



# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

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12th January 2022

Further to your information request FOI/EIR 21/22-292 please find your question and our response below.

## Request:

Please provide a copy of the first draft of the minutes of the November Planning Committee prepared by the Committee Clerk or others, in relation to the Application for 65 High Street Sutton, together with:

- details of any amendments proposed, and /or made;
- the names of who proposed them;
- any reasons given for those suggested amendments.

before they were approved by the Committee in December.

## Response:

For information: the draft Minutes of any meeting are circulated by the Committee Officer to the relevant Officers present at a meeting, to enable them to ensure that they have correctly understood the technical aspects of the discussion/decision. This is because Committee Officers do not have a detailed professional knowledge of all the matters discussed at a meeting.

In the case of Planning Committee, the relevant officers will be, the Planning Case Officer present for each report, their Team Leader (if being mentored), the Lead Officer for the Committee and the relevant Legal Officer(s) present at the meeting.

This means that there are a number of professionals who are able to verify that the Minutes are an accurate summary of proceedings from a different range of perspectives. However, the Committee Officer is the final arbiter, to ensure that an independent assessment is made.

Draft minutes are loaded onto the Council's shared U: drive, into a file that enables all relevant officers to make amendments using 'track changes,' and for these changes to be seen by everyone, prior to a final review to produce the final version of the draft Minutes. Once the Democratic Services Officer has reviewed this, they then publish the draft Minutes and delete the document in the file on the U: drive, in accordance with Council ICT Guidelines, as it is no longer required. We therefore no longer hold the draft minutes of the November Planning Committee.

In respect of those requests that are answered in full, partially or 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 12(4)(a) – Information Not Held**
- c) State why the exemption applies:

**Regulation 12 (4) a public authority may refuse to disclose information to the extent that (a) it does not hold that information when an applicant's request is received.**

## Review:

It is disappointing that this information has been deleted from the Council's U drive. I request that it is recovered from the daily back up tapes that are taken for disaster recovery purposes.

## Review Response:

Please see: <https://ico.org.uk/media/for-organisations/documents/1160/retention-and-destruction-of-requested-information.pdf> In point 5, it states: *Requests made under FOIA or the EIR apply to information held at the time that the request is received. So, if a public authority receives a request for information that it held in the past, but has since been destroyed, it no longer holds that information. In order to comply with FOIA or the EIR, the public authority can reply to the request stating that it does not hold the information.*

To confirm this point, I spoke directly with the ICO regarding your request for back up information, and they have confirmed to me: *'If you did not hold the information at the time of the request, you would not be required to recreate or 'undelete' it.'*

We confirm that we did not hold the information requested at the time of the request, and the ICO confirm that we are not required to search deleted data.

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

d) Consider the information as exempt from disclosure under the Act;

e) Claim exempt under sections of the Act:

**Section 12(4)(a) – Information Not Held**

f) State why the exemption applies:

**Regulation 12 (4) a public authority may refuse to disclose information to the extent that (a) it does not hold that information when an applicant's request is received.**

This concludes your request FOI/EIR 21/22-292

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](mailto: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