



Sent by Email:

To: Mr Stephen Whiteside

Email:

request-382745-
27d204f0@whatdotheyknow.com

Knowledge Management Team
Hampshire Fire and Rescue Service HQ
Leigh Road
Eastleigh
Hampshire
SO50 9SJ

Direct Dial Tel: 023 8062 6850

Fax: 023 8062 6718

Email: complaints@hantsfire.gov.uk

Date: 18 August 2017

Our Reference: **FOI 56 16-17; FOI 113 16-17**

Your Reference: Fire Access to Medstead Farm ['Brislands Lane'], Four Marks, Alton; EHDC planning apps 52501/001 and 52501/002 'Brislands Lane', Four Marks. - HFRS requirements

Dear Mr Whiteside,

Many thanks for your latest correspondence.

Your requests for information

The Hampshire Fire and Rescue Service would like to extend our apologies for the previous difficulties in our communication. Unfortunately, due to the chronological overlap of your requests for information, and the frequency of your correspondence, it has been challenging for the Knowledge Management Team to follow which email was most urgent at the time of reading. We have, however, improved our process for addressing complicated requests in a timely manner by undertaking to recruit an additional member of staff to assist the Knowledge Management Team with the processing of requests for information. In addition to this, we are currently writing an internal departmental guide to assist with the timely resolution of particularly complex cases.

At the time of reading, and indeed in the following 40-day timeline, we failed to inform you of the exception which we were relying upon under The Environmental Information Regulations (2004). Whilst it is not ideal to inform you of this after the fact, we are sending you this correspondence in the interests of transparency and in the spirit of the Freedom of Information.

In short: the report that you have requested does not exist. There is some data which outlines the casual visit but it was an internal communication, and when we received your original request the Hampshire Fire and Rescue Service considered that it would not be in the public interest to release the very little information that we do hold. This is because—

1. It is not a report;
2. It was intended to be an internal communication; and
3. The publication of a summary of a casual visit via internal communication would be significantly misleading to the public. This would not provide an accurate summary of the safety of the site, and misleading the public would be a serious ramification for the Authority.

We did not feel it appropriate in keeping with the public interest test under the Environmental Information Regulations (2004) s12(1)(b) to release this data.

The test reads as follows:

(b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

As a result of this, our communication to date (namely on 26th January 2017 from our Assistant Chief Officer (ACO) Mrs Dickinson) provided an accurate view of the safety of the site. As a Fire Service, though it was not our statutory duty to informally visit to reassure you of the safety of the site (which was already inherently tackled by planning legislation and the developers, as you are aware) we are formally content that the site meets the relevant safety requirements. We are not satisfied that it is in the public interest to release this internal correspondence under the Act, when the result of such an action would provide an incomplete account of the facts.

Consequently, Hampshire Fire and Rescue Service relied upon these sections of the Environmental Information Regulations (2004): S12(4)(a) (as we do not possess a report) and S12(4)(e) as the only additional information we do possess was an internal communication. For the reasons described above, we have written to you explaining that the site is safe (in some detail) on many occasions, and a release of the internal correspondence that does exist would have proved misleading and provided an inaccurate view of the health and safety of the site. Besides this one internal correspondence, we have made every effort to release as much data as we possess in the interests of striving to be a transparent public authority and emergency service.

We have previously apologised for the delay in addressing such a complex request, offering assistance, opportunities to attend a meeting to discuss the information that you were seeking so that we could better understand what you were looking for, and even offered for you to personally examine any relevant plans that might be of assistance to you. We have made every effort to assist your enquires, despite your multiple correspondences in a short time-frame. Furthermore, following the outcome of our formal internal review, we have also further improved our strategies for complex Environmental Information Requests.

Consequently, we have already provided a response which satisfies each and every of the following Environmental Information Request(s) to the fullest of our ability:

- 1. MR GODSON'S REPORT and/or the RISK ASSESSMENT of which it should have been a part, which determined [amongst other things] the need or otherwise for the second emergency access from Brislands Lane,
[To repeat, I was led to believe [by HFRS] that the Report was the outcome of an investigation into the my concerns regarding firefighting facilities at Medstead Farm and specifically to answer the questions first put to Chief Officer Curry and the HFRA Chairman Carter in November 2016]*
- 2. If separate from the above, the RISK ASSESSMENT which determined how the appropriate number of fire hydrants would be strategically placed [and marked] so that the minimum provision was made, whilst delivering the optimum supply of fire fighting [sic] water from the mains system,*
- 3. ALL and ANY correspondence, notes of meetings etc concerning the Service's work with the Developers and other agencies about the provision [or otherwise] of the emergency fire access from Brislands Lane, from January 2016 to present."
This should include [but not be restricted to] the following:
--- correspondence etc regarding to any recent consultation by the planning authority [EHDC] and/or highway authority [HCC] about proposed changes to the approved planning drawings in relation to the emergency access route,
--- correspondence with the Developer and/or the Approved Inspector ['Premier Guarantee Surveyors'] regarding the positioning of fire hydrants and/or the requirements for emergency fire access to and within the development.*
- 4. HFRS report reference F6/SE/00823689, which has apparently been given to the Developer's Approved Inspector. "*

In addition to this, we feel we have also satisfied the following (this is further addressed under the "Data Protection" subheading):

*--- UNredacted [or at least LESS redacted] copies of the information provided 28 April 2017 and/or [sic] a CLEAR explanation as to which subsection of the EIR you have chosen to apply in this regard, and why,
--- Confirmation/clarification as to whether there has been any redaction of the information provided 12 May 2017 and if there has, a CLEAR explanation as to which subsection of the EIR you have chosen to apply in this regard, and why, and*

As to your last bullet, namely:

--- Confirmation/clarification regarding the particular piece[s] of correspondence to which the documents 2124134.pdf, 2124331.pdf and Block Plan 1 500.pdf were attached.

You have not asked us this before and consequently, in addition to our previous offer for you to attend a meeting at the Hampshire Fire and Rescue Service Headquarters, we do not feel that it is fair to include this in your submissions to the ICO. As you have not raised this issue with us to date, it would be inaccurate for you to make any representation to the ICO to the contrary.

Data protection

In response to your queries as to why information had been redacted in the attachments provided on 28 April 2017, we refer you back to our original response (also on the 28 April 2017):

In response to your query about the redaction on the documents we have made the redactions under the Data Protection Act 1998 Section 7 Part 4 (A) and (B).

We are satisfied that we have explained our legal duty to uphold the principles of data protection and abide by Section 7 Part 4 (a) and (b) respectively. We cannot and will not compromise our data protection practises and provide you with the individual identity of the person(s) in the letters.

Your request for a repeat review

In reference to your request for a repeat review, we refer you to the ICO guidelines as to what constitutes "good practice" with regards to a review:

15. We consider it good practice to abide by the following guidelines when conducting a review:

- The review procedure should involve a thorough re-examination of the original decision and handling of the request.*
- It should be genuinely possible to have a previous decision amended or reversed.*
- There should be provision to review the outcome of a public interest test.*
- It should be carried out by someone senior to the person who dealt with the original request. If this is not possible it should be undertaken by someone trained in, and who understands, the Environmental Information Regulations.*
- The procedure should be a clear and straightforward, single stage process.*
- It should also be capable of producing a prompt decision for the requester.*

Whilst these are described as "guidelines" rather than regulations, clearly the process adopted by Hampshire Fire and Rescue Service meets these criteria. Consequently, the internal review conducted was completely valid and need not (and cannot) be re-examined internally.

To address each of these "Good practice guidelines" in turn:

- ***The review procedure should involve a thorough re-examination of the original decision and handling of the request.***

In the response sent by the Head of Service of Knowledge Management (Nicki Whitehouse) dated 12 May 2017 to your request for an internal review there is evidence of a “re-examination” of the original decision and handling of the request as per the above guideline. Most notably:

the outcome of our internal review has identified that we did not fully comply with your request as we have since located hard copies of incoming correspondence at a local fire station... The error was attributed to a change in our procedures and where we still have a large number of documents awaiting scanning onto our CFRMIS system (Community Fire Risk Management Information System). This prevented us from identifying the requested documents in relation to the development at the time of your original request.”

The “re-examination” of the handling of the request is evident in Hampshire Fire and Rescue Service’s analysis of the cause of the inaccessibility of the data at the time: the associated difficulties with identifying physical documents in fire stations. For this issue to have been identified, a “re-examination of the original decision and handling of [your] request” must have taken place. Thus, the review conducted meets this good practice guideline.

- ***It should be genuinely possible to have a previous decision amended or reversed.***

Again, the correspondence from the Head of Service of Knowledge Management clearly illustrates that Hampshire Fire and Rescue Service has released all the data that was identified as effected and hence not forwarded because of the above error. Please note the following line from the Head of Service’s correspondence:

Please find attached copies of all incoming letters held by HFRS. In addition to this we hold a number of large planning drawings as hard copies. At this time we are unable to scan these and are therefore unable to provide them in an electronic format. If you would like to view these please confirm, so that we are able to arrange a convenient time for you to do so.

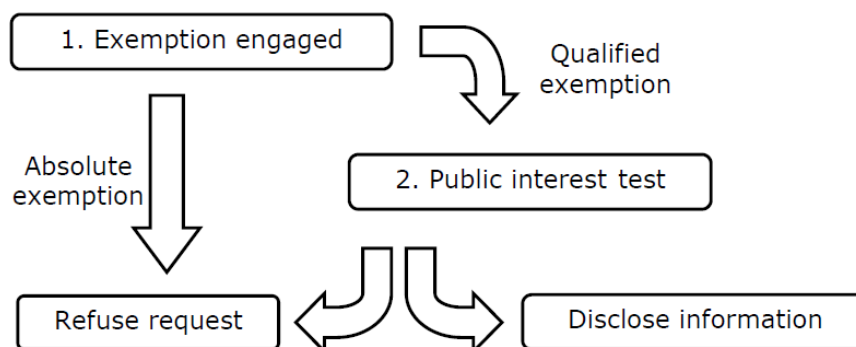
...

We are satisfied that we have now provided you with all recorded information held by HFRS regarding this development.

This release of this information (that was previously unavailable) shows that Hampshire Fire and Rescue Service has amended part of the decision associated with your request.

- ***There should be provision to review the outcome of a public interest test.***

The public interest element of the review was not relevant in considering the lack of documentation due to our system (CFMIS). It was, however, of course applied when we made our decision as to the internal correspondence. For clarity, see the diagram below to understand how the process applies:



• It should be carried out by someone senior to the person who dealt with the original request. If this is not possible it should be undertaken by someone trained in, and who understands, the Environmental Information Regulations.

As your email (dated 17 May 2017) correctly states the internal review correspondence from HFRS was “from the [new?] Head of Knowledge Management [Nicki Whitehouse] and entitled ‘Internal Review’”. Hampshire Fire and Rescue Service’s forwarding of this issue to our Head of Services again meets this good practice guideline as issued by the ICO as she is the most senior member of our team.

• The procedure should be a clear and straightforward, single stage process.

But for your unnecessary request for a repeat of an internal review, the process was a “clear and straightforward, single stage process.” Please note your comments from your correspondence on 21 July 2017:

My request for an internal review was dated 9 March 2017.

My subsequent request for a FULL AND PROPER internal review was dated 17 May 2017.

Despite this repetition, every effort was made to ensure that your initial request for a review was managed in a way that was “straightforward”.

• It should also be capable of producing a prompt decision for the requester.

The final criterion provided in the guidance outlines the desirability of “a prompt decision”. Here, the Head of Service made a statement regarding the reasons for such a delay, in addition to an apology with regards to the actual request for information:

the outcome of our internal review has identified that we did not fully comply with your request as we have since located hard copies of incoming correspondence at a local fire station. Again, please accept our apologies for the inconvenience this may have caused you. The error was attributed to a change in our procedures and where we still have a large number of documents awaiting scanning onto our CFRMIS system (Community Fire Risk Management Information System). This prevented us from identifying the requested documents in relation to the development at the time of your original request.

Our first internal review provided correspondence outside of the deadline, and the response provided clearly acknowledges and apologises for any “inconvenience” that this may have caused. In addition, it was accompanied with a reminder that you are free to pursue raising your case further with the Information Commissioner’s Office (ICO) if you were not satisfied with our response to your request, and the consequent review. In spite of this, your “subsequent request for a FULL AND PROPER internal review was dated 17 May 2017”: two days after the receipt of the first review which explained your further course of redress should you have been dissatisfied with the result of said internal review. Despite this clear correspondence and a valid review which fulfils the exemplary guidelines published by the ICO, your continued persistence to request a “FULL AND PROPER” internal review was not responded to, as you had exhausted the internal review process of the Hampshire Fire and Rescue Service, as per the conclusion of the review itself:

We are satisfied that we have now provided you with all recorded information held by HFRS regarding this development.

Should you still remain dissatisfied you can appeal against these decisions by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF.

In ignoring this correspondence, continuing to request a subsequent review, and not following the procedures outlined in seeking further redress having exhausted all internal avenues, your second request is *ultra vires*. Consequently, your request for an additional review into the same matter would be a burden to the Hampshire Fire and Rescue Service to re-examine a case which has already been

reviewed to the fullest of our ability. This is a redundant use of time for the emergency services. Furthermore, as all internal routes have now been exhausted (as you were informed on the 15 May 2017) and you were clearly informed of the consequent appeal routes, it is not the responsibility of the Hampshire Fire and Rescue Service to re-respond to an already concluded internal review.

Conclusion

The main concern of the Fire Service is to ensure the safety of the public, and in addition to managing your requests to the best of our capability, our Assistant Chief Officer personally wrote to you on 26 January confirming that: "The access provided fulfils the functional requirements of allowing access at all reasonable times." In addition to answering your safety concerns surrounding water supply, on-street parking, and confirming that the development was compliant with building regulations (which act as the over-arching legislative provision for the fire safety of new developments), we have addressed all of these concerns over the course of the last year.

As we are a service that spends much of our time improving safety and ensuring the wellbeing of the residents of Hampshire, we were a little surprised to read that you considered our continued attempts to help you a "mask" of any form of malpractice. We can categorically state that this is not the case. We express our deepest sympathies that you feel our responses have not been adequate, and look forward to hearing from the Information Commissioner's Office.

Yours sincerely

Hampshire Fire and Rescue Service Complaints Team