

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 18 February 2021

Public Authority: Three Rivers District Council

Address: Three Rivers House
Northway
Rickmansworth
Herts
WD3 1RL

Decision (including any steps ordered)

1. The complainant requested from Three Rivers District Council ("the Council") information relating to the granting of planning permission. By the date of this notice the Council had yet to respond substantively to this request.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under 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 4 September 2020, the complainant wrote to the Council and requested information in the following terms:

"This is a Freedom of Information request about granted planning permission.

We would like to know how many dwellings (houses and flats) and commercial premises have planning permission but have not yet been built.

Please could you complete the table below for Three Rivers as a total and for each ward.

In addition, for each type of property above please indicate how many have been allowed after appeal.

Please give the top five reasons given for them not progressing to buildings

If the Council conducts an annual return for dwellings (houses and flats) and commercial premises which have been granted planning permission but have not yet been built, please also include this."

6. The Council acknowledged the request on 14 September 2020.
7. On 23 October 2020, as the complainant had not received a response, she wrote to the Council to request an update on the status of her request.
8. The complainant wrote to the Council again on 7 December 2020 to ask for an update on the status of her request.
9. On 10 December 2020, the complainant wrote to the Council to ask for a further update on the status of her information request. By the date of this notice the Council had not responded to the complainant.

Scope of the case

10. The complainant contacted the Commissioner on 11 January 2021 to complain about the Council's failure to respond to her request.

11. The Commissioner contacted the Council on 28 January 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. The Commissioner also contacted the complainant on 28 January 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to her request.
13. The complainant has provided evidence that she has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to her information request.
14. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

Was the requested information environmental?

15. Regulation 2(1)(c) of the EIR defines environmental information as being information on:

"measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;"

16. The Commissioner notes that the wording of the request is for information about planning applications. She believes that this is likely to be information about measures affecting or likely to affect the elements and factors referred to in regulation 2(1)(a) and regulation 2(1)(b). For procedural reasons, the Commissioner has therefore assessed this case under the EIR.

Regulation 5

17. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

18. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date

of receipt of the request.”

19. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the EIR.
20. From the evidence provided to the Commissioner in this case, it is clear that the Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.

Right of appeal

21. 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

22. 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.
23. 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

**Ben Tomes
Team Manager
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Wycliffe House
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Cheshire
SK9 5AF**