



Department of Health & Social Care

Freedom of Information Team
Department of Health and Social Care
39 Victoria Street
London SW1H 0EU

www.gov.uk/dhsc

John Bradfield
request-593667-3101fcc3@whatdotheyknow.com

21 August 2019

Dear Mr Bradfield,

Freedom of Information Request Reference FOI-1184968

Thank you for your request dated 30 July, in which you asked the Department of Health and Social Care (DHSC):

"Subject: Freedom of Information request - Do threats to health justify refusals of planning permissions - ??

AB WELFARE WILDLIFE TRUST

Dear DoHSC.,

We request the following information, all of which relates to changes since the implementation of relevant parts of the Health Social Care Act 2012 and subsequent legislation, policy and guidance:-

(1) copies of internal communications, since our URGENT email was sent to PSPHPC[at]dhsc.gov.uk and received at 16:02 on the 16 July 2019, entitled URGENT - local authority public health duties - threat to pioneering bereavement project

(2) copies of information and guidance issued to any Directors of Public Health, on the role if any, which they (a) could and should and (b) must play, in connection with planning applications designed to protect and promote health and wellbeing, e.g. so as not to exacerbate disabling anxiety, depression and suicidal thoughts and urges.

(3) whether in relation to (2) above, Directors of Public Health should not or must not advise Local Planning Authorities on small scale projects which might only protect and promote the health of a few dozen or few hundred people, rather than hundreds of thousands;

(4) copies of information and guidance issued to any Local Planning Authorities, on circumstances when they could, should and must reject planning applications, in order to protect and promote mental and physical health, e.g. so as not to exacerbate disabling anxiety, depression and suicidal thoughts and urges.

Background Information

Substantive information has been provided in our URGENT email of the 16 July 2019 with confidential photographs of children being helped in innovative and therapeutic ways, to cope with their grief after devastating bereavements.

It appears that a significant proportion of damaging and destructive planning permissions are being granted, because Local Planning Authorities which do not have Local Plans, believe the government requires them to build houses almost anywhere and everywhere.

That is now posing an acute threat to the security and viability of our pioneering bereavement work. It appears that our Local Planning Authority is not sure whether the protection of health and wellbeing, are sufficient to justify refusals of planning applications.

Some planning permissions are being granted, because Local Planning Authorities fear refusals will result in considerable costs in defending appeals. Consequently, many of those we have helped to cope with bereavements, raised £100,000 to enable Harrogate Borough Council to defend an appeal, if the planning application is refused, which threatens the survival of our work. However, that defence fund has been returned, one reason being that the local authority is able to raise sufficient funds when necessary. That may mean not defending some appeals and allowing them to be won by default.

Our Director of Public Health has responded sensitively to our concerns. However, he sees his role as being confined to large scale policy matters, which concern the overall health and wellbeing of the whole population.

By contrast, the Department of Health Social Care has stated that the role of Director of Public Health, offers a great opportunity to ... influence and support ... planning officers, (DoH., 2011, 'Public health in local government').

That was refined in 2014 by the Ministry of Housing, Communities Local Government, when it stated that, Local authority planners should consider consulting the Director of Public Health on any planning applications (including at the pre-application stage) that are likely to have a significant impact on the health and wellbeing of ... particular groups ..., ('The role of health and wellbeing in planning').

The notion of any planning applications can reasonably be understood to apply to that which threatens our survival, even though it does not threaten the whole population of the largest county in England.

You later clarified in your email of 31 July:

CORRECTIONS

Questions 2 and 3 have been corrected but for ease of reference, please treat those below as the correct and full set:-

(1) copies of internal communications, since our URGENT email was sent to PSHHP[at]dhsc.gov.uk and received at 16:02 on the 16 July 2019, entitled URGENT - local authority public health duties - threat to pioneering bereavement project

(2) copies of information and guidance issued to any Directors of Public Health, on the role if any, which they (a) could and should and (b) must play, in connection with planning applications which threaten the very survival of services, designed to protect and promote health and wellbeing, e.g. planning applications which risk causing or exacerbating disabling anxiety, depression and suicidal thoughts and urges.

(3) whether in relation to (2) above, Directors of Public Health should not or must not advise Local Planning Authorities on planning applications that threaten the very survival of small scale services, which might only protect and promote the health of a few dozen or few hundred people, rather than hundreds of thousands;

(4) copies of information and guidance issued to any Local Planning Authorities, on circumstances when they could, should and must reject planning applications, in order to protect and promote mental and physical health, e.g. so as not to exacerbate disabling anxiety, depression and suicidal thoughts and urges.

No changes have been made to the Background Information."

Your request has been handled under the Freedom of Information Act (FOIA).

Due to an oversight on our part, we have neglected to include some information related to your request. Please see this information included in the response below and the attachments.

Question 1:

DHSC holds the information you have requested. Please see the attachments containing the documents you have requested. The photographs were included as attachments in the email of 16 July at 16:03.

The attached documents have been redacted to take out personal details under Section 40(2) of the FOIA, which provides for the protection of personal information which would not otherwise be available in the public domain, as disclosing this information would contravene data protection principles.

Questions 2 to 4:

DHSC does not hold the information you have requested. The Department does not issue guidance to planning authorities or Directors of Public Health on this subject.

Outside the scope of the FOIA, and on a discretionary basis, you may be interested in the following information:

DHSC has published guidance on the role of directors of public health, but this does not specifically mention a role in relation to planning applications. The guidance can be viewed here: <https://www.gov.uk/government/publications/directors-of-public-health-role-in-local-authorities>

The statutory public health duties of local authorities are set out in section 2B of the NHS Act 2006 (inserted by section 11 of the NHS & Social Care Act 2012). The references to 'health' are taken to refer to both physical and mental health. The legislation can be viewed here: <http://www.legislation.gov.uk/ukpga/2012/7/section/11/enacted>

The duties of directors of public health are outlined in section 73(A)1 of the 2006 Act (inserted by section 30 of the 2012 Act). It can be viewed here: <http://www.legislation.gov.uk/ukpga/2012/7/section/30/enacted>

Directors of public health are also responsible for their local authority's public health response as responsible authorities under the Licensing Act 2003. This is a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act. The Licensing Act can be viewed here: http://www.legislation.gov.uk/ukpga/2003/17/pdfs/ukpga_20030017_en.pdf

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the address at the top of this letter, or the email address at the end of this letter.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner (ICO) who may decide to investigate your concerns. Generally, the ICO cannot make a decision unless you have already appealed our original response, and received our internal review response. The ICO will not usually investigate concerns where there has been an undue delay in bringing it to their attention. You should raise your concerns with them within three months of your last meaningful contact with us.

The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

Cheshire
SK9 5AF

<https://ico.org.uk/concerns/>

Yours sincerely,

Lauren Der
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freedomofinformation@dhsc.gov.uk