Freedom of Information Act 2000 (FOIA)

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: **29 November 2018**

Public Authority: **Westminster City Council**
Address: **City Hall**
64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant has requested information from Westminster City Council in relation to the redevelopment proposal for Church Street Estate. The two requests were processed under two separate reference numbers. In respect of the first request Westminster City Council responded by providing the complainant with five documents and they refused the second request under section 14(2)(repeat request) of the FOIA. During the course of the Commissioner's investigation Westminster City Council issued a further final response to each of the requests, which relied on links to documents and responded to some of the questions asked by the complainant.

2. The Commissioner's decision is that in handling these two linked requests, Westminster City Council has breached regulation 5(1) and 5(2) of the EIR by failing to make environmental information available. The Commissioner considers that Westminster City Council has breached regulation 9(1) by failing to provide reasonable advice and assistance and breached regulation 10(1). Additionally, Westminster City Council has breached regulation 11(4) and 11(5) by failing to conduct an internal review within 40 working days.

3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.

    - Issue a fresh response to the complainant which complies with regulation 5 of the EIR by disclosing the requested information or issue a refusal notice which complies with regulation 14.

4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 5 October 2017, the complainant wrote to Westminster City Council (the Council) requesting information about the redevelopment project. The Commissioner will refer to this request as Request 1. The complainant made a subsequent request on 5 December 2017 for further information about the project. The Commissioner will refer to this request as Request 2. Both requests are set out in Annex A to this notice.

6. On 1 December 2017, the complainant contacted the Commissioner to complain that the Council had failed to respond to Request 1. Following intervention from the Commissioner, the Council responded to the request on 20 December 2017 and provided the complainant with 5 documents in pdf format.

7. On 20 December 2017 the complainant requested an internal review of the Council's response to Request 1, explaining that the information provided was brochures/booklets which did not address her request. The complainant also set out her concerns about the Council's delay in providing her with such an inadequate response. The Council acknowledged receipt of the complainant's internal review request on 3 January 2018 and noted that their response would be due by 22 January 2018.

8. The Council refused Request 2 on 21 December 2017 under section 14(2) of the FOIA as it was considered a repeat of Request 1. On 21 December 2017 the complainant requested an internal review of Request 2 and set out that although Request 2 related to the same subject matter as Request 1, it was for different information not covered by that request.

9. After the expiry of 40 working days, and not having received the requested internal review of the response to Request 1, the complainant contacted the Commissioner again. Having unsuccessfully asked the Council to provide an internal review, the Commissioner accepted the complaint without the same.

10. The complainant advised the Commissioner of Request 2 having been refused under section 14(2) FOIA. The Commissioner considered it

appropriate to undertake an investigation into the handling of both of the requests.

11. The Commissioner wrote to the Council on 15 May 2018 and in respect of Request 1 explained that she considered that the request was clearly for environmental information as it related to a regeneration programme.

12. The Commissioner requested that the Council provide her with a copy of the five documents provided to the complainant and to highlight specifically where in those documents the requested information was held. The Council was also asked if they had advised the complainant where in the documents the information relating to each part of her request was located.

13. The Commissioner referenced her guidance in relation to a question constituting a valid request for information and asked appropriate questions in relation to information held or not held as this was pertinent to her investigation, given the Council's response.

14. The Commissioner's letter also set out that in respect of Request 2, the complainant had requested an internal review but had not received a response. The Commissioner asked the Council to provide the complainant with the internal review and also confirmed that she did not consider that Request 2 was a repeat of Request 1 (since the information sought, whilst similar, was not identical). The Commissioner requested a response to her letter by 13 June 2018.

15. On 15 June 2018, having not had a response to her letter, the Commissioner contacted the Council to chase up the same. In a further letter to the Council dated 20 June 2018, the Commissioner expressed her concern about the Council's poor engagement with her office. The Council contacted the Commissioner on the same date and an extension to 2 July 2018 for provision of submissions was agreed. The Council confirmed that by that date they would also have provided the complainant with the outstanding internal review in respect of Request 2.

16. The Council provided the complainant with a revised response to both her requests on 20 July 2018. The Council's letter to the complainant advised that if she were dissatisfied with the handling of her requests she could ask for an internal review, despite the complainant having previously requested internal reviews (of the original responses) some seven months ago.

17. The Commissioner wrote to the Council on 24 July 2018 and made clear her serious concern about the Council's handling of these requests and their continued delays in providing information to both her and the

complainant. The Commissioner stated that she expected to receive the Council's outstanding submissions by 7 August 2018 at the latest.

18. The Commissioner requested an update from the Council on 8 August 2018 and was told that the case was being reviewed. The Council provided the Commissioner with a copy of their internal review of their response to Request 2, which was dated 8 August 2018. The review concluded that section 14(2) of FOIA had been incorrectly relied on and noted that this had been remedied by the revised request response of 20 July 2018.

19. On 17 August 2018 the Council provided the Commissioner with the submissions requested on 15 May 2018 and apologised for the delay. The Council accepted that they had failed to provide an internal review to the complainant within the required timescale.

20. The Council advised the Commissioner that their revised response of 20 July 2018 had been further revised in a subsequent response to the complainant (to both requests) of 16 August 2018 and they provided a copy to the Commissioner. The Council advised that the final revised response of 16 August *'more fully answers the questions in* [the complainant's] *original request and provides better signposting to the information within the various documents'*. In fact, as noted, the revised response of 16 August addressed both requests.

21. The Council apologised to the Commissioner for having originally *'inadvertently failed'* to signpost the complainant to the specific sections and advised that they had relied on the fact that meetings had taken place between Council members/officers and the complainant. The Council also accepted that they should have given better advice and assistance to the complainant regarding Request 1.

22. In response to the Commissioner's enquiries and questions as to what checks and searches had been carried out by the Council in response to the complainant's requests, the Council advised that a dedicated team called the Church Street Regeneration Team oversees the project. The Council confirmed that this team hold all information, electronically, in respect of the project.

23. The Council confirmed that the information requested by the complainant was extracted from a combination of searches and officer knowledge. The Council advised the Commissioner that whilst they did not have a record as to what search terms were used, the searches would have been based on key terms relevant to the requests, for example, "Masterplan", "Church Street", "Cabinet reports" and "Agenda". Importantly, the Council confirmed that *'no information is being withheld'*.

Scope of the case

24. The complainant contacted the Commissioner on 17 August 2018 to complain about the way her requests for information had been handled[1]. The complainant was specifically concerned with the Council's delays in responding and the fact that the response did not provide her with the requested information. In view of Request 2 being linked to Request 1, the Commissioner's investigation encompassed both requests.

25. The Commissioner considers the scope of her investigation is to consider if the Council has issued a response to both requests which complies with the EIR.

Reasons for decision

Procedural requirements and Council's handling of the requests

26. The Commissioner has considered the Council's original responses to the complainant's requests, the revised responses of 20 July and 16 August 2018 and the Council's submissions to the Commissioner of 17 August 2018.

27. Regulation 5(1) of the EIR states that a public authority which holds environmental information shall make it available on request. Regulation 5(2) sets out that information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date or receipt of a request.

28. Regulation 9 states that a public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants.

29. Having not provided a response to Request 1 until 5 December 2017, the Council breached regulation 5(2) of the EIR. The Council also breached Regulation 9 as they did not specify exactly where in the five documents provided the relevant requested information could be located.

[1] The complainant having originally complained to the Commissioner on 1 December 2017 about the Council's failure to respond to Request 1

30. The Council also breached regulation 5(1) in wrongly refusing Request 2 as a repeat request (the Council also erroneously applying the FOIA to what was a request for environmental information).

31. Regulation 10(1) states that where a public authority that receives a request for environmental information does not hold the information requested but believes that another public authority or a Scottish public authority holds the information, the public authority shall either –

    (a) transfer the request to the other public authority or Scottish public authority; or

    (b) supply the applicant with the name and address of that authority, and inform the applicant accordingly with the refusal sent under regulation 14(1).

32. The Council breached regulation 10(1) in that they did not advise the complainant that CityWest Homes (a separate public authority at the time of the complainant's requests) might hold some of the information requested (see Annex A) or provide the complainant with CityWest's contact details until the revised response of 20 July 2018. However, the Commissioner notes that the Council, acknowledging the delay caused to the complainant, themselves contacted CityWest and relayed some information to the complainant in the further revised response of 16 August 2018.

33. Regulation 11 sets out that representations may be made by an applicant where it appears to the applicant that the authority has failed to comply with a requirement of the EIR in relation to their request for information. Regulation 11(4) sets out that a public authority shall notify the applicant of its decision no later than 40 working days after the receipt of those representations. Regulation 11(5) sets out that where a public authority decides that it has failed to comply with the regulations in relation to the request, the notification under paragraph (4) shall include a statement of the failure to comply, the action the authority has decided to take in order to comply and the period within which that action is to be taken.

34. The Commissioner notes that the Council provided the complainant with an internal review of Request 2 almost eight months after the complainant requested the same. In failing to provide the internal review within 40 working days, the Commissioner finds that the Council breached regulation 11(4) of the EIR. This was a particularly egregious breach, there being no reasonable justification or explanation for such lengthy delay. The Council similarly breached regulation 11(4) by failing to provide the complainant with an internal review of Request 1.

35. Regulation 14 sets out that if a request for environmental information is refused by a public authority under regulations 12(1) or 13(1), the

refusal shall be made in writing and comply with the provisions set out in regulation 14. Regulation 14(2) sets out that a refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request. Regulation 14(3) sets out that the refusal should specify the reasons for not disclosing the information and include any exception being relied on and the matters the public authority has considered in relation to the public interest test set out at regulation 12(1)(b).

36. Request 1 comprised 27 different items of information. Of those 27 request items the Commissioner considers that the Council provided a satisfactory and EIR compliant response to only five (specifically items 1i, 1k, 2b, 2f and 2m). Request 2 comprised 21 different items of information. Of those 21 request items the Commissioner considers that the Council provided a satisfactory and EIR compliant response to only five (specifically items 1, 6, 9, 10 and 11). Therefore, of a total of 48 request items, the Council provided a satisfactory and EIR compliant response to only 10.

37. In respect of the remaining 38 request items, the Commissioner considers that the Council has not complied with their statutory obligations under the EIR. If it were the Council's case that they did not hold some of the information requested by the complainant at the time of her requests, then they should have issued a regulation 12(4)(a) response (which states that a public authority may refuse to disclose information to the extent that it does not hold that information when an applicant's request is received).

38. The Commissioner has produced a copy of the Council's response to each item of information requested in Annex A to this notice. The annex details whether or not the Council has complied with the EIR in respect of each item and makes clear to the Council what further action is required by way of rectification. That action is to confirm what recorded information is actually held in respect of each part of the requests. To the extent that it is held, the Council should disclose the information or issue a valid refusal notice and to the extent that it is not held, issue a valid refusal notice.

Other matters

39. The Commissioner would emphasise her serious concern about the Council's handling of the complainant's requests. It is manifestly unreasonable and wholly unacceptable for a requester to be provided with (non-exempt) information some seven to nine months after requesting the same. Such egregious delays are contrary to both the letter and the purpose of the EIR. In this case, these failures are exacerbated by the fact that the Council's response, as noted above and

detailed in Annex A, is seriously inadequate and largely non-compliant with the EIR.

40. The Commissioner also notes that between 15 June and 17 August 2018, the Council failed to provide the Commissioner with the requested and required submissions (in response to the Commissioner's letter of 15 May 2018) despite having ample opportunity to do so and despite repeated chasing from the Commissioner. The Commissioner acknowledges that the Council did finally provide her with submissions. However, such delays in engagement and cooperation with the Commissioner are clearly not acceptable and the Council will need to ensure that such delays are not repeated in future.

Right of appeal

41. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

    First-tier Tribunal (Information Rights)
    GRC & GRP Tribunals,
    PO Box 9300,
    LEICESTER,
    LE1 8DJ

    Tel: 0300 1234504
    Fax: 0870 739 5836
    Email: GRC@hmcts.gsi.gov.uk
    Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

42. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

43. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed .....

Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A

- Original request item is in bold

First Request

1) in relation to the new redevelopment proposal for Church Street Estate NW8

1. **1a**. **What the decision process was in regards to the decision to demolish an additional 25-30 blocks.**

1b. Who suggested this proposal?

1c. Who sanctioned this proposal?

1d. How was this sanctioned, was it by one individual councillor or more than one and what are the name(s) of these councillors. Additionally, what was the process of this proposal and its sanctioning/request to move forward with it.

1e. When/where the meeting for this proposal was held?

1f. A copy of the minutes of that meeting/any other meetings that were held in relation to this new proposal.

2. The Council's position appears to be that they do not hold the above information. In their response to the complainant they stated that, *'the approval of the Church Street Masterplan does not constitute a formal decision to demolish blocks. It is a development framework. All proposals are subject to further detailed consultation with residents on options and specific decisions'*. The Commissioner considers that the word 'decision' relates to the proposal as referenced in questions 1b-f inclusive and that the Council should, at the very least, have sought clarification from the complainant on this point. The complainant has noted that, *'this question has not been answered – if as WCC claim, there was no decision re. demolition – a route proffered by the Council – who then made this suggestion, although this has been presented to residents as a decision'*.

3. In submissions to the Commissioner the complainant referenced a newspaper article[2] which she contended directly contradicted the statements and information provided to her by the Council. The article reported that the Mayor of London, Sadiq Khan, had warned the Council that he would withhold £23.5 million from the Church Street redevelopment unless the Estate's residents were able to vote *'on whether the controversial plans should go ahead'*. The complainant referred to the Council having written to residents saying that they would now seek alternative methods of funding and she stated that the Council *'are pushing forward and are seeking private funding to essentially oust social housing residents and have refused to give residents a vote over what will happen in regards to their homes'*. The complainant provided the Commissioner with a copy of an email from the Council to residents dated 25 July 2018, in which the Council confirmed that they remained *'fully committed to regenerating Church Street as set out in the masterplan'*.

4. The response does not address the requests for recorded information, in that the complainant is seeking information held by the Council about the proposal and there is a reasonable presumption that the Council will hold information within the scope of her request. The Commissioner requires the Council to issue a revised response to the above parts of the complainant's request which complies with the EIR.

5. **1g. the reasons for this change in proposal from the original proposal.**

6. The Council advised the complainant that this was covered in Section 4 of the December 2017 Cabinet report, and provided the complainant with a link in their response to Request 2. However, the Commissioner would note that this report post-dated Request 1 of 5 October 2017. The Council's response to this part of the complainant's request is therefore not compliant with the EIR, since it does not disclose any relevant information that was held at the time of the request, or refuse the same.

7. The Commissioner requires the Council to issue a revised response to this part of the complainant's request which complies with the EIR.

8. **1h. how many blocks of flats are now proposed for demolition, how many households each block of flats contains and how many occupants and bedrooms each flat contains.**

[2] http://westendextra.com/article/council-chiefs-at-war-with-mayor-khan-over-estate-demolition-vote

9. The Council confirmed (as at the date of their response) that *'no blocks are currently formally proposed or demolition'* but provided the complainant with information as to those blocks which are proposed for redevelopment and how many households each block of flats contain. The Council confirmed that they did not hold information as to how many occupants and bedrooms each flat contains but advised the complainant that this information may be held by CityWest Homes (Citywest), which is a separate public authority.

10. In submissions to the Commissioner the complainant noted that CityWest *'is now under the control'* of the Council and provided a relevant link. However, the Commissioner notes that the announcement that CityWest would be returning under Council control was made on 20 September 2018, which post-dated (by 9 to 11 months) the complainant's information requests. Therefore, at the time of the complainant's requests the Council did not hold this information and CityWest was the relevant public authority. The Commissioner advised the complainant that following the reversion of CityWest to the Council's control it is possible that the Council will now hold the requested information but that the complainant would need to make a fresh request to the Council for the same.

11. **1i. The number of flats which will be affordable to residents who live in this area – considering the socioeconomic status of residents in this area.**

12. The Council have confirmed that they do not hold this information. They have advised that these figures will be confirmed by a planning application process in the future. They provided the complainant with a link to The Delivery Approach section of the Church Street Masterplan, which *'explains the way these issues will be considered'*. In submissions to the Commissioner the complainant described this response as *'disingenuous and misleading'* and noted that the Council already states that it must have 35% affordable housing as its target.

13. The Commissioner acknowledges the complainant's reference to the target, but notes that the target (ie something to aim for) is not the same as the *actual* number of flats which will be affordable to residents who live in the area. At the time of the complainant's request this figure had not yet been determined via the planning application process and so the Commissioner is satisfied that the Council did not hold this information. It would be expected that the Council would hold this information once the applicable planning process had concluded.

14. **1j. How many flats are available for rehousing.**

15. The Council have confirmed that they do not hold this information and they have relied upon the response provided to 1i above. The complainant has again described this response as disingenuous and misleading because the Council *'do hold figures for flats which are unoccupied or available for*

residents – this is something that is posted for residents who bid for vacant properties'.

16. In view of the information provided by the complainant, the Commissioner considers that there is a reasonable presumption that the Council may hold this information. The Commissioner requires the Council to provide the complainant with a revised response to this part of her request which addresses the complainant's above argument for contending that the information will be held by the Council.

17. **1k. Which developers have been given the contract for these proposed regeneration.**

18. The Council have confirmed that (as at the time of the complainant's request) no contracts had been awarded and therefore the Commissioner accepts that this information was not held.

19. **1l. How much money has been spent on this proposal to date.**

20. The Council advised the complainant that *'the process of putting a new, detailed masterplan draft in place and consulting on it as a framework for development has been c. £650,000'*. The Commissioner does not consider that this response answers the request. There is no background information as to how the Council has arrived at this approximation nor any detail as to where in the original response this information is located. The Commissioner requires the Council to provide the complainant with more detail as to the evidential basis for the approximate figure provided.

21. **1m. How many flats will be for Council residents and what is the total percentage of flats which will be Council flats.**

22. The Council have advised the complainant that *'Council rented properties will be provided as part of the planning process'*, and that *'with regards to percentage a figure has not been decided'*. They have therefore stated that this information is not held. In submissions to the Commissioner the complainant noted that she did not ask solely about rented Council properties, and that the question also concerned leasehold properties. The Commissioner considers that the Council has not fully addressed this part of the request and that the Council should provide further specification to the complainant in order to do so.

23. **2. In relation to the original regeneration proposal please confirm:**

24. **2a. The number and names of blocks intended for demolition.**

25. The Council have directed the complainant to page 66 of the Futures Plan Final Recommendations Report. The Commissioner notes that this page of the report does contain the names of the blocks intended for demolition.

The complainant has noted that the names appear to be incomplete as Wandle House (not on the list) is also marked for demolition. The Commissioner requires the Council to confirm to the complainant whether the information contained on page 66 of the report comprises **all** the held information requested under this part of the request.

26. **2b. A copy of this original proposal.**

27. The Council have directed the complainant to the Futures Plan Final Recommendations Report and the complainant has confirmed to the Commissioner that this contains the information requested.

28. **2c. What the decision process was in regards to the decision to demolish an additional 25-30 blocks.**

29. The Council have referred the complainant to their response to question 1a above.

30. **2d. Who suggested this proposal**.

31. The Council have referred the complainant to their response to question 1a above.

32. **2e. Who sanctioned this proposal**.

33. The Council have referred the complainant to their response to question 1a above.

34. As with questions 1a to 1f above, the Council's position appears to be that they do not hold the above information requested at parts 2c-2e. In their response to the complainant they stated that, *'the approval of the Church Street Masterplan does not constitute a formal decision to demolish blocks. It is a development framework. All proposals are subject to further detailed consultation with residents on options and specific decisions'*. The Commissioner considers that the word 'decision' relates to the proposal as referenced in questions 2c to 2e inclusive and that the Council should, at the very least, have sought clarification from the complainant on this point. The complainant has noted that, *'this question has not been answered – if as WCC claim, there was no decision re. demolition – a route proffered by the Council – who then made this suggestion, although this has been presented to residents as a decision'*.

35. The response does not address the requests for recorded information, in that the complainant is seeking information held by the Council about the proposal and there is a reasonable presumption that the Council will hold information within the scope of her request.

36. The Commissioner requires the Council to issue a revised response to the above parts of the complainant's request (2c to 2e) which complies with the EIR.

37. **2f. When/where the meeting for this proposal was held**.

38. The Council have confirmed that the meeting for the original proposal was held on 27 June 2011.

39. **2g. A copy of the minutes of that meeting/any other meetings that were held in relation to the original proposal.**

40. The Council have directed the complainant to the Futures Plan Final Recommendations Report, as the location of *'the report pertaining to the original proposal'*. There is no information as to where in the Report the minutes are located. The complainant has checked all the links on the relevant section of the Council's website but cannot find a copy of the meeting minutes. The Council's response also fails to confirm whether there were any other meetings and to supply copies of any such meeting minutes. The Commissioner considers that the Council has failed to provide a valid response to this part of the request and requires the Council to issue a revised response to the complainant which complies with the EIR.

41. **2h. The reasons for this proposal**.

42. The Council have directed the complainant to *'information within'* the Futures Plan Final Recommendations Report. Having checked this document, the complainant has stated that, *'the reasons that I can see detailed is the apparent poor aesthetics of the buildings – although some reasons are proffered by WCC I want a full list of reasons, as I believe that there are other motivations in relation to this proposal'*. The complainant has noted that, *'it would appear that there are financial motivations as many of the properties will be private and will bring in a lot of income for WCC – it has not been stated how this income will be used and whether it will be reinvested in the community'*.

43. The Commissioner does not consider that the Council's response is adequate as it does not specify exactly where in the document the requested information is located and nor does it make clear whether *'information within'* the document is **all** the information which the Council holds within scope of this part of the request. The Commissioner therefore requires the Council to provide the complainant with a revised response which complies with the EIR.

44. **2i. How many residents this affected and how many residents voted in favour, how many residents voted against and how many residents did not vote at all**.

45. The Council directed the complainant (via a link) to the Futures Plan section of the Council website but did not specify where the information requested was located. The complainant has confirmed that the published documents do not contain the information requested. The complainant has noted that, *'at page 13 of the 'Futures Plan Final Recommendations Report' it states there were fifty individuals who were 'consulted' although it does not say how they voted, whether they were given the vote or whether they were simply 'consulted' – which at its most basic form could simply mean giving a presentation and asking for remedial feedback and nothing more. The question I have posed has not been answered'*.

46. The Council's response has not addressed the request for information. The Commissioner requires the Council to issue a revised response to the complainant which complies with the EIR.

47. **2j. How many blocks of flats were proposed for demolition, how many households each block of flats contain and how many occupants and bedrooms each flat contains**.

48. The Council advised the complainant that this information (with the exception of occupancy figures) is contained within the Futures Plan report and provided a link to the relevant section of the website. However, the Council has not specified exactly where the information requested is located (the Futures Plan Recommendations report alone is 132 pages).

49. The Commissioner requires the Council to provide a revised response to the complainant providing her with the exact information requested.

50. The Council have confirmed that they do not hold the information about occupancy figures but have suggested that this information *'may be available from CityWest Homes'*. As the Commissioner has noted above, at the time of the complainant's requests CityWest was a separate public authority and so the Council did not hold the occupancy information at that time.

51. **2k. What are the reasons with the Council not going ahead with the original proposed plans.**

52. The Council directed the complainant (via a link) to the December 2017 Cabinet Report, and stated that the information was located in section 4. In submissions to the Commissioner the complainant advised that nowhere in section 4 of the specified document does it state why the initial iteration of the plan was dismissed and the new plan taken forward. The complainant has stated that, *'It details the new plan but does not state why the first iteration was completely dismissed and not followed through with. As such WCC have not answered my question of what are the reasons as to why the Council are not going ahead with the original proposed plans'*.

53. The Commissioner considers that the Council have not addressed this request for recorded information and requires that the Council provide the complainant with a revised response which complies with the EIR.

54. **2l. How much has been spent on the proposed plans.**

55. The Council have stated that this information is not held. The complainant has stated that this response is contradicted by the Council's response to 1l above. However, the Commissioner notes that the response given to that part of the request (c. £650,000) related to the new redevelopment proposal, rather than the original regeneration proposal (to which 2l relates).

56. However, the Commissioner considers that there is a reasonable presumption that the Council would hold recorded information as to how much money was spent on the **original** proposed plans. Therefore, the Commissioner requires the Council to provide the complainant with a revised response which explains exactly why they do not hold this information in respect of the original regeneration proposal.

57. **2m. Which developers had been given the contract for these proposed regeneration.**

58. The Council have confirmed that they do not hold this information. The complainant has questioned this response as follows. *'Is it WCC's stance that they have not engaged with any developers at all – whatsoever in regards to this proposal? How then do they explain their proposal? Specialist advice such as those for a 'regeneration' such as this would have been sought'*. The Commissioner acknowledges the point made by the complainant. However, there is a difference between the Council engaging with developers (ie. taking advice or commencing negotiations) and developers actually being awarded contracts for the proposed regeneration. Engagement of the type envisaged by the complainant (short of contracts having been given), would be outside the scope of this request.

59. **2n. How much money has been spent on this to date.**

60. The Council have confirmed that they do not hold this information. The complainant has stated that this response is contradicted by the Council's response to 1l above. However, as noted, the response given to that part of the request (c. £650,000) related to the new redevelopment proposal, rather than the original regeneration proposal (to which 2n relates). The Commissioner notes that this item of the request is essentially the same as 2l above.

Second Request

I request the following information in relation to the proposed Master Plan of the Church Street Estate in the City of Westminster:

61. **1. The condition of the housing stock in Church Street Estate in Westminster as a whole and Wandle House NW8 8BG more specifically.**

62. At the time of the complainant's request the Council's housing stock was managed by CityWest Homes, which was a separate public authority for the purposes of the EIR. Therefore, at the time of the complainant's request the Council did not hold this recorded information.

63. However, the Commissioner notes that the Council, in view of the delays in processing the complainant's request, contacted CityWest and provided the complainant with a summary of the information sought.

64. **2. When the last inspection of those properties was carried out.**

65. For the reasons explained above, at the time of the complainant's request the Council did not hold the requested information. However, the Commissioner notes that the Council advised the complainant that *'CWH carry out stock condition surveys on a 3 year rolling programme meaning that the properties on Church Street Estate have all had surveys carried out between 2014-2017'*. The Commissioner has advised the complainant that if she wishes to obtain the surveys in question then she will need to make a fresh request to CityWest, or to the Council if CityWest have now reverted to Council control.

66. **3. Any and all reports in relation to the condition/habitability of the above housing stock as a whole and Wandle House NW8 8BG more specifically.**

67. As noted above, at the time of the complainant's request the Council did not hold this information. The Commissioner has advised the complainant that she will need to submit an information request to CityWest (or to the Council if CityWest have now reverted to Council control) for the surveys.

68. **4. How the blocks of flats were chosen for demolition, what criteria was used and what the decision process was.**

69. The Council advised the complainant that, *'the approval of the Church Street Masterplan does not constitute a formal decision to demolish blocks. It is a development framework. All proposals are subject to further detailed consultation with residents on options and specific decisions. The blocks were proposed on the basis of the overall aims of the Masterplan and how to most effectively deliver those'*. In submissions to the Commissioner the complainant described this response as *'misleading and disingenuous'*. The complainant advised that the Council are contacting residents in writing with a view to moving them out of their homes, *'something which directly contradicts the answer given'*.

70. The Council's position appears to be that they do not hold the requested information. However, the Commissioner considers that this request clearly relates to the proposal and the decision process for that proposal. The response does not address the request for recorded information, in that the complainant is seeking information held by the Council about the proposal and there is a reasonable presumption that the Council will hold information within the scope of her request. The Commissioner requires the Council to issue a revised response to this part of the request which complies with the EIR.

71. **5. The number of residents that voted in the initial futures plan for Church Street Estate.**

72. The Council directed the complainant to a section of their website. However, the Commissioner notes that the section contains a number of documents, totalling around 800 pages, with no indication as to exactly where the requested information is located. The Council has therefore failed to provide the complainant with the requested information. The Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR.

73. **6. Which residents were invited to vote, i.e. which blocks.**

74. The Council have confirmed that residents *'have not been invited to vote on the Masterplan proposals'*. The Commissioner would note that this means that the correct response to request item 5 above should have been 'information not held'. The Council confirmed that there was 'an extensive consultation process' and that the results of that process formed part of the December 2017 Cabinet report. The Council provided the complainant with a link to this report.

75. In submissions to the Commissioner the complainant stated that she disagreed that the consultation was as extensive as claimed by the Council, and questioned why the residents had been denied the vote. The Commissioner acknowledged the complainant's view and concerns (which appear to be shared by the Mayor of London) but explained that such matters are outside the role and remit of her office.

76. **7. How many residents voted Estate.**

77. The Council directed the complainant to a section of their website. However, the Commissioner notes that the section contains a number of documents, totalling around 800 pages, with no indication as to exactly where the requested information is located. The Council has therefore failed to provide the complainant with the requested information. The Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR. The Commissioner would note that the Council's response to request item 6 above would mean that the correct response to this request would be 'information not held'.

78. **8. How many of those residents that voted, voted in favour Estate**.

79. The Council directed the complainant to the same section of their website as for request items 5 and 7 above. The position here is the same as that set out by the Commissioner for request item 7 above.

80. **9. Have the developers for the Church Street Plan been hired/selected and if so when was this decision made.**

81. The Council have confirmed that *'no developers have been selected for sites within the Church Street Masterplan'*. That is to say, the Council's position is that no relevant information is held. In submissions to the Commissioner the complainant queried *'Is it WCC's stance that no developers/outside contractors have been engaged at all during this whole process?'.* However, the Commissioner notes that this question as to developer engagement is different to the actual request, which concerned whether developers had been hired or selected.

82. **10. If so, what are the names of those developers.**

83. As noted above, the Council have confirmed that at the time of the complainant's request, they did not hold this information.

84. **11. What was the process by which these developers were chosen.**

85. As noted above, the Council have confirmed that at the time of the complainant's request, they did not hold this information.

86. **12. Which members of the Council suggested and/or supported the Masterplan.**

87. The Council advised the complainant that, *'the Church Street Masterplan was discussed at Cabinet on 4 December 2017 and then at Housing, Finance and Corporate Services Policy and Scrutiny Committee on 15 January 2018'*. The Council provided the complainant with a link to the meeting papers. However, the complainant has stated that the documents do not state whether all members of the Council, or which members of the Council, supported or were opposed to the plans. The Commissioner does not therefore consider that the Council has addressed this part of the request and requires the Council to provide the complainant with a revised response which complies with the EIR.

88. **13. Which members of the Council suggested and/or supported the initial Futures plan.**

89. The Council directed the complainant to a section of their website. However, the Commissioner notes that the section contains a number of documents, totalling around 800 pages, with no indication as to exactly where the requested information is located. The Council has therefore failed to provide the complainant with the requested information. The Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR.

90. **14. What the consultation process was in relation to the Church Street Estate Masterplan, to whom and number of people consulted and their status, e.g. resident/business owner etc.**

91. The Council informed the complainant that a consultation report was presented as part of the December 2017 Cabinet Report and provided the complainant with a link to this document. However, the complainant has noted that the information provided does not specify what the consultation process actually was, ie. what it consisted of. In submissions to the Commissioner the complainant noted that the paragraphs which allude to the consultation (paras 4.1 and 4.2) do not *'actually go further than simply stating that a group of business owners and stake holders were consulted'*. The complainant has stated that, *'this does not answer my question which is quite specific in that it asks what the process actually was – what did it look like? Was it a meeting by WCC to these people? Was there feedback from these stakeholders? What was the size of the group? What was the composition of the group? (e.g. business owner, tenant, leaseholder etc)'*.

92. The Commissioner does not consider that the Council has addressed this part of the request and requires the Council to provide the complainant with a revised response which complies with the EIR.

93. **15. How many other regeneration programmes are there in Westminster at the moment and how many over the last 20 years and please name the areas they related to.**

94. The Council advised the complainant that, *'there are numerous development areas in Westminster but in terms of areas that might be described as regeneration programmes: Tollgate Gardens and Ebury Bridge'*. The complainant has noted that it is not clear whether the information provided by the Council covers the last 20 years, although the Commissioner would note that the wording of the Council response suggests that they have provided contemporary information only. If so then the Council have not fully addressed this part of the request and the Commissioner requires the Council to provide the complainant with a revised response which rectifies this deficiency.

95. **16. What was the outcome of the consultation period in relation to the Masterplan and what percentages were positive, what**

percentages were negative and what percentages of residents overall gave feedback.

96. The Council provided the complainant with a link to the December 2017 Cabinet Report, advising that *'a consultation report'* was presented as part of the same. However, the complainant has noted that the report does not give percentages re. positive/negative as requested. The Council have not fully addressed this part of the request and the Commissioner requires the Council to provide the complainant with a revised response which rectifies this deficiency.

97. **17. What was the feedback given by residents specifically.**

98. The Council referred the complainant to the above Cabinet Report. However, the complainant has noted that *'the above link is general summations, does not give the actual feedback'*(rather than a summary of the same). The complainant confirmed that she was seeking the actual residential feedback, and that this could be disclosed in line with data protection requirements. The Commissioner considers that the Council has not provided the complainant with the actual information requested and requires the Council to provide the complainant with a revised response which complies with the EIR.

99. **18. Has this feedback been used to change the Masterplan and if so please supply specific examples for each instance where this has occurred.**

100. The Council referred the complainant to the above Cabinet Report. However, the complainant has noted that the document does not detail how each of the feedback comments have been used by the Council to alter the Masterplan (if at all). The Commissioner considers that the Council has not provided the complainant with the actual information requested and requires the Council to provide the complainant with a revised response which complies with the EIR.

101. **19. How many households are affected by the Masterplan.**

102. The Council advised the complainant that, *'this is unknown until formal decisions are taken on the Masterplan proposals being delivered'*. However, the Commissioner considers that this particular part of the complainant's request is for numbers affected by the Masterplan, not by the ensuing decision whether or not to adopt the Masterplan. The Council have therefore not provided a response to the request and the Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR.

103. **20. How many residents in total are affected by the Masterplan.**

104. The Council provided the same response to the complainant as the response provided to request item 19 above. As the Commissioner has noted above, the Council have not provided an appropriate response to the request and the Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR.

105. **21. Of those residents and households, how many are on low incomes/benefits and/or of BME backgrounds.**

106. The Council advised the complainant that this information is contained in the Church Street ward profile and provided her with a link to that profile. In submissions to the Commissioner, the complainant has noted that, *'the document provides a general overview – it does not give the specific information requested for the residents who are affected by the 'regeneration' and demolitions specifically. It gives general statistics for the entire Church Street estate which is relatively vast and contains buildings which are not ear marked for demolition. The question posed to the Council was very specific and the response has not answered the specific question posed, rather WCC have simply given some generally (sic) stats in a precompiled leaflet'*.

107. For the reasons noted by the complainant above, the Commissioner does not consider that the Council has provided an appropriate response to the request and the Commissioner requires the Council to provide a revised response to the complainant which complies with the EIR. The Commissioner would also note that the information at item 21 relies on a total figure being available for item 20. If recorded information is held by the Council in respect of item 21, then they must also hold recorded information for item 20.