

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 12 March 2024

Public Authority: Bristol City Council
Address: City Hall
PO Box 3399
Bristol
BS1 9NE

Decision (including any steps ordered)

1. The complainant requested information from Bristol City Council ("the Council") relating to a specific planning application and development.
2. The Commissioner's decision is that on the balance of probabilities, the Council does not hold further information within the scope of the request.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 7 October 2023, the complainant wrote to the Council and requested information in the following terms:

"Please provide me with all correspondence, lobbying and communication (including but not limited to WhatsApp messages, deleted messages etc) regarding application 22/03924/P and matters relating to Broadwalk aka the Redcatch Quarter development that occurred between the end of June and the 10th July established and involving, either independently/ individually or collectively :

[Name redacted], [name redacted], [name redacted] and Cratus Communications, Broadside Holdings and their representatives and agents, including Cratus Communications.

I am making this request under the Freedom of Information Act 2000.”

5. The Council wrote to the complainant on 24 October 2023 to ask them to clarify the time period of their request. The complainant responded on the same date and provided the following information to clarify their request:

“If it helps the end of June would be 29/06 or if the cost is prohibitive the 30/06.”

6. The Council responded on 6 November 2023 and provided the complainant with information within the scope of the request. On 8 November 2023, the complainant requested an internal review.
7. The Council provided the complainant with the outcome of its internal review on 6 December 2023. It stated that it has disclosed all the information it holds that falls within the scope of the request.

Reasons for decision

8. This reasoning covers whether the Council holds further information that falls within the scope of the request which has not been disclosed.

The complainant's position

9. The complainant considers the Council to hold further information that falls within the scope of their request which has not been disclosed to them. In their initial complaint to the Commissioner, the complainant stated that they consider the Council to hold WhatsApp messages that fall within the scope of their request which have not been disclosed. The complainant does not accept the Council's assertion that information held by a Councillor in his capacity as Councillor is not held by the Council for the purposes of the EIR.

The Council's position

10. The Council considers that it has disclosed all the information it holds that falls within the scope of the request and that it has carried out reasonable searches for that information. In its internal review response, the Council stated that it has conducted a search of its electronic files, folders and emails for correspondence to or from the individuals named in the request which dates from between 30 June 2023 and 10 July 2023. It used the search terms 'Broadwalk', 'Broadwalk Shopping Centre', 'Redcatch Quarter', '22/03924/p' and 'PP-11341514' when conducting its search. The Council confirmed that any

information located by this search that falls within the scope of the request has been disclosed to the complainant.

11. The Council explained that it also conducted a search for correspondence dating from between 30 June 2023 and 10 July 2023, to or from the following domains:

@savills.co.uk

@savills.com

@bbscapital.com

@pelicandevolutions.co.uk

@trowers.com

@cratus.co.uk

@galliardhomes.com

@keeparchitecture.co.uk

@arup.com

12. The Council used the same search terms outlined above when conducting this search. It confirmed that any information located by this search that falls within the scope of the request has been disclosed to the complainant.
13. The Council explained that it also asked the individuals named in the request for any information held in their WhatsApp accounts that falls within the scope of the request. All three individuals confirmed that they do not hold any information that falls within the scope of their request in their WhatsApp accounts.
14. In its internal review response, the Council stated that it does not consider information held by one of the individual's named in the request to be held by the Council for the purposes of the EIR as that individual is a Councillor. The Councillor has confirmed that the information they hold, specifically correspondence, was sent and received independently to the Council in their capacity as a Councillor rather than on behalf of the Council.

The Commissioner's position

15. Based on the explanations provided by the Council in its internal review response, the Commissioner is satisfied that the Council has carried out reasonable searches of its electronic files, folders and emails for

information falling within the scope of the request using appropriate and relevant search terms.

16. The Commissioner acknowledges that the complainant considers the Council to hold WhatsApp messages that fall within the scope of the request. However, as the Council has consulted individuals named in the request and they have confirmed that they do not hold any information in their WhatsApp accounts that fall within the scope of the request, the Commissioner is satisfied that the Council does not hold any WhatsApp messages that fall within the scope of the request.
17. The Commissioner notes that the complainant considers information held by a Councillor to be held by the Council. However, as explained in his published guidance¹, the Commissioner considers that information held by a Councillor is only held by a Council for the purposes of the EIR if the information concerns the Councillor carrying out Council functions. If information held by a Councillor concerns the performance of their functions as an elected member, the information is not held by the Council for the purposes of the EIR.
18. In this case, the Councillor has confirmed that the information they hold is held independently from the Council in their capacity as Councillor, rather than on behalf of the Council. The Commissioner therefore considers that the information held by the Councillor is not held by the Council for the purposes of the EIR.
19. The Commissioner's decision is that on the balance of probabilities, the Council does not hold further information within the scope of the request which has not been disclosed.

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/information-you-hold-for-the-purposes-of-the-eir-regulation-3-2/>

Right of appeal

20. 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

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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