



Dr Paul Thornton

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**Please ask for** Julie Seymour

**Our ref:** 2620230

**Your ref:**

**Date:** 25 August 2017

Dear Dr Thornton

## **Environmental Information Regulations 2004**

This request is being handled under the Environmental Information Regulations 2004. Please accept my sincere apologies for the delay in responding to you.

We have reviewed your clarified request and are still unclear as to the request you are making. We have however, based on your clarified response, assumed that you are asking for the following information, "all information that you hold relating to such a potential new road development. This would include any reports, plans, cost-benefit analysis and possible route option information. This will include the documentation within which the claimed merits of such a road have been "identified", and any evidence claimed to substantiate such merits. The information may be held independently by the authority or will be included in communications to or from other public agencies", and the time periods you are looking at are (1) the dates of your previous request (ref no: 1389328) and (2) the dates from 4.4.16 to 28.7.17. If this is not correct then please let me know so that we can deal with your request correctly.

I can confirm that Warwickshire County Council holds the information you requested. However we are withholding that information since we consider that the following exception applies to it.

Based on the above assumption we have broken our response down into two parts, (1) the request for all information for the time period of your previous request (ref no: 1389328) and (2) the request for all information for the time period 4.4.16 to 28.7.17.

### **Request (1)**

The request that you have made has already been the subject of a response and internal review by the Council and is currently registered with the ICO as a live complaint, pending a decision notice. The Council therefore maintains its position that to provide the information request would be manifestly unreasonable and therefore exception 12(4)(b) is applicable. The Council has made representations to the ICO on this exception and will await their decision notice.

## **Request (2)**

Your second request for all information between 4.4.16 and 28.7.17 has been reviewed and the Council considers that to provide the information would be manifestly unreasonable (12(4)(b)) due to the amount of information that the Council holds. 12(4)(b) states, "For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that – (b) the request for information is manifestly unreasonable". This exception can be applied where the cost of compliance with the request is too great. In this instance the Council has undertaken a review of the information that it holds and estimates that based on the volume of information it holds it would take approximately 150 hours of officer time to comply with your request. To comply with your request would remove an officer from providing services to the residents of Warwickshire for over a month. This would have a significant impact on the resources that the Council have available to them and would divert valuable resources.

Whilst the Council is aware that unlike the FOIA regime EIR does not have a provision where requests can be refused if the estimated cost of compliance would exceed a particular cost limit. The Council is aware that, as cited in recent cases, the "Commissioner considers that if a public authority is able to demonstrate that the time and cost of complying with the request is obviously unreasonable, regulation 12(4)(b) will be engaged".

The ICO suggest that to assess the level of costs that might be incurred in responding to a request the public authorities look at Section 12 of the FOI Act, under which a public authority can refuse to comply with a request if it estimates that the cost of compliance would exceed the 'appropriate limit'. This appropriate limit is defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations 1) as £600 for central government departments is £600 and £450 for all other public authorities.

The Regulations allow a public authority to charge the following activities at a flat rate of £25 per hour of staff time:

- Determining whether the information is held;
- Locating the information, or a document which may contain the information;
- Retrieving the information, or a document which may contain the information; and
- Extracting the information from a document containing it.

Based on an hourly rate of £25, the cost of fulfilling this request would be £3,750.00. In a recent decision, 22 June 2017, Trafford Borough Council (FER0659916 ) the Commissioner found that 30 hours of work would constitute a disproportionate effort. In this instance the Council are looking at 150 hours of work, which far exceeds the time in

the Trafford Borough Council, only reaffirming that this request would require disproportionate effort.

The Council recognises that there is a presumption in favour of disclosure and has considered the following arguments in favour of disclosing the information:

- Disclose of all of the information would promote transparency and accountability of the Council
- It would allow members of the public the ability to have a free exchange of views with the Council
- It would promote public participation in decision making
- Help inform public understanding and participation in a debate
- Enables more scrutiny of actions of public officials.

The Council considered the following arguments in favour of maintaining the exception:

- To fully comply with this request would be an excessive cost to the Council in terms of officer time spent dealing with the request
- It would have a severe impact on the capacity of the transport planning team, as the officer required to review the information would need to review all of the information which would impact on their day to day functions

The Council therefore concludes that on balance the public interest in maintaining the exception outweighs that of disclosing the information. There is a stronger public interest in the Council being able to undertake its core functions without spending a disproportionate amount of resource on complying with a significantly burdensome request, and instead allow the Council to fulfil its obligations to the residents of Warwickshire. The Council is committed to involving the public in the decisions that it makes and as such is providing as much information as possible on its website dedicated to this scheme and further intends to consult with the public on options for Phase 2 in Spring 2018. As information becomes available it will be placed on the website to allow the public to access it and be part of the consultation process, as has been done for phase 1 of the project.

This response therefore acts as a refusal notice under regulation 14 of the Environmental Information Regulations.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Information Management  
Shire Hall  
Warwick  
CV34 4RL  
xxxxxxxxxxxx@xxxx.xxxxxxxxxx.xxx

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

Phone: 0303 123 1113  
Website: [www.ico.gov.uk](http://www.ico.gov.uk)

I will now close your request as of this date.

Yours sincerely

Amy Hardiman  
Customer Liaison Manager