

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 18 June 2024

Public Authority: Fladbury Parish Council
Address: clerk@fladburyparishcouncil.co.uk

Decision (including any steps ordered)

1. The complainant has requested information about the potential sale of land owned by Fladbury Parish Council ("the council"). The council disclosed information in response.
2. The Commissioner's decision is that the council has disclosed all held information.
3. The Commissioner does not require further steps.

Request and response

4. On 2 October 2023, the complainant wrote to the council and requested information in the following terms:

"As a concerned villager, could you please provide me with the information regarding S.P.A.B.'s rationale for wishing to acquire (3.7%) of the field kindly left by [name redacted by ICO] in his will, to Fladbury Village?"
5. The council responded on 4 October 2023. It disclosed some held information (being an extract from a will) and provided advice about the wider matter.
6. The council responded further, with information being provided to the complainant by post on 27 October 2023.

7. Following an internal review the council wrote to the complainant on 28 November 2023. It stated that all relevant held information had been provided.

Reasons for decision

Regulation 5(1) – Duty to make available environmental information on request

8. Having considered the nature of the information, and that it relates to the use of land, the Commissioner considers that the request falls under the Environmental Information Regulations 2004 (EIR), and not the Freedom of Information Act 2000 (FOIA).
9. Regulation 5(1) of the EIR states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions that may apply.
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any – or additional – information which falls within the scope of the request (or was held at the time of the request).

The Commissioner's conclusion

12. The Commissioner understands that the request seeks specific information about the 'rationale' for which a third party – the Society for the Preservation of Ancient Buildings ("SPAB") – wishes to purchase an area of land. In response the council disclosed various correspondence that it considered to address this.
13. The council has since informed the Commissioner of the steps it has taken to search for this information:
 - The Clerk and Chairman, as the principal persons involved in the matter, undertook a manual search of hardcopy and electronic records for any letters, emails, minutes, meeting notes and any other sources relating to the subject matter.

- All councillors were asked to review their records for any additional information held.
 - The resultant information was collated and reviewed to identify those parts relevant to the request.
14. The complainant disputes that they have not been provided with all correspondence, on the basis that they did not receive a full copy of a letter from SPAB dated 10 March 2023 – which they have otherwise gained an unredacted version of. However, the council considers that the undisclosed portion of this letter was not relevant to the request, as it related to other matters, and not the 'rationale' for which SPAB wished to purchase the land.
 15. Having noted the context of the information, the Commissioner considers that the council has undertaken appropriate searches for held information; there is no evidence available to the Commissioner that suggests these searches have been deficient. The Commissioner has also reviewed the letter specified in paragraph 14, and agrees that the information relates to other matters (specifically, the proposed terms of purchase), and therefore does not fall within scope of the request.
 16. The Commissioner is therefore satisfied, on the balance of probabilities, that no further information is held.
 17. As such, the Commissioner has decided that the council has complied with regulation 5(1).

Other matters

18. The Commissioner wishes to highlight the good practice demonstrated by the council in its response to the request. He considers this to be clear, concise and informative as to its handling of the request, and the information which has been identified and disclosed - which is helpfully detailed in an itemised list.

Right of appeal

19. 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

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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