. The Commissioner considers that complying with this request, in isolation, would take up a significant proportion of the Clerk's available time. When considered alongside the burden that dealing with related requests from other members of the Objectors' Group places on CRPC, and issues of harassment and distress to councillors and staff, these are cumulative factors which make this request vexatious. The Commissioner considers that the purpose and value of the request are not sufficient to justify the impact on CRPC of dealing with it.
92. On the basis of the evidence provided to him, and taking into account the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner is satisfied that the request in this case was a manifestly unjustified and improper use of FOIA such as to be vexatious.

93. Accordingly, he is satisfied that CRPC was entitled to rely on section 14(1) of FOIA to refuse to comply with the request.

Right of appeal

94. 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

95. 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.

96. 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

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