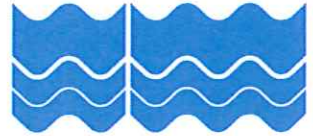


**Governance Services**

**Philip Baker**  
Assistant Chief Executive  
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**East Sussex**  
County Council



Mr Plant

Email: request-225089-e534ccdb@whatdotheyknow.com

*date*

7 October 2014

*when responding please contact*  
Philip Baker  
(01273) 481564

*our ref*  
Ref 4221  
PB/ch

*your ref*

Dear Mr Plant

Thank you for your e-mail of 1 August 2014 confirming your request for an internal review in accordance with the Environmental Information Regulations 2004 ('EIR').

I confirm that the details of your request, the response to your request and your request for an internal review are set out in the enclosed chronology (**Appendix A**).

The purpose of this internal review has been to determine whether your request for information to East Sussex County Council ('the Council') has been dealt with in accordance with the requirements of the EIR.

In your original request, you sought the disclosure of information relating to the action on the part of the Council in respect of Energy Performance Certificates ('EPCs') for Pauling House, 2 Spencer Road, Eastbourne ('the Property').

You confirmed in your request that you had received information from another source regarding the EPCs for the Property. When your original request was made, there was a concern that the information requested was commercially sensitive and thus potentially came within the exemption under Regulation 12(5)(e) of the EIR. In order to rely on this exemption, a public interest test was undertaken in order to determine whether, notwithstanding that the information was commercially sensitive, it is in nevertheless in the public interest to disclose it. In respect of your request, such a test was undertaken and it was determined that it would not be in the public interest to disclose it.

I have considered whether the decision to withhold this information at the time of your original request. This was at a point when a decision as to the Council's actions had not been taken, and thus disclosure was not considered appropriate. I have concluded that you should have been informed of the Council's position at that time, and do not consider that the information which would have been disclosed at that time would have come within the exemption under Regulation 12(5)(e). As such, the public interest test was not required and the information, confirming no decision in respect of action on the part of the Council had been taken at that point, should have been disclosed.

.../Cont'd

The Council has now concluded its involvement in this matter, and I attach a response to the questions you raised which are correct as at this point in time (**Appendix B**). It follows that I do not consider this information to come within the exemption under Regulation 12(5)(e) as it does not adversely affect the commercial interests of the third party involved.

If you are not content with the outcome of the internal review process, you then have the right to apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the County Council's Internal Review procedure, as described above. The Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Tel: 0303 123 1113. [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely



**Philip Baker**  
Assistant Chief Executive  
Governance Services