

## Freedom of Information Act 2000 (FOIA)

### Decision Notice

**Date:** 14 November 2011

**Public Authority:** Derby City Council  
**Address:** Saxon House  
Heritage Gate  
Friary Street  
Derby  
DE1 1AN

#### Decision (including any steps ordered)

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1. The complainant requested the full correspondence between Derby City Council (the council) and the owners of properties which the council proposed to include on its Local List of listed buildings in 2009. The correspondence is with respect to appeals received regarding this list.
2. The Information Commissioner's decision is that the council has provided all the correspondence that it holds with respect to this request. No further action is required.

#### Background

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3. In 2009 the council reviewed its Local List of listed buildings in and around the City of Derby. This review generated the following correspondence:
  - In August 2009 the council sent letters to the owners of buildings it proposed to include on its Local List (the 'initial notification letter').
  - It received 51 appeals against inclusion on this list and 33 replies of support and requests for further information.
  - During the last week in August and the first week in September the council sent a standard letter to owners, informing them their property was included on the final list.
  - It received 13 responses to these letters.
4. The request considered in this decision notice was one of a series of requests from the complainant concerning the Local List.

5. In response to earlier requests the complainant was provided with the initial notification letter about inclusion on the Local List and the 51 appeal letters. This request concerns the correspondence generated after these appeal letters.

## **Request and response**

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6. On 29 September 2010, the complainant wrote to the council and requested information in the following terms:

*'...can you please provide the full correspondence details to date for each of the buildings where appeals were received.'*

This was part of a longer request which is not part of the scope of this case.

7. The complainant argued that he had requested this specific information in a previous request, but the council has no record of this. The complainant was also unable to provide the Information Commissioner (the Commissioner) with a copy of the previous request.
8. The council responded on 27 October 2010. It sent the complainant the further relevant correspondence that it held with respect to this request.
9. The council explained that it had not provided the complainant with the personal information of any third party as this was exempt from disclosure under section 40 of the FOIA.
10. On 26 January 2011 the council informed the complainant that it had responded to all the freedom of information requests he had made.

## **Scope of the case**

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11. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He explained that the council had only provided him with the initial notification letter and the first letter of complaint from the property owners. He complained that the council had failed to provide him with the follow-up correspondence.
12. The Commissioner considers this case is concerned with the council's argument that it has provided the complainant with all the information that it holds with respect to his request.

## Reasons for decision

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13. Sections 1(1)(a) and (1)(1)(b) of the FOIA state that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
14. The council has explained to the Commissioner that on 27 October 2010 it responded to the complainant's emails of 29 September 2010 (submitted at 14:46 and 16:23). This decision notice is concerned with one of the requests included in the second of these emails.
15. In respect of this request, the council has confirmed it provided the complainant with:
  - The rest of the correspondence relating to properties for which it had received appeals/comments following the letters sent out in August 2009 (33 redacted documents).
  - A copy of the standard letter sent to owners during the last week in August and first week in September to inform them that their property was included on the final list.
  - Responses to these letters received by the council (13 redacted documents).
  - A 271 page redacted document in respect of the complainant's own appeal (this is not included as part of the scope of this case).
16. The council is satisfied that it has provided the complainant with all the information that it holds in response to his request of 29 September 2010 for 'full' correspondence. It has searched its hard copy file for relevant correspondence and in its archived records. It has confirmed that the information it holds is held in the Conservation Team's office in a lever arch file with a copy held on computer disc. It has confirmed that no relevant information has been destroyed.
17. The complainant has argued that he has not been provided with the full correspondence. He has argued that the council has simply provided the initial response from the property owner to the notification. He has argued that the letters from the property owners that were provided by the council required responses from the council. The complainant therefore considers that there should be responses from the council and further correspondence on record.

18. The council has confirmed that it has sent the complainant all the requested correspondence that it holds on this issue. It has confirmed that it holds no further responses to the letters of the property owners and that there were no further letters written to the property owners following the 13 letters they had sent to the council. It considered the matter to be closed as the list had been finalised.
19. The complainant has argued that the Commissioner should view the full records himself. If the Commissioner will not visit the council offices, the complainant has argued he should be able to inspect the records himself.
20. The Commissioner does not accept that it is necessary to visit the council offices. He is satisfied that on the balance of probabilities the council has provided the complainant with all the information that it holds with respect to correspondence concerning buildings where appeals against inclusion on the Local List were received.
21. The Commissioner is satisfied that the council has fulfilled its obligations under sections 1(1)(a) and 1(1)(b) of the FOIA.

## Right of appeal

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22. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

23. 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.
24. 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** .....

**Faye Spencer**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**