

Appeal Number: EA/2007/0023



Tribunals Service

Information Tribunal

Freedom of Information Act 2000 (FOIA)

Decision Promulgated 29th June 2007

Between

Mr NORMAN INGLE

Appellant

and

INFORMATION COMMISSIONER

Respondent

Tribunal Members

Humphrey Forrest (Deputy Chairman)

John Randall

David Sivers

(hearing in chambers, 28 June 2007)

Decision on Summary Disposal

This appeal is dismissed.

Reasons

1. In deciding to dismiss this appeal summarily under Rule 10 of the Information Tribunal (Enforcement Appeals) Rules 2005, the Tribunal has considered :
 - The Notice of Appeal, received 22 March 2007
 - Information Commissioner's Decision Notice, 13 March 2007
 - Letter from Mr Ingle to Tribunal, 13 March 2007
 - Information Commissioner's Reply to Appeal, 14 April 2007

- Representations from Mr Ingle, 29 April and 9 May 2007, in response to the Notice of Summary Dismissal, (letter from Tribunal, dated 24 April 2007)
2. Mr Ingle has been involved in a long running planning dispute with Cambridgeshire County Council (going back to 1969). He has complained about how the Council dealt with a planning application from him. A complaint from him was considered by Mrs J Postings, the Chief Executive of the Council. On 28 May 2004 she wrote to him concluding: "Having considered the documentation again we have reached the same conclusions. We do not believe that it would serve any purpose to go into the details of these conclusions as this would be repetitive of reasons already given to you by others".
 3. On 16 December 2005 Mr Ingle made a request under the Freedom of Information Act to the Council for "the notes of the conclusions of those who purported to look into these matters in April and May 2004 and copies of documents that have been sent to me in the past which give the reasons found by others".
 4. The Council did not deal with that request in the time allowed, and when they did reply, Mr Ingle was dissatisfied with their reply. He complained to the Information Commissioner. The Commissioner's Decision Notice upholds Mr Ingle's complaint about the delay, but finds that in other respects, the Council dealt with the request for information in accordance with the Act. The Council had provided Mr Ingle with unrestricted access to all the records held about his complaint, save for 5 documents withheld as legally privileged.
 5. Mr Ingle has inspected these records (some 900 pages) but has not found "the reasons already given to you by others" within them. He does not dispute that he has been given access to the Council's complete records, and he takes no issue with the 5 documents withheld as privileged. He does not allege the documents he seeks are held somewhere else, or have been withheld from him. He accepts they may not exist.
 6. In his Grounds of Appeal, 4.5, Mr Ingle states that "This Appeal therefore is concerned solely therefore with the reasons found by others. These must be contained in a document somewhere because otherwise Mrs Postings would be unable to say she agreed with them. The alternative explanation is that no such reasons exist and Mrs Postings' words are incorrect."
 7. The right to information conferred by section 1 of the Freedom of Information Act is just that: a right to information; it is not a right to see particular documents, but to the information contained within them. Moreover, information is defined in section 84 of the Act as "information

recorded in any form". The Act only gives a right to recorded information.

8. If, as the Council assert, and the Commissioner and Mr Ingle accept, Mr Ingle has been give access to the Council's complete record of their dealings with him on this issue, he has been given access to all the recorded information the Council holds. There is nothing further to disclose. Mr Ingle states the reasons he seeks were not contained in the 900 pages of documents. Accepting that his conclusion is correct, there is nothing further by way of recorded information the Council could disclose to him. There is no obligation, under the Freedom of Information Act, to record information so that it may be disclosed; or to create a record where none exists. Such obligations exist in many branches of law, (and they may – or may not - apply in this case under planning or local government law), but that is nor a matter for this Tribunal which only deals with obligations under the Freedom of Information Act.
9. Mr Ingle's reasoning, set out in 4.5 above, that "the reasons found by others"... "must be contained in a document somewhere because otherwise Mrs Postings would be unable to say that she agreed with them" is not conclusive. She may have known of the reasons found by others through discussions within the Council, discussions which have not been recorded; or Mr Ingle's alternative explanation may be correct, that "Mrs Postings' words are incorrect"; or it may be that the information is contained in the 900 pages of documents disclosed, despite Mr Ingle's best endeavours to find it and his assertion that it is not there. Whatever the explanation, if Mr Ingle has been given access to all the recorded information the Council hold about the matter, there is nothing to be gained from pursuing the appeal. The Council have discharged their obligation under the Freedom of Information Act. This appeal is dismissed.

Signed

Humphrey Forrest

Deputy Chairman

Date: 29 June 2007