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PRIVATE AND CONFIDENTIAL

David Mudge

23 February 2021

Dear David

Freedom of Information Act 2000, Response to Internal Review, Ref: FOI-6545-2020

I am writing in response to your request for an internal review relating to the above request that was received on 08/01/2021

Your original request to the council was received on 26/08/2020 and asked for information about planning application 1/18/9012. The council responded to your request on 23/12/2020.

After our original disclosure dated 23/12/2020, we received the following correspondence from yourself requesting Cumbria County Council carry out an Internal Review:

The information provided in Cumbria County Council's response to my Fol request does not appear to be complete. Please provide the missing information or state that Cumbria County Council does not hold the information. Email logs may help to find additional email information.

Please conduct an internal review of the information provided and consider the following points.

1. Point 1 of the request was for "correspondence ... between Cumbria County Council and the applicant". The FOI response only shows the correspondence from the applicant to Cumbria County Council and not correspondence from Cumbria County Council (including officers, managers, directors and elected councillors) to the applicant. Please include all communications from Cumbria County Council to the applicant (including to the applicant's agents).

2. The Fol response states "Correspondence relating to legally privileged information has been excluded." The Fol response goes on to say "The public interest argument in favour of disclosure considered in relation to this case is to maintain safeguarding openness, transparency and accountability in communications between client and lawyer to ensure access to full and frank legal advice." Since the Fol request concerns the communications between Cumbria County Council and the applicant of 1/18/9012 (and not the communications between a client and lawyer), it is unclear how any of the information can be considered to be "legally privileged". Please provide all information withheld by Cumbria County Council as "legally

privileged" or, for each item withheld, please disclose as much information as possible including, for example, when the communication of such legally privileged information took place, between whom (names can be redacted but please include organisation names and roles) the context of that information and any other information in these communications that is not considered legally privileged.

3. The Fol request explicitly requested "any covering correspondence included with the 1/18/9012 planning application" but no such correspondence was included in the response. If not held, please confirm that no covering correspondence with the 1/18/9012 planning application is held by Cumbria County Council.

4. The Fol request explicitly requested "any attachments or enclosures included with the 1/18/9012 planning application that are not available for public download on planning.cumbria.gov.uk under 1/18/9012." Please provide these attachments or enclosures or confirm that Cumbria County Council does not hold this information.

5. The Fol request explicitly requested "copies of all correspondence and meeting minutes of any post-application discussions between Cumbria County Council and the applicant concerning 1/18/9012" with the provision that information provided under FOI-5683-2020 need not be included. Please confirm that Cumbria County Council does not hold any other information applicable to this request. If information is held, but has been redacted, please state this and provide as much information as possible, e.g. dates of emails, organisation names and roles and why the particular information has been redacted.

6. The "Kingmoor EfW.pdf" email from the applicant's agent in the Fol response refers to a meeting that took place on 22 November 2017. The Fol request included "meeting minutes of the pre-application discussions" so please include the minutes (or other notes) of the meeting of 22 November 2017 if held (or, if not held, please state that no minutes or notes are held).

7. Please include the correspondence that led to (and followed) the meeting on 22 November 2017 (including any documents/attachments) that may form part of that correspondence, or that may have been submitted at the meeting on 22 November 2017. If none are held, please state that none are held.

8. The file "Scoping Opinion.pdf" has been included but the covering communication has not been included, nor have the communications that preceded this Scoping Opinion. Please provide all such correspondence or state that no such information is held by Cumbria County Council.

9. The email from Stephenson Halliday dated 5 December 2018 ("Kingmoor ERF Carlisle.pdf") refers to "our meeting following the DCR meeting" which strongly suggests that the author of the email (the Stephenson Halliday Planning Director) met with the Cumbria County Council officer between the DCR meeting (presumably the DCR meeting of 14 November 2018) and the date of the email (5 December 2018). The request included "all correspondence and meeting minutes" so please include any other correspondence, meeting minutes or notes held by Cumbria County Council regarding this meeting between Stephenson Halliday and Cumbria County Council. If no other information is held by Cumbria County Council regarding this meeting, please state that no other information is held.

10. The documents included in the response include "RE Kingmoor ERF 1.pdf", "RE Kingmoor ERF 2.pdf" and

"RE Kingmoor ERF 4.pdf". This suggests that there is likely to be a document "RE Kingmoor ERF 3.pdf" but no such document has been included. Please include these missing communications or explain why "RE Kingmoor ERF 3.pdf" is missing. If information is held, but has been redacted, please state this and provide as much information as possible, e.g. dates of emails, organisation names and roles and why the particular information has been redacted.

11. The information in the FoI response refers to a number of telephone conversations but no records of telephone conversations were included in the FoI response other than in the text of the included emails. Please include the record of those telephone conversations or state that no records of telephone conversations are held by Cumbria County Council other than the references made in the various emails.

12. The email "RE 1189012 Verus.pdf" suggests that there is likely to have been further communication between Stephenson Halliday and Cumbria County Council regarding the email from Lowry Hill Residents Association forwarded by Cumbria County Council on 14 January 2019. Please provide the email(s), or telephone conversation notes, concerning this communication, or confirm that Cumbria County Council holds no further information regarding the communication between the applicant (or the applicant's agent(s)) and Cumbria County Council in relation to the Lowry Hill Residents Association email forwarded by Cumbria County Council on 14 January 2019.

13. The email "Kingmoor ERF planning application.pdf" dated 17 October 2018 refers to the "Queries raised by CRAIN" and states "we will provide a response to these queries as soon as possible". The email with these queries raised by CRAIN was presumably sent by Cumbria County Council to the applicant and is missing from the FoI response. The FoI response does include the attachment "Letter to CCC for issue.pdf" which is presumably the attachment to "RE Objections to 1189012 2.pdf" dated 6 December 2018. The content of "Letter to CCC for issue.pdf" appears to be in response to the CRAIN objections submitted on 1 November 2018 although the communication between Cumbria County Council and the applicant containing these objections has not been included in the FoI response. Since the FoI response contains no other communications in relation to the "Queries raised by CRAIN" and since the applicant said that they would provide a response to these queries, please confirm that Cumbria County Council holds no other response from the applicant in relation to the CRAIN questions and objections referred to in the email "Kingmoor ERF planning application.pdf" dated 17 October 2018.

14. No correspondence between councillors and the applicant (or agent(s) of the applicant) with regard to 1/18/9012 have been included. Please provide such correspondence or state that Cumbria County Council does not hold any such information.

I have undertaken a review of the original disclosure and contacted the relevant departments for any additional information. I can confirm I have identified some further information that should've been disclosed. I apologise for any inconvenience, please see the below comments and attached additional documents:

1. When reviewing the documents attached which contained emails, I found emails from both the client and CC Council. I have however received further documentation from the department and apologise for any inconvenience. Please see all further correspondence attached.

2. Correspondence seeking legal advice between the investigating officer and solicitor/legal team does fall within the Legal Professional Privilege exemption. Therefore all email correspondence which contains such

advice has been withheld under section 42 from the disclosure. We have however provided emails within the trails that do not contain any legal advice. Please see attached documents.

3. Application came in via an online portal, therefore no covering letter was applied.

4. All documents are public and published on planning.cumbria.gov.uk.

5. No additional information held.

6. Information not held.

7. Information not held.

8. Please see all further correspondence attached.

9. Please see attached correspondence. Further emails within this trail have been withheld under section 42 of the Freedom of Information Act 2000,

10. After further investigation I can confirm this is in fact an admin error made when saving the documentation for disclosure. There is no document 'Kingmoor ERF 3.pdf'. Apologies for any confusion.

11. No telephone conversations recorded - Information not held.

12. Information not held.

13. Information not held.

14. Information not held.

If you are not satisfied with the council's internal review you have the right to appeal to the Information Commissioner (contact details provided below):

First Contact Team
Information Commissioners Office
Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Telephone: 0303 123 1113
E-mail: casework@ico.gsi.gov.uk
<https://ico.org.uk/make-a-complaint>

If you have any queries please contact us.

Kind Regards

Information Governance Team