

Our ref: ATISN 20899
Date: 24 December 2024

Dear

Request for Information – ATISN reference 20899 (complain response)

Thank you for your request which was received by the Welsh Government on 27 November 2024.

I have considered your complaint in accordance with the procedure outlined in [Requesting information from the Welsh Government](#) which is available by post on request or via the internet. I have provided my response to your complaint and further questions at Annex 1.

If you remain dissatisfied with this response you have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113
Website: www.ico.org.uk

Yours sincerely

Annex 1

Question/Comment **Time duration / extension**

Response: Following discussions with PEDW leads I have not upheld this part of your complaint. I am satisfied an extension was required due to the large volume of information on the most recent Schedule 14 appeal file which required review on our electronic filing system (iShare).

Question/Comment **The Modification Order dated January 2002 was the legal Order destroyed with the file in 2010?**

Response: PEDW does not hold a copy of this Order. We do not have a record of exactly what was on the file in question at the time it was destroyed.

Question/Comment **A further application regarding footpath No. 73 was before the Planning Inspectorate appointed by the Welsh Ministers in 2009 the file was "live" at the time it was destroyed and therefore, the fact that it was destroyed puts the decision of the Planning Inspector into a serious legal dilemma the decision should be Null and Voided, under The Wildlife & Countryside Act 1981 Chapter 69 Part 1V Miscellaneous and General 69 Offences by Bodies corporate etc.**

Response: The proper channel for challenging the legality of a decision is via the Courts.

Question/Comment **The Inspector did not have the legal Order before him or the submitted evidence in the file to consider. This is a serious matter that must be considered in the light of this new evidence.**

Response: Inspectors are entitled to rely on the evidence before them at the time they are making their recommendation or decision. It is the responsibility of the parties to submit any evidence relevant to their case at the appropriate time in the casework process in question.

Question/Comment **Footpath 73 has been in contention since 1999 due the fact that a Legal Agreement under the Town & Country Planning Act 1990 s.106 Planning Obligation was in breach of conditions to provide a pedestrian access to public open space. The Council - LPA failed in their duty to ensure Wimpey Homes complied fully to the legal agreement and install a pedestrian access, it has never been installed the legal agreement is still in breach of conditions.**

Response: This would be a matter for The Public Services Ombudsman for Wales to consider who has the power to investigate the conduct of public bodies in Wales: <https://www.ombudsman.wales/making-a-complaint/>

Question/Comment

A petition was collected by residents 138 calling for the promised access the petition was sent to Wimpey and the Council both ignored the petition, however the dissatisfaction of the residents became a front page feature in the South Wales Echo in June 1999. The petition was used unlawfully by the Inspector as evidence of a User right of way. A s.106 planning obligation under the Town & Country Planning Act 1990, cannot be used as a claimed right of way under the Wildlife and Countryside Act 1981 but it was and the evidence was in the file destroyed in 2010 before the decision of the second Inspector in 2011.

Response: I can confirm the channel for challenging the legality of a decision is via the Courts within the relevant period after the decision has been issued.

Question/Comment

This is a serious matter that has never been considered, on the matter of the destroyed Legal Modification Order dated 22.1.2002 by the then Planning Inspectorate, as further complication the Vale Council has also lost! The signed and sealed Modification Order dated 22.1.2002. I do not believe that is a coincidence.

Response: There is no requirement for PEDW (formerly the Planning Inspectorate for Wales) to retain a copy of the Order – I am unable to comment on the actions of the Local Authority.