



EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,
ELY, CAMBRIDGESHIRE CB7 4EE

Telephone: Ely (01353) 665555
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Further to your information request FOI/EIR 23/24-288, please find your question and our response below.

Request:

Please provide copy of all and any third-party correspondence received in respect of applications 23/00450/FUL and/ or 23/00049/CLE.

Response:

Please see the attachment which contains third-party correspondence received in respect of applications 23/00450/FUL and 23/00049/CLE.

Please note that we have not included any correspondence that is already published on the Planning Portal.

We have redacted all personal data, except that of East Cambridgeshire District Officers, under FOI Exemption 40 (Personal Information).

In respect of those requests that were answered in full or partially and the total refused please take this as notice under FOIA, that we:

- a) Consider the information as exempt from disclosure under the Act;
- b) Claim exempt under sections of the Act:

Section 40 of the Freedom of Information Act 2000

- c) State why the exemption applies:

Section 40 of the Freedom of Information Act 2000 states the following:

- 1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.**
- 2) Any Information to which a request for information relates is also exempt information if –**
 - a. it constitutes personal data which do not within subsection (1), and**
 - b. either the first or the second condition is satisfied.**

As Section 40 is an 'absolute' exemption there is no requirement for us to undertake a Public Interest Test.

We have withheld correspondence which is being used in connection with an ongoing Planning Enforcement case.

In respect of those requests that were answered in full or partially and the total refused please take this as notice under FOIA, that we:

- a) Consider the information as exempt from disclosure under the Act;
- b) Claim exception under sections of the Act:

Exception 12(5)(b) Course of Justice

- c) State why the exception applies:

Exception 12(5)(b) Course of Justice

Regulation 12(5)(b) provides an exception from the disclosure of environmental information which would adversely affect the course of justice.

ICO Guidance explains that the course of justice is a broad concept and can include information relating to planning and associated enforcement. We note paragraph 39 of the ICO guidance which outlines the factors an authority should consider including:

- The stage or stages reached in any particular investigation or proceedings;
- Whether and to what extent the information has already been released into the public domain;
- The significance or sensitivity of the information;
- The age of the information.

Public Interest Test:

As Exception 12(5)(b) is qualified, we are obliged to outline the harm in disclosure and explain why we

consider that the public interest in maintaining the exception outweighs the public interest in disclosure: Whilst we appreciate the benefits in transparency and that disclosure could improve public knowledge and debate on planning enforcement cases, the public interest in preserving the course of justice is paramount. Disclosure of enforcement file correspondence would not only prejudice the ability to take effective action in this investigation but would also undermine the Council's ability to take similar action in the future.

This concludes your request FOI/EIR 23/24-288.

If information has been refused, please treat this as a Refusal Notice for the purposes of the Act.

If you disagree with our decision or are otherwise unhappy with how we have dealt with your request in the first instance you may approach foi@eastcambs.gov.uk and request a review. A request for review must be made in no more than 40 working days from the date of this email.

Should you remain dissatisfied with the outcome you have a right under s50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF