



EAST RIDING

OF YORKSHIRE COUNCIL

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Darren Stevens Director of Corporate Resources

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Date: 31 August 2021

Dear Ms Hayhurst

Environmental Information Regulations 2004 Provision of Requested Information

Thank you for your request for information, the details of which are set out below. Your request has been considered under the Environmental Information Regulations 2004.

Details of Request:

Please provide a letter from Mrs Elizabeth Walker, a planning agent for Rathlin Energy, to Matthew Sunman, principle development management officer - minerals and waste, East Riding of Yorkshire Council (ERYC).

The letter was received by ERYC on 21 August 2020. It was probably sent by email and was probably headed "Application type: Major Pre-Application Enquiry". It dealt with Rathlin Energy's plans for its hydrocarbon sites at West Newton A and West Newton B.

A reply to this letter, sent by ERYC to Mrs Walker on 6 October 2020, is in the public domain. It was included in a document entitled "Statement of Community Involvement West Newton A Wellsite", submitted as part of a recent planning application for West Newton A

Response:

The Council provides a pre-application advice service as recommended by the Government. It should be noted that any advice given is informal and does not commit the Council to a particular planning decision should an application be subsequently submitted.

The request was made on the standard form which is on the Council's website, and was accompanied by a number of supporting documents. The request was simply described as "extension of the existing wellsites at West Newton A and West Newton B to facilitate hydrocarbon production.

The pre-application advice form includes a specific question asking if the request should be dealt with confidentially. In this case the printed form confirms that "the customer requests that the information provided in this application remains confidential under Regulation 12(5)(d) of the Environmental Information Regulations.". As such the information is exempt from disclosure

Caroline Lacey
Chief Executive

under EIR 12 (5) (d) provided that disclosure would adversely affect the confidentiality of a public authority's proceedings where the confidentiality arises from statute or common law. The preplanning process constitutes proceedings because it is a formal process to consider an issue. The confidentiality in this case is protected by law by way of the common law duty of confidence. The information has to have the quality of confidence and communicated in circumstances importing an obligation of confidence. In this case the applicant has expressly indicated that the information is to be kept confidential.

The form makes it clear that in the event of a subsequent planning application being submitted the Council will publish the pre-application advice we provide. As you indicate this advice has already been made public as it was provided in the applicants supporting documents. Also the Council will publish the pre-application advice provided so that it can be seen by the public as to whether any issues raised in the pre-application advice have been addressed.

In making the above decision the council has applied the public interest test to consider whether the public interest in maintaining the exemption outweighs that of disclosure and has concluded that in this case it is not in the public interest to disclose the information. The public interest arguments addressed in reaching this decision are explained below.

Details of the arguments as to whether it serves the interests of the public best to disclose the information

Disclosure supports the transparency agenda, making it clear how local authorities deliver services. There is a public interest in any matters relating to planning being disclosed to understand what has been considered by the local planning authority in relation to a particular plot of land.

Details of the arguments as to whether it serves the interests of the public best not to disclose the information

Information about the pre-application planning enquiries for an individual property is a private interest and as such there is limited public interest in disclosing this information. It would be unfair to disclose the information which the applicant provided to the Council with an express request for the information to remain confidential.

On balancing the arguments for and against disclosure the council has decided that there is a public interest in protecting confidential information and as such it has been decided to not disclose the information

If you are dissatisfied with the above decision or how your request has been handled you can ask for the council to review this by contacting me within 6 weeks of this letter which is 12 October 2021.

A senior manager will carry out the review and under Regulation 11 provide a response within 40 working days. It will provide a fair and thorough review of the decisions taken and where necessary how your request has been handled, including decisions taken as to where the public interest lies in respect of excepted information.

If you are not content with the outcome of the review you can apply to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the council's review procedure. The Information Commissioner can be contacted at:

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

Web: www.ico.gov.uk
Email: casework@ico.org.uk
Tel: 0303 123 1113

Yours sincerely

Information Governance and Feedback Team