

9 January 2012

Mrs Giggins  
By email

**Policy and Communication**

Council Offices  
Market Street Newbury  
Berkshire RG14 5LD

**Our Ref:** Fol/2011/770

**Your Ref:**

**Please ask for:** Sue Broughton

**Direct Line:** 01635 519747

**Fax:** 01635 518317

**e-mail:**

scbroughton@westberks.gov.uk

Dear Mrs Giggins,

**Request for Information: The Priory and Platt Court**

Your request of 9<sup>th</sup> September to the authority (our reference Fol/2011/532) was refused on the grounds that your continued requests about the planning process for The Priory/Platt Court were vexatious. The refusal was made on the grounds of the exemption at S14 (vexatious or repeated requests) of the Freedom of Information Act 2000 (the Act).

The ICO has re-directed this request to the authority after consideration of your complaint under his powers at S50 of the Act, on the grounds that the original request was for environmental information, and should rather have been considered under the Environmental Information Regulations 2004. Accordingly we have addressed this as a new request.

You have asked for:

*(1) A copy of, or link to, a signed copy of the Environmental Impact Screening Opinion for application number 10/01928/FULEXT - Demolition and redevelopment of the Priory/Platt Court.*

*(2) A copy of the letter from Davina Bowe of Barton Willmore dated 27th July referred to in the unsigned copy of the screening opinion published on the planning portal:*

<http://planning.westberks.gov.uk/rpp/ind...>

*(3) Any other correspondence to/from WBC from any source (applicant/agents/consultees/objectors etc) relating to the requirement or not for an Environmental Impact Assessment Assessment and/or screening opinion.*

*(4) The information 'considered' by Mr Rayner to support his assessment that the proposed development is*

- (a) modest*
- (b) on brownfield land*
- (c) within the settlement boundary,*

*given that the application was presented to committee as a major application, that the applicants acknowledged in their D&A statement that following changes to PPS3 the garden/grounds of the existing buildings could no longer be classified as brownfield, and that the proposed buildings straddle the settlement boundary.*

It is clear that this request relates directly to the planning application for the Priory/Platt Court. Over the past two years you have made a series of requests for information on the proposed development of The Priory/Platt Court site by Sovereign South West as housing provision for elderly people. While some of these requests have been refused or partially refused, because of the application of the relevant exemptions, we have sought to reach common ground with you, including the offer of a meeting with senior officers to address the issues you were raising in respect of the planning process and the application.

As well as directly addressing the application process, your requests have also encompassed what you considered to be related issues such as; declarations of interest for councillors to establish if they had connections with Sovereign Housing, dates of meetings with Sovereign Housing, whether the occupants of The Priory/Platt Court were benefits claimants, the Housing Strategy for Hungerford and elsewhere, the S106 spend in Hungerford, and a range of requests around a training session in November 2010 for Members of one of the two Planning committees, based on your opinion that the session was related to the planning meeting held that evening. You have also made complaints to the Monitoring Officer about the process by which the application was approved, and have continued to suggest that the works should be stopped although you have been advised that this is not within the power of the Government Department you have approached, and that the authority sees no reason to take such an action.

The application has now been approved, and building work has started. The application is also past the point at which any judicial review can be requested. No other resident, apart from yourself, has raised queries or complaints over the process by which the application was administered and approved, and there is no public interest in this matter.

The burden of your correspondence on the Council's normal operations was made clear when investigation showed that between 7 June 2010 and 6 June 2011 you exchanged with Members and officers of this Council a total of 256 e-mails relating to the planning application. During this exchange you:

- Questioned the authority of officers to act
- Exhibited a predetermined intent to escalate

- Presumed that the Council intended to deceive or falsify
- Misused the Freedom of Information and other processes
- Misinterpreted 'evidence' provided to you.

The impact on normal working was so severe that the Chief Executive was moved to write to you. As the Chief Executive advised, in his letter of 14th June 2011:

*My conclusion is that your requests and demands on the Council have gone beyond a reasonable and legitimate challenge to the local authority's activities and are serving no interest, especially not one that is public, except your own.*

*In light of this I have directed my officers to adhere to the arrangements as outlined in Mr Holling's letter to you of 5 April and not engage in any further correspondence with you on any matters relating to your opposition to 10/01928/FULEXT. This includes, for the reasons stated earlier in this letter, through the Freedom of Information process.*

On this basis your request of 9<sup>th</sup> September 2011 was refused as vexatious (eg. in creating an unreasonable burden on the authority, when taken in consideration with the correspondence which had gone before).

We are now required to reconsider the request under the provisions of the Environmental Information Regulations 2004. It is our view that this request, taken with the previous correspondence and the history of requests around this subject, as well as germane information brought to light in the Chief Executive's letter of 14<sup>th</sup> June 2011, is 'manifestly unreasonable', as provided for in the exception at Reg12 (4)(b) of the Environmental Information Regulations 2004.

This exception is subject to a public interest test and it is my view that the balancing arguments which are given above demonstrate that the public interest lies in refusing to further engage with you on an issue which, while contentious in your opinion, has been resolved by the appropriate processes over a year ago. The authority faces considerable staffing and operational constraints, brought on by the existing economic situation. To continue to allocate to your correspondence a substantial amount of staff time, to the detriment of other residents, over a matter which is now resolved, whatever your own views, is counter-productive and an inappropriate use of resources. Accordingly we are refusing your request under Regulation 12(4)(b) of the Environmental Information Regulations 2004, and a copy of the exception is attached.

If you are unhappy with the way your request has been handled, you may ask for an internal review. You should contact David Lowe, Scrutiny & Partnerships Manager, Policy & Communication, Council Offices, Market Street, Newbury RG14 5LD, email [dlowe@westberks.gov.uk](mailto:dlowe@westberks.gov.uk) within forty working days if you wish to request a review. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire  
SK9 5AF

Yours sincerely

Sue Broughton  
Information Management Officer

**12.** - (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if -

(a) an exception to disclosure applies under paragraphs (4) or (5);  
and

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

(2) A public authority shall apply a presumption in favour of disclosure.

(3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.

(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that -

(a) it does not hold that information when an applicant's request is received;

(b) the request for information is manifestly unreasonable;

(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;

(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or

(e) the request involves the disclosure of internal communications.

(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect -

(a) international relations, defence, national security or public safety;

(b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;

(c) intellectual property rights;

(d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;

(e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;

(f) the interests of the person who provided the information where that person -

(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure; or

(g) the protection of the environment to which the information relates.