

On **6th July, 2015**, Save Our Rustlings Trees (SORT: renamed **Save Our Roadside Trees**) submitted a Freedom of Information (**FOI**) request to Sheffield City Council. It was the beginning of a saga that would last almost **8 MONTHS**. A response was received on 22nd July, 2015. It did not provide the information requested. Following protocol, on **23rd July, 2015**, an “*internal review*” was requested. On **20th August, 2015**, the outcome was delivered. It neglected to supply the information requested. On **11th September, 2015**, as suggested by the Council's Information Management Officer, SORT contacted the Information Commissioner's Office and requested the Commissioner to consider whether SORT's complaint would be “*eligible for further review*”. On **25th November, 2015**, the case was accepted as eligible and the complaint was assigned to a Case Officer by the Information Commissioner. On **19th February, 2016**, the Case Officer communicated the outcome of the Information Commissioner's review. In summary, Sheffield City Council took **a month** to do their review; the Information Commissioner took the best part of **3 months** to consider whether or not the complaint would be “*eligible for further review*” and to assign a Case Officer. The Case Officer took just over **2 months** to complete the Information Commissioner's review.

From: SORT

Sent: 30 November 2015 16:17

To: casework@ico.org.uk

Subject: FW: FS50596905 EIR information request complaint[Ref. FS50596905]

Dear Ms Parkinson

Following our telephone conversation this afternoon, here is the email trail between myself and the FOI Department of Sheffield City Council regarding FOI request 422, highlighted in blue.

Kind regards

SORT

From: SORT
Sent: 06 July 2015 01:56
To: FOI@sheffield.gov.uk
Subject: Range of considered options Rustlings Road

Dear Sir/Madam

Under the FOI act, I request the **specifications** for the range of options that were considered and deemed to be impracticable, for the 11 healthy trees due for felling on Rustlings Road.

Yours faithfully
SORT

From: FOI@sheffield.gov.uk
To: SORT
Subject: Re – Freedom of Information Request – Reference – FOI / 422
Date: Mon, 6 Jul 2015 13:46:35 +0000

Re – Freedom of Information Request – Reference – FOI / 422

Dear SORT

Thank you for your recent request for information relating to **Options deemed impracticable for trees due for feeling on Rustlings Road** which we received on 06/07/2015

This has been logged as a Freedom of Information Request, and will be dealt with under the Freedom of Information Act. The reference number for your request can be found above.

The Freedom of Information Act states that we must respond to you within 20 working days, therefore, you should expect to hear a response from us by 03/08/2015.

In the meantime, if you have any queries please contact us on the number below.

Thank you.

Yours sincerely,

Resources Business Support

Moorfoot Level 8 West Wing

Sheffield S1 4PL

Tel : 0114 20 53478

E-mail : FOI@sheffield.gov.uk

II Please don't print this e-mail unless you really need to

From: FOI@sheffield.gov.uk

To: SORT

Subject: Response - Freedom of Information Request – Reference FOI/422

Date: Wed, 22 Jul 2015 09:53:38 +0000

Dear SORT

Re: Freedom of Information Request – Reference FOI/422

Thank you for your recent request for information regarding **Options deemed impracticable for trees due for felling on Rustlings Road**, which we received on 06/07/2015.

Please find below, Sheffield City Council's response to your request:

Dear SORT

Please find attached the list of options that are considered before any tree across the city is noticed for removal and replacement. Please note that 3 out of the 11 trees that have been noticed on Rustlings Road will only be felled if once we have excavated the footway we find that none of the solutions attached can be applied. Also note that these solutions are likely to have allowed some of the other 19 trees along Rustlings Road to remain in place.

These engineering solutions will also be discussed by the Highway Tree Advisory Forum on the 2nd September.

Kind Regards

Streets Ahead Team

I hope the information we have provided is of help to your enquiries. If you have any queries about this response, please do not hesitate to contact us.

If you are unhappy with the response you have received in relation to your request, you are entitled to have this reviewed. You can ask for an internal review by either writing to the above address or by emailing FOI@sheffield.gov.uk.

If you remain dissatisfied with the outcome of your internal review, you can contact the Information Commissioners Office. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, telephone 0303 123 113, or for further details see their website www.ico.gov.uk

Kind Regards,

Resources Business Support

Moorfoot Level 8 West Wing

Sheffield S1 4PL

Tel : 0114 20 53478

E-mail : FOI@sheffield.gov.uk

P Please don't print this e-mail unless you really need to

A Word document was attached, named “*Streets Ahead engineering options*”, created on 22nd July, 2015 (at 10:16pm) by Anita Dell (Communications Officer for SCC Communications and Performance Team: also an “*expert*” on the panel at the Highway Tree Advisory Forum, Chaired by Cllr Fox [Cabinet Member for Environment & Transport]; led by the Streets Ahead Team). The content is represented on this page, in its entirety:

Streets Ahead engineering options

Sensitive Engineering Solutions

1. Installation of thinner profile kerbs
2. Excavation of footways for physical root examination prior to an ultimate decision being made on removal
3. Ramping / Re-profiling of footway levels over roots (within acceptable deviation levels).
4. Flexible paving/ surfacing solution
5. Removal of displaced kerbs leaving a gap in the channel

Tree based options

6. Root pruning
7. Root Shaving
8. Root Barriers and Root guidance panels
9. Excavation beneath the roots damaging the footway
10. Tree Growth Retardant
11. Creation of larger tree pits around existing trees
12. Heavy tree crown reduction / pollarding to stunt tree growth.
13. Retain dead, dying, dangerous and diseased highway trees for their habitat value

Other non-engineering solutions

14. Line markings on the carriageway to delineate where it is not safe to drive or park
15. Building out kerb line into carriageway
16. Footpath Deviation around the tree
17. Installation of a Geo-grid under the footway to reduce reflective cracking
18. Reconstruction of the path using loose fill material rather than a sealed surface
19. Filling in of pavement cracks
20. Reduce the road width and widen the footways as well as converting them to grass verges
21. Close a road to traffic
22. Change to contract specification to leave the footways as they are without carrying out any repairs and removing trip hazards
23. Abandonment of the existing footway in favour of construction of a new footway elsewhere
24. Permanent closure of footways to pedestrians. Dig up and replace as grass verges.

25. Seeking the views of residents about removal where that is considered by the Council to be the only option and getting the residents to sign a legal agreement regarding accepting liabilities regarding accepting liabilities

From: SORT
Sent: 23 July 2015 22:57
To: FOI
Subject: FW: Response - Freedom of Information Request – Reference FOI/422

Dear Sir

I request an internal review of this response. I requested the solutions that were considered for each tree on Rustlings Road and considered impracticable. We cannot have a meaningful discussion at the next Tree Forum on Sep 2nd, without them. What I have been sent, is just a generic list of solutions.

I am therefore requesting again, the reasons why none of these solutions could be used for each tree ear marked for felling, on Rustlings Road.

Yours faithfully
SORT

From: FOI@sheffield.gov.uk
To: SORT
Subject: Internal Review Response FOI/422
Date: Thu, 20 Aug 2015 19:40:04 +0000
Dear SORT,

I am writing in connection with the Freedom of Information request you submitted on 6th July 2015 (our reference 422) and subsequent request for internal review.

In your request, you specifically ask for:

I request the specifications for the range of options that were considered and deemed to be impracticable, for the 11 healthy trees due for felling on Rustlings Road.

I have carried out an Internal Review of the handling of your request. Please take this letter as the response to your request for an Internal Review.

The intention of an internal review is to consider if we handled your response in accordance with the law and to consider if any decisions made, for example to refuse information, were correct and still apply.

In my review of the processing of this request I have considered:

- Your original request
- The response to your request
- The information requested

Time for Compliance

Section 10 – Time for compliance with request

(<http://www.legislation.gov.uk/ukpga/2000/36/section/10>)

Section 10 of the Freedom of Information Act states that Sheffield City Council must respond to requests made under the Freedom of Information Act within 20 working days of receipt. In this case, your request was received by Sheffield City Council on 6th July 2015 which was responded to on 22nd July 2015. This response was provided within 20 working days, therefore, I am satisfied that Section 10 of the Freedom of Information Act was correctly complied with in this case.

The exemption(s) which were applied to the information you requested

Section 17 – refusal notice

(<http://www.legislation.gov.uk/ukpga/2000/36/section/17>)

Section 17 of the Freedom of Information Act requires the Council to state and identify the exemption being applied, together with noting the reasons why the exemption applies. The Council is also required to detail our internal review procedure and highlight the right of appeal to the Information Commissioner's Office (ICO).

Your right of appeal was detailed in our response. There were no exemptions used to refuse to supply information in regard to your request.

Response to further comments in your request for review

Within your request for review you noted some specific concerns as detailed below:

I request an internal review of this response. I requested the solutions that were considered for each tree on Rustlings Road and considered impracticable. We cannot have a meaningful discussion at the next Tree Forum on Sep 2nd, without them. What I have been sent, is just a generic list of solutions.

I am therefore requesting again, the reasons why none of these solutions could be used for each tree ear marked for felling, on Rustlings Road.

In respect to these comments the Council's initial response to your FOIA request was:

Please find attached the list of options that are considered before any tree across the city is noticed for removal and replacement. Please note that 3 out of the 11 trees that have been noticed on Rustlings Road will only be felled if once we have excavated the footway we find that none of the solutions attached can be applied. Also note that these solutions are likely to have allowed some of the other 19 trees along Rustlings Road to remain in place.



Streets Ahead
engineering options.c

As per the Council's response all these options would have been considered and available prior to the decision to remove the related trees in Rustlings Road.

The Council's response appears to provide a full and comprehensive reply to your initial request. Namely we have provided the options which are available and would have been considered in respect to these trees. Your request for internal review expands your request to ask specifically for "*the reasons why none of these solutions could be used for each tree ear marked for felling, on Rustlings Road*".

The Freedom of Information Act provides a right access to recorded information and in this case you have expanded your request for the reasons why the solutions were not available or an option to save these trees.

I have requested a response from the Highways team who work in liaison with Amey for a confirmation if such records are held. They have confirmed the position as noted below:

We can confirm that all of the options included on the list of Streets Ahead Engineering Options were considered in respect of each of the trees ear marked for felling on Rustlings Road but none of the options were considered to be viable. We have not recorded the specific reasons why they were not viable.

They have also confirmed the following information for your reference:

In relation to SORT's point that SORT needs this information in order to have a meaningful discussion at the Tree Forum on 2nd September, it should be noted that the purpose of the Forum is to discuss the principles behind the Engineering Options, not to discuss their application to individual trees.

Review Decision - Conclusion

In conclusion, it is my view that your Freedom of Information request has been handled correctly and within the legal requirements of the Freedom of Information Act 2000.

If you are dissatisfied with the outcome of your internal review, you are entitled to contact the Information Commissioner's Office and they will consider whether your complaint is eligible for further review. The Information Commissioner's details and guidance is available on the website at www.ico.org.uk.

Kind regards

Mark

Mark Knight

Information Management Officer
Information and Knowledge Management
Business Change & Information Solutions (BCIS)
Sheffield City Council
PO Box 1283 Sheffield S1 1UJ
www.sheffield.gov.uk

From: SORT
Sent: 11 September 2015 14:19
To: casework@ico.org.uk
Subject: RE: Internal Review Response FOI/422

Dear Sir/Madam,

The Information Management Officer for Sheffield City Council - Mark Knight – has provided a dissatisfactory response to a Freedom of Information request: Ref: **FOI/422**. In accordance with protocol, an internal review was requested, as it is the only option available to people that are dissatisfied with a response received. Unfortunately, the internal review was also conducted by the same Information Management Officer – Mark Knight.

My original Freedom of Information request was:

*“I request the **specifications for the range of options** that were considered and deemed to be impracticable, for the 11 healthy trees due for felling on Rustlings Road.”*

The request was made because I represent a group (~13,000 people – mainly citizens of Sheffield: Save Our Roadside Trees [SORT]) that campaigns for the responsible and sustainable management of Sheffield’s urban forest, with particular focus on street trees. We wanted to see the **alternative highway engineering specifications** that were considered by the local authority (Sheffield City Council), and Streets Ahead, to enable the safe, long-term retention of existing highway trees during and following works in close proximity to existing street trees. Council and Amey (the PFI contractor) officials have led citizens to believe that such alternatives were considered and subsequently dismissed as impracticable, prior to them taking the decision to fell trees.

I disagree with and refute the claim of the internal review that “The Council’s response appears to provide a full and comprehensive reply to your initial request.”, as it evidently does not.

I did not request a “list of Streets Ahead Engineering **Options**”, or a list of any kind. Neither the list or any item in the list constitutes one or more alternative highway engineering specification/s; I specifically requested, “the **specifications for the range of options that were considered and deemed to be impracticable**”.

This request is important because, during a “street-walk” (on May 27th 2015) – the name given to the on-site “notification meeting” between campaigners and representatives from Amey, Darren Butt - Account Director for Amey – stated that tree felling is necessary to meet contractual agreements; that it was not up to him to change specifications in order to be more sympathetic to trees, and that his job – Amey’s job - is to reinstate the kerb line. These comments indicate that the proposed felling works are necessary to comply with current highways engineering specifications.

The internal review response stated:

“...at the Tree Forum on 2nd September, it should be noted that the purpose of the Forum is to discuss the principles behind the Engineering Options, not to discuss their application to individual trees.”

Actually, no discussion took place at this meeting. Furthermore, **no alternative highway engineering specifications were presented or discussed**. The option to commission and/or draft, adopt & use alternative, standard, sensitive, flexible (meaning there is room to make adjustments to suit on-site circumstances) highway engineering SPECIFICATION/S (preferably draughted by competent [see BS 5837: 2012], registered/chartered arboricultural consultants and competent highway engineers, working together, in cooperation), to enable the safe long-term retention of existing long-established street trees on street trees was not even on the “*list of Streets Ahead Engineering Options*”, nor was it mentioned at the aforementioned forum meeting.

As early as 31st May, 2015, Save Our Rustlings Trees (SORT) campaigners wrote to council officials stating:

“We request that new, improved, flexible, tree-friendly highway specification/s specifically for pavements (including kerbs) with existing trees are adopted, so as to retain as many larger trees as possible. In our opinion, this would represent a practicable approach to responsible and sustainable management of green infrastructure, with regard to existing, long-established street trees. By making such changes, managers would not be required to ‘engineer solutions for every tree’, as Jeremy Willis, Ops Manager of Amey, had stated would be impracticable on 27.05.15. The new standard specification would need to be draughted in accordance with current arboricultural best practice guidance and recommendations.”

You should also note that SORT, in the letters to officials, including Cllr Fox (current Cabinet Member for Environment and Transport & self-appointed Chair of Highway Tree Advisory Forum), have not requested solutions for individual trees, but the adoption & use of new, alternative, flexible standard highway engineering specifications, to be used in the same manner as the current specification is used – for the whole street! This also accords with current best practice (TDAG).

Furthermore, there are problems with the Highway Tree Advisory Forum:

There is no forum constitution, so the forum is open to misuse and abuse by those with vested interests and/or transitory opinions (such as Amey, Cllr Fox & Streets Ahead); there are no competent arboriculturists on the panel, or independent highway engineers, nor any representatives from professional institutions / associations / groups, such as:

Trees and Design Action Group.
Arboricultural Association.
Institute of Chartered Foresters.
The National Tree Safety Group.
The Landscape Institute.
The UK Roads Liaison Group.
National Joint Utilities Group.
Joint Nature Conservation Committee: <http://jncc.defra.gov.uk/page-5287>
The Forestry Commission.
Natural England.

The official beliefs and opinions of *Amey* and the Council – to date unsupported by evidence, policy, legislation or best practice – need to be scrutinised by competent professionals with education, knowledge, training and experience relevant to the matters being approached. Citizen groups and voluntary organisations are unlikely to have the necessary expertise, or have the resources to access such expertise.

Alternative highway engineering specifications should have been commissioned and/or drafted and this should have been somewhere near the top of the list of options for consideration, as it is both urgent and necessary. Also, this should have been done prior to or at the start of the contract.

In light of all of the above, I remain dissatisfied with the outcome of Sheffield City Council's internal review – undertaken by their Information Management Officer - Mark Knight. As the Information Commissioner, please would you kindly do all that is within your power to ensure that I do receive the information that I have requested.

I look forward to your prompt reply.

Yours faithfully,

SORT

From: acknowledgement@ico.org.uk
To: SORT
Subject: We have received your email
Date: Fri, 11 Sep 2015 13:19:19 +0000

Thank you for contacting the Information Commissioner's Office. We confirm that we have received your correspondence.

If you have raised a new information rights concern - we aim to send you an initial response and case reference number within 30 days.

Please note that if you are concerned about the way an organisation is handling your personal information, we will not usually look into it unless you have raised it with the organisation first. For more information please see our webpage 'raising a concern with an organisation' (go to our homepage and follow the link 'for the public'). You can also call the number below.

If you have requested advice - we aim to respond within 14 days.

If you have made a request for information held by the ICO - we will contact you as soon as possible if we need any further information to enable us to answer your request. If we don't need any further information we will respond to you within our published, and statutory, service levels. For more information please visit our webpage 'access information about the ICO' (go to our homepage and follow the link for 'about the ICO').

If your correspondence relates to an existing case - we will add it to your case and consider it on allocation to a case officer.

Copied correspondence - we do not respond to correspondence that has been copied to us.

For more information about our services, please see our webpage 'service standards and what to expect' (go to our homepage and follow the links for 'Report a concern' and 'Service standards and what to expect'). You can also call the number below.

If you have a matter you would like to discuss with us, please call our helpline on 0303 123 1113 (local rate).

Yours sincerely

The Information Commissioner's Office

Our newsletter

Details of how to sign up for our monthly e-newsletter can be found at http://www.ico.org.uk/tools_and_resources/e-newsletter.aspx

Twitter Find us on Twitter at <http://www.twitter.com/ICOnews>

From: casework@ico.org.uk

To: SORT

Subject: FS50596905 EIR information request complaint[Ref. FS50596905]

Date: Wed, 25 Nov 2015 16:00:26 +0000

SORT

Sent by email only to:

SORT

25 November 2015

Case reference number [FS50596905]

Dear SORT

Environmental Information Regulations 2004 (EIR) Your EIR request to Sheffield City Council dated 6th July 2015 about options considered for trees due for felling on Rustlings Road.

Further to our letter of 29th September, I write to inform you that your case has now been allocated to me to investigate.

What we need from you

Before I can take this case forward I need more information from you. Please provide me with copies of the following documents within the next 10 working days, that is, by **9 December 2015** :-

- The information provided by Sheffield City Council to your original EIR request.

You kindly sent this to us with your complaint documentation. Unfortunately we have not been able to view the word document attached with the email trial. I believe this attachment to be a general list of options for consideration prior to the felling of trees. I would be grateful if you could resend this document either by copy and pasting the information into the body of the an email or as a PDF.

I will not be able to begin my investigation until you have provided this information. Once I have received this information I will write to you again to confirm the scope of the case.

Please do not hesitate to contact me at casework@ico.org.uk (quoting the case reference number above) or by telephoning me on 01625 545 817 should you have any queries or difficulties.

Kind regards,

Victoria Parkinson
Case Officer - Improving Practice
01625 545 817

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The Information Commissioner's Office cannot guarantee that this message or any attachment is virus free or has not been intercepted and amended. You should perform your own virus checks.

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

Tel: 0303 123 1113 Fax: 01625 524 510 Web: www.ico.org.uk

From: SORT

To: casework@ico.org.uk

Subject: RE: FS50596905 EIR information request complaint[Ref. FS50596905]

Date: Mon, 30 Nov 2015 13:31:18 +0000

Dear Ms Parkinson

Since the ICO agreed to handle this case, a Streets Ahead Roadshow event has been held - in Heeley, Sheffield, on **17th November, 2015** – at which the Streets Ahead PFI Operations Director (Darren Butt, employed by the PFI contractor Amey Hallam Highways Ltd) – *“...principally responsible for trees, grounds maintenance and just general highway maintenance”* - commented that the list of *“Streets Ahead Engineering Options”* provided by Sheffield City Council’s (SCC) Information Management Officer (Mark Knight), by e-mail, dated 20th August, 2015, and subsequently presented to the public at the second meeting of Cllr Fox’s (Cabinet Member for Environment and Transport & now self appointed Chair of HTAF) bi-monthly *Highway Trees Advisory Forum (HTAF)*, on **2nd September, 2015**, by Steve Robinson (SCC Head of Highway Maintenance), was *“bollocks”*.

At the aforementioned Roadshow, it was explained to Mr Butt that according to the words of Cllr Leigh Bramall (Deputy Leader of the Labour Council & Cabinet Member for Business, Skills & Development), at the meeting of full council on 1st July 2015, the Amey PFI contract allows the felling of 50% of highway trees “18,000”, and that the December 2012 issue of *‘Transportation Professional’* (a Chartered Institution of Highways & Transportation publication) interviewed Steve Robinson and reported that:

“OVER THE FIRST FIVE YEARS of the 25 year Streets Ahead deal...” AMEY will be: *“REPLACING HALF OF THE CITY’S 36,000 HIGHWAY TREES”*.

At the aforementioned Roadshow, Mr Butt said he is aware that many of the 36,000 highway trees are classed as “mature or over-mature (75%, according to Streets Ahead; SCC: Website & David Caulfield; Amey: Jeremy Willis) and that they are likely to be causing “pavement ridging” or disturbing kerb alignment. Mr Butt said that if trees caused uneven pavements that was unacceptable. When questioned further, he added that his arboricultural team had worked with Graeme Symonds’s (Amey’s Core Investment Project Director) highway construction team to develop **a range of alternative highway engineering specifications for footway and kerb construction, which the Council have not mentioned or made available to the public. Mr Butt said that Amey have their own alternative highway engineering specifications, which Streets Ahead use.**

In light of these new revelations, it is evident that the list of *“options”* supplied by SCC does certainly not represent specifications for the range of options considered prior to taking a decision to fell safe, healthy trees: a decision which the public are frequently, reputedly told by officials (including Cllr Fox, Streets Ahead & Amey) is *“a last resort”*. 1,000 Highway trees

have been felled since 23rd July 2015 (the inaugural HTAF meeting). To date, there is no evidence that alternative highway construction specifications have been commissioned, draughted and used to ensure that mature trees can be safely be retained during works to and in close proximity to existing highway trees, for the long-term. Consequently, there does not appear to be any evidence to support the claim that "*felling is a last resort*". Serious, city-wide environmental degradation continues.

I look forward to the results of your investigations.

Kind regards

SORT

From: casework@ico.org.uk

To: SORT

Subject: FS50596905 ICO complaint against Sheffield City Council[Ref. FS50596905]

Date: Fri, 19 Feb 2016 14:29:53 +0000

19 February 2016

Case Reference Number FS50596905

Dear SORT

Further to our previous correspondence, I write to inform you that my investigation into Sheffield City Council's ("the council") handling of your information request is now concluded.

The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 give the public the right to request information which is held at the time of the request. Under the Acts, public authorities are not obliged to create new information to fulfil the request.

When investigating cases where a public authority claims information is not held, the Commissioner will decide whether this is correct based on the balance of probabilities. He will consider the adequacy of the public authority's search for information and its responses explaining why such information is/is not held.

The council confirmed there is no statutory requirement to document a decision to fell a tree and also explained that the decision making process involved verbal discussions at ground level which were noted and recorded in the form of the table provided on 18 February 2016. The council also liaised with the relevant staff, at the request of the ICO, and confirmed that "they have been unable to locate any relevant information through email/file searches and consideration of manual records".

The council also provided an explanation of how the decision is made to fell individual trees and why no further information is recorded from this.

Assessment of suitability/lack of suitability for engineering solutions is made during a "walk and build" process by Amey. This is a joint inspection between a highway engineer and an arboricultural surveyor.

The team carrying out this "walk and build" hold detailed discussions at site level, considering and debating any and all potential engineering solutions which may be utilised to retain each specific tree, considering the council's legislative requirements, inclusive mobility and how they can construct the new road surface, however the decision making process and rationale for the decision is not recorded. The council's own highway engineers then also assess Amey's findings on site and explore whether there are any reasonably practicable alternative solutions prior to giving any approval to replace a tree. These findings are then uploaded and recorded in the table provided to you on 18 February 2016.

The Commissioner considers that in this case, no further information is held beyond the list of 25 options, provided in response to your initial request, and the table titled 'Tree removals Rustlings Road' provided recently.

The Commissioner does however note that the council did not make clear that the specific information requested was not held and that the list provided was in terms of relevant associated information to aid your request. As such, the council has breached regulation 14 of the Environmental Information Regulations 2004 by not providing an adequate refusal notice citing exception 12(4)(a) "*it does not hold that information when an applicant's request is received*".

The request should have been considered under the Environmental Information Regulations 2004 which is the appropriate legislation regarding the public's right to request information on the environment.

I have raised these issues with the council's Information Team and will be recording them as part of our ongoing monitoring of public authorities. A decision notice is not required for the ICO to use this information in our intelligence gathering.

As the council has now confirmed to you that no information is held within the scope of your request and has provided you with information related to your request (but not strictly within the scope of the request), the Commissioner proposes to close the case without issuing a decision notice.

Should you wish to challenge the Commissioner's decision at the First-Tier Tribunal a decision notice would be required. Please notify me within 10 working days, that is by **4 March 2016**, if you require a decision notice. If I do not hear from you within this timeframe, I will assume the case may be closed.

Please do not hesitate to contact me should you wish to discuss this case further.

Kind regards,

Victoria Parkinson
Case Officer – Improving Practice
01625 545 817

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Any email including its content may be monitored and used by the Information Commissioner's Office for reasons of security and for monitoring internal compliance with the office policy on staff use. Email monitoring or blocking software may also be used. Please be aware that you have a responsibility to ensure that any email you write or forward is within the bounds of the law.

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

Tel: 0303 123 1113 Fax: 01625 524 510 Web: www.ico.org.uk