



# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

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Further to your information request FOI/EIR 22/23-339 please find your question and our response below.

## Request:

What is East Cambridgeshire District Council charging for an Easement over an amenity area in Chestnut Drive, Soham?

## Response:

The consideration for an easement is dependent upon the type of easement, as well as other factors, for example, the amenity value that it would provide to a property and therefore, the consideration will vary. In relation to the proposed easement in Chestnut Drive, Soham, East Cambridgeshire District Council employed an Estate Agent to carry out a valuation to quantify the value attributable to the easement in question. The Easement is registerable with the Land Registry and will be shown on the title of the property once completed. However, until it is registered, the consideration payable for the easement is not public information. Your request is therefore refused under Section 41 of the Freedom of Information Act 2000.

Information refused under Section 41 – Information Provided in Confidence (ABSOLUTE)

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 41 of the Freedom of Information Act 2000 – Information Provided in Confidence**

- c) State why the exemption applies:

**(1) (a) Information is exempt information if — it was obtained by the public authority from any other person (including another public authority), and, (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.**

Section 41 of the Freedom of Information Act provides an exemption from the right to know, when the information requested was provided to the public authority in confidence.

There are two components to the exemption, as shown above:

**(a) Information is exempt information if — it was obtained by the public authority from any other person (including another public authority),**

The information in question was obtained from a person or persons as defined above. This part of the exemption is therefore satisfied.

**(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.**

The information must have the necessary quality of confidence. I am satisfied that the information is not trivial, nor is it available by other means. If the Council were to disclose the information, any individual to whom the data refers could issue legal proceedings against the Council. It therefore has the necessary quality of confidence and it was imparted in circumstances importing an obligation of confidence.

Section 41 is an absolute exemption and therefore no consideration of the public interest test under FOIA is required. However, the duty of confidence contains an inherent public interest test, which must be considered in order to decide if the information is exempt. We do not consider that there is an overriding

public interest to release the information and therefore we have concluded that the exemption applies.

Once the Easement is completed, it will be registered with The Land Registry. You can then view the easement details at: <https://www.gov.uk/government/organisations/land-registry>

This concludes your request FOI/EIR 22/23-339

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.