



**In the First-tier Tribunal
(General Regulatory Chamber)
Information Rights**

Before: **Judge C Goodman**

Appellant: [REDACTED]

Respondent(s): **Information Commissioner and Potto Parish Council**

Upon the application by Potto Parish Council for permission to appeal the decision sent to the parties on 7 June 2023 (“the Decision”)

Permission to appeal is refused

REASONS

1. The Tribunal decision allowing the Appellant’s appeal was issued on 7 June 2023. On 19 July 2023, Potto Parish Council (“the Parish Council”) applied for permission to appeal the decision to the Upper Tribunal. The Parish Council was joined as a party to the appeal in Case Management Directions dated 30 August 2023. The Appellant made submissions opposing the application for permission to appeal. The Commissioner is not seeking permission to appeal.
2. The Parish Council has a right to appeal to the Upper Tribunal under section 11 of the Tribunal, Courts and Enforcement Act 2007 on any point of law arising from the Tribunal’s decision. On receiving an application for permission to appeal, I must first consider pursuant to Rule 43(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, whether to review the decision. I can only review if, pursuant to Rule 44(1)(b), I am satisfied that the decision contains an error of law.
3. The Tribunal decision was not issued to the Parish Council by the Tribunal on 7 June 2023 because they were not, at that time, a party to the appeal. I am satisfied that the Parish Council applied for permission to appeal within 28 days of the date when the decision was issued to them by the Tribunal. I exercise my discretion to waive any other irregularities in their application.
4. The Parish Council has applied for permission to appeal on a number of grounds.
5. The Parish Council submit that the Tribunal decision was based on false information. In particular, they submit that the Appellant’s pattern of behaviour has not changed fundamentally since 2019 and that he continues to

harass the Parish Council and its employees. The Parish Council disputes the Tribunal's findings in relation to the volume of emails and FOIA requests sent by the Appellant to the Parish Council.

6. I find that these grounds amount to a challenge to the facts found by the Tribunal and not an error of law. I am satisfied that the Tribunal was entitled to reach the conclusions it did based on the evidence before it. The Tribunal has adequately explained its reasons for reaching these conclusions. I note that much of the correspondence and activity referred to by the Parish Council in its application for permission to appeal occurred after the date of the request for information which was the subject of the appeal (3 May 2021) and the Parish Council's response to it. The Tribunal was not considering in this appeal whether the Parish Council was entitled to refuse any subsequent requests on the grounds of vexatiousness.
7. The Parish Council submits that the Tribunal failed to take into account the decision of Judge Snelson dated 28 November 2019 in relation to an earlier appeal brought by the Appellant. That decision was explicitly addressed by the Tribunal at paragraphs 9 and 24 of its Decision.
8. The Parish Council also complains that it was "not allowed to see" the evidence submitted to the Tribunal by the Appellant nor to make submissions in response to the appeal. The Parish Council has confirmed in a letter to the Tribunal dated 6 September 2023 that it was notified of the appeal by the Information Commissioner on 3 October 2022 and informed that it should contact the Tribunal if it wished to be joined as a party. It chose not to do so. I find that it was not an error of law in these circumstances for the Tribunal to proceed without submissions from the Parish Council. The Tribunal had before it the detailed responses made by the Parish Council to the Information Commissioner on 19 May 2022 and 29 June 2022, setting out their reasons for refusing the Appellant's request for information, which included the Parish Council's records of its correspondence with the Appellant from 2014 to June 2022.
9. Taking into account the overriding objective and the reasons set out above, I have decided not to review the Decision because there is no error of law.
10. I find that there is no arguable error of law, or exceptional circumstances of the kind described in Christie v Information Commissioner [2022] UKUT 315 (AAC), that would justify a grant of permission to appeal. Permission to appeal is refused.

Signed: *District Tribunal Judge C Goodman*

Date: 02 November 2023