

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 February 2023

Public Authority: Perranuthnoe Parish Council

Address: clerk@perranuthnoepc.info

Decision

1. The complainant requested information from Perranuthnoe Parish Council ("the Council") relating to a Neighbourhood Development plan and a specific planning application.
2. The Commissioner's decision is that on the balance of probabilities, the Council holds further information within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all information held within the scope of the request.
4. The Council must take this step 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 Act and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 2 April 2022 (numbering added by the Commissioner):

"I contacted the Perranuthnoe PC last year to highlight the important matter of an inaccurate map that was included in the draft NDP. I was asked to forward this to [name redacted]. I did so and further requested that we be informed of the decision of the steering committee. I have yet to receive a response which I believe means that the council are in breach of the regulations as they have not responded to this request within the prescribed timeframes.

I would therefore like to request the following information from the Parish Council, electronic format is preferred.

- 1) Copies of the minutes of the steering group/committee that specifically relate to:
 - The criteria for the selection of the proposed NDHA within the NDP
 - How the selected NDHA meet these criteria
 - The reassessment of the inclusion of Trebarvah following on from the additional factual evidence raised during the assessment of planning application [planning application reference redacted] and the subsequent inspector decision
- 2) Copies of all assessments of inspector decisions undertaken by the steering group/committee or any of its members
- 3) Confirmation of the total number of responses received from members of the public as a result of the public consultation of the current draft NDP
- 4) Any communications, minutes or other discussions of the parish council, steering committee or any individual member of either committee relating to the proposed NDHA at Trebarvah or planning application [planning application reference redacted].

Thanking you in anticipation of your assistance with this request, I look forward to receiving the information within the statutory time limits."

6. The Council responded on 8 April 2022 and provided the complainant with some information within the scope of the request. The Council also informed the complainant that some information within the scope of the request could be located on the Council's website.
7. On 8 April 2022, the complainant wrote to the Council to complain about its response to the request. The Council responded on 6 May 2022 and informed the complainant that some information within the scope of the request could be located within the public domain, on the Council's website and in Neighbourhood Plan documents.
8. On 13 May 2022, the complainant wrote to the Council again to complain about its response to the request. The Council responded on 27 May 2022 and denied holding steering group meeting minutes. However, the Council did provide the complainant with some notes, action points and recommendations from the steering group.
9. On 25 August 2022, the complainant requested an internal review. The Council provided the complainant with the outcome of its internal review on 11 October 2022 in which it stated that all the information it holds within the scope of the request has either been disclosed or is available within the public domain.

Reasons for decision

10. This reasoning covers whether the Council holds further information within the scope of the request which has not been disclosed and is not available within the public domain.
11. The complainant considers the Council to hold further information within the scope of their request. Specifically, the complainant stated that they consider the Council to hold further notes, action points, recommendations and documents from the steering group which fall within the scope of their request but have not been disclosed.
12. The complainant also stated that whilst the minutes from Parish Council meetings are available on the Council's website, documents which have been circulated as part of meeting agendas are not available on the Council's website. The complainant considers this information to fall within the scope of their request.
13. The Council considers that all the information it holds within the scope of the request is either available within the public domain, or has been disclosed to the complainant. In its submissions to the Commissioner, the Council explained the searches it has conducted for information held within the scope of the request.

14. The Council explained that has carried out the following searches for information within the scope of the request:

- Searches of electronic information held on the PPC computer, using the search terms 'NP Steering Group', 'reports', 'minutes', 'notes', 'meetings', 'NDHA' 'Trebarvah' '[planning application reference redacted]', '[reference redacted]' and '[name redacted]'
- Searches of email communications using the search terms 'NP Steering Group', 'reports', 'minutes', 'meetings', 'notes'; 'assessment' 'NDHA' 'Trebarvah' '[planning application reference redacted]', '[reference redacted]' and '[name redacted]'
- Searches of PPC meeting minutes using the search terms 'NP Steering Group' and 'reports' 'minutes' 'notes'; 'NDHA' 'Trebarvah' '[planning application reference redacted]', '[reference redacted]' and '[name redacted]'
- Searches of paper documentation, held within the Parish Council office. Copies of NP Steering Group meeting reports and notes, and of NP consultation event reports, posters etc are held within paper files in the Parish Office.
- Searches on Cornwall Council planning portal relating to the complainant's planning application
- Searches on Cornwall Council interactive maps relating to NDHA and Trebarvah
- Review of the Appeal Inspectors Reports on the complainant's planning application including specific searches for the terms 'NHDA' and 'Neighbourhood Plan'
- Review of the Planning Authority Decision Report on the complainant's planning application including specific searches for the terms 'NHDA' and 'Neighbourhood Plan'
- Review of all Council comments on the complainant's planning application including specific searches for the terms 'NHDA' and 'Neighbourhood Plan'
- Review of the County Council Report on the complainant's planning application for the appeal including specific searches for the terms 'NHDA' and 'Neighbourhood Plan'
- Review of the Parish Heritage Character Assessment including specific searches for the terms 'Trebarvah', '[planning application reference redacted]' and '[reference redacted]'

- Review of the Neighbourhood Plan Consultation Statement including any searches for 'Trebarvah', 'NDHA', '[planning application reference redacted]' and '[reference redacted]'
 - Consultations with the Chair of the Council and Chair of the Neighbourhood Plan Steering Group
15. The Council considers that information relating to Heritage Assessments can be located in the Heritage Character Assessment which is available on the Council's website as this document contains information about the criteria for the selection of the proposed non-designated heritage assets (NDHA), how the selected NDHA meets this criteria and assessments of inspector decisions undertaken by the steering group relevant to heritage area including the complainant's planning application.
 16. The Council considers that the information relating to the public consultation on the Neighbourhood Plan can be located in the Neighbourhood Plan Consultation Statement as consultee responses on the draft Neighbourhood Plan are cited in the document.
 17. With regards to the complainant's request for information relating to the planning application, the Council stated that all Council assessments relating to the planning application are recorded in Council meeting minutes and all Council decisions and comments on the planning application are recorded on Cornwall Council's planning portal. The Council stated that the Council has not referred to the NDHA or Neighbourhood Plan in any of its comments or correspondence relating to the planning application.
 18. The Council considers that as the Neighbourhood Plan steering group is an informal group and was not set up by the Council under the Local Government Act, the steering group is separate to the Council. The Council stated that it does not share sensitive information with the steering group and the steering group does not have any decision making powers.
 19. Whilst Neighbourhood Plan steering group meetings are minuted, the Council considers that it does not hold the meeting minutes as the steering group is separate to the Council. Furthermore, the Council considers that it would not be appropriate for the Council to publish minutes from the Neighbourhood Plan steering group meetings as the meetings are not officially minuted and any minutes taken are not approved by the Council.
 20. The Commissioner recognises that the Neighbourhood Plan steering group is not a formal steering group set up by the Council under the

Local Government Act. However, as the steering group was set up by the Council, the Commissioner considers the steering group to be part of the Council. He therefore considers any information held by the steering group to be held by the Council for the purposes of FOIA. This includes any minutes taken during Neighbourhood Plan steering group meetings, regardless of whether these minutes have been approved by the Council.

21. The Commissioner considers that as Council holds information relating to the Neighbourhood Plan steering group that falls within the scope of the request that information should have been disclosed to the complainant or been the subject of a refusal notice.
22. Therefore, the Commissioner's decision is that on the balance of probabilities the Council holds further information within the scope of the request and so the exception provided by regulation 12(4)(a) (information not held) is not engaged
23. The Commissioner requires the Council to issue the complainant with a fresh response to the request following searches aimed at identifying all the information held within the scope of the request. All information falling within the scope of the request should either be disclosed to the complainant or an adequate refusal notice should be provided.

Right of appeal

24. 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

25. 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.
26. 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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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