

From: Louise Reid
Sent: 28 January 2019 11:11
To: Mike Taylor
Subject: Internal Review Outcome re: FOI 18/646

Dear Cllr Taylor,

I have been asked to carry out an internal review with regard to your request for information under the Environmental Information Regulations 2004 (EIR), received on 10 September 2018 and recorded under reference 18/646. I apologise for the delay in responding to you.

The details of the request and response are as follows:

1. Details of all meetings between Officers, Members and the Consortium and its representatives, between the end of the Reg 18 consultation and the Cabinet meeting on 3rd September.
2. Any emails, minutes and contemporaneous notes from those meetings or generated as a result of those meetings.
3. Any emails, minutes or contemporaneous notes of any internal meetings between Officers, or between Officers and Members, referring to Borough Green Gardens and offers from the Consortium.
4. Any emails, letters or telephone conversations between Officers and the Consortium or its representatives and contemporaneous notes.
5. Details of any advice or consultation provided to TMBC by the Consortium or its representatives.

Ian Bailey, the Planning Policy Manager, responded to your EIR request on 8 October 2018, details as follows:

“Thank you for your email dated 10 September 2018 in which you have requested information in connection with all correspondence in relation to the strategic site at Borough Green Gardens between November 2016 and 3 September 2018. A copy of your request is reproduced below for ease of information.

Having reviewed the information you have requested, as required by the Act, I am able to advise that we do hold some of the specific information that you have asked for. The email account of the Director of Planning, Housing and Environmental Health has been deleted, so I do not have access to any correspondence directly between that account and the people you have requested, but I do have some correspondence where copied in.

I have reviewed the total number of emails, meetings, notes and telephone conversations over this period and I can advise that this would necessitate officers reviewing every single correspondence to redact any personal data/information as required by the GDPR (2018) and any commercially confidential information. This would fall within the scope of the Environmental Information Regulations and in particular the exception set out at Regulation 12(4)(b) as it would be “manifestly unreasonable” insofar that it would create unreasonable costs or an unreasonable diversion of

resources. I would consider that provision of this information would take an officer in the region of 37 hours to complete conclusively and in full.

If you are dissatisfied with this response, then you may ask the Council to conduct an internal review of your case by writing to the Council's FOI Team (foi@tmbc.gov.uk). If you are still not content after the Council has conducted an internal review of your case, then you may apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the internal review procedure provided by the Borough Council.

The Information Commissioner can be contacted in writing at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Please quote the reference number at the top of this email in any future correspondence about this request."

On 11 October you emailed Ian Bailey raising issues with regard to his response, in particular that he was mistaken that all of Steve Humphrey's emails relating to the Borough Green Gardens site had been deleted following his retirement on 21 September 2018. I have therefore investigated this matter and, in addition, have reviewed the original request.

Turning to your primary concern relating to Steve Humphrey's emails on Borough Green Gardens, I can confirm that all his emails were deleted prior to his departure from TMBC. However, I have liaised with our IT Service and can confirm that Steve Humphrey's deleted emails were backed up on the Netmail system. I requested information from the IT Service regarding the number of emails for Steve Humphrey on his Netmail account for the last 5 years; this is based upon the period that may contain emails relating to the Borough Green Gardens site. The results are provided below:

1/1/18 - 22/11/18 total 53,101
1/1/17 - 31/12/17 total 55,310
1/1/16 - 31/12/16 total 37,894
1/1/15 - 31/12/15 total 16,092
1/1/14 - 31/12/14 total 12,779

In order to find emails relating to the Borough Green Gardens site in Steve Humphrey's Netmail account it would be necessary to open every email. Based upon a total of 175,176 emails and making an assumption that it would take 30 seconds to read each email, it would take one person 197 working days to view all the emails – around 39-40 weeks working 7.4 hours a day. In addition, any relevant emails would need to be redacted in order to meet GDPR requirements. However as the quantum of emails relating to the Borough Green Gardens site is unknown it is not possible to provide a calculation on how long this might take. Notwithstanding the latter point, I consider the amount of time it would take to go through Steve Humphrey's Netmail would comprise a manifestly unreasonable amount of time to commit a full time resource in order to find those emails that relate to the Borough Green Gardens site.

Turning to other officers who may have received communications on the Borough Green Gardens site, I have contacted everyone in the Planning Policy Team, together with the Development Manager. Three officers confirmed having received communications on the Borough Green Gardens site, however how these have been retained differ from officer to officer. In one case the officer has only retained emails for the last 2 months, in another case only for the last month – all other emails have been deleted, however copies will have been kept on their Netmail accounts. One officer has retained a selection of emails for the last 3 years, but this is not comprehensive as they have confirmed that other emails relating to the Borough Green Gardens site were deleted and are

therefore on their Netmail account. The retained information relates only to emails and does not comprise separate notes on telephone conversations, letters, meeting notes or any other notes. The details on what have been saved are as follows:

204 stored emails

Unknown number of deleted emails contained within the officers respective Netmail accounts

In order to provide the 204 stored emails it would be necessary to open and read each email and redact where necessary. Please note that redaction does take time to complete and the email would then need to be scanned and uploaded. In addition, some information may be commercially sensitive and, as such, would require extensive redaction. Based upon an average time per email of 15 minutes this would take 51 hours to complete. I consider this to be a manifestly unreasonable amount of time to commit a full time resource.

I have identified the dates on which some meetings took place, details as follows:

06.12.17
20.12.17
24.01.18
25.01.18
01.05.18
06.08.18

However, I understand that this may not be a comprehensive list of meetings as it comprises the records of only one officer. Other officers have attended meetings but do not hold records of the dates.

To conclude, my investigation identified that some emails relating to the Borough Green Gardens site have been retained, but the time it would take to prepare them for release would be manifestly unreasonable. The majority of records relating to the site appear to be on individual Netmail accounts, which would also require an extensive amount of time to review each of the Netmail accounts and then prepare any relevant emails for release. I consider that the EIR request is overly wide in its remit and would advise that should it be framed in a more concise way, taking account of my investigation above.

Yours sincerely,
Louise Reid
Head of Planning
Tonbridge and Malling Borough Council

Have you tried contacting us at www.tmbc.gov.uk/do-it-online?

A note about how your personal data is used: As your councillor, I am the “data controller” of any personal data you provide to me. I will use this personal data to enable me to deal with your query or matter. This may also require me to share your personal data with Tonbridge & Malling Borough Council to make sure your query gets handled appropriately. If you have any questions about how your personal data is used, please let me know. For full details about your data rights and about how I will process your personal data please see the Councillors’ privacy notice which can be found [here](#)