

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 26 November 2014

Public Authority: London Borough of Richmond upon Thames

Address: Civic Centre
44 York Street
Twickenham
TW1 3BZ

Decision (including any steps ordered)

1. The complainant has requested information from London Borough of Richmond upon Thames (the "Council") concerning planning and compliance matters relating to a specific planning application.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR in that it failed to respond to the request within 20 working days of receipt of the request.
3. The Commissioner does not require the Council to take any action.

Request and response

4. On 14 May 2014 the complainant wrote to the Council and requested information in the following terms:
 - 1) *"Which Planning Officer drafted Condition U64808 and which Planning Officer approved the drafting of Condition U64808?"*
 - 2) *Which Planning Officer formally approved the replanting scheme represented in drawing 357/500 REV J as being compliant with Condition U64808?*
 - 3) *Which amenities pertaining to Nos. 14 and 16 Friars Stile Road are required to be preserved by Condition U64808?*

- 4) *Relative to which prior boundary treatment does Condition U64808 require "a scheme to update the boundary treatment" to be implemented?*
- 5) *How were the amenities required to be preserved by Condition U64808 evaluated as before the clearance of the Conservation Garden from the point of view of Nos. 14 and 16 Friars Stile Road without these properties being visited? How was this evaluation recorded?*
- 6) *What are the differences between the boundary treatment of the former Conservation Garden as submitted within planning application 13/1958/FUL and as approved under the replanting scheme represented in drawing 357/500 REV J?*
- 7) *How has the visual impact of the construction of the new wing of classrooms with elevated roof lines and the car park on the site of the former Conservation Garden been evaluated from the point of view of Nos. 14 and 16 Friars Stile Road without these properties being visited?*
- 8) *Why was the hedge with a height of 3.5m on the NW boundary of the former Conservation Garden cleared prior to the construction works given that the narrow section of land it occupied has not been used for any purpose within the works, and what impact has this clearance had on the amenities of Nos. 14 and 16 Friars Stile Road?*
- 9) *How are the amenities of Nos. 14 and 16 Friars Stile Road preserved by the replacement of the former hedge with a height of 3.5m on the NW boundary of the former Conservation Garden with a new hedge with a height of 1.5m per the replanting scheme represented in drawing 357/500 REV J?"*
5. On 1 June 2014 the complainant resent his request to the Council as it had not responded to his original request.
6. On 11 June 2014 the complainant sent the Council a repeated request as it had not responded to the previous.
7. The Council responded on 7 July 2014 to the request of 11 June 2014.
8. On 8 July 2014 the complainant wrote to the Council stating that parts 1a, 3, 4 and 6 of its response did not answer the associated questions in his request. He provided further comments to assist the Council in answering his concerns appropriately.
9. The Council responded on 10 July 2014 stating that it will reconsider the request under its internal review process.

10. On 11 July 2014 the complainant responded to the Council and said that he did not want an internal review but that he wanted it to provide him with the outstanding information.
11. The Council supplied the complainant with the outstanding information on 23 July 2014.
12. The complainant complained to the Information Commissioner's Office (the "ICO") about the Council's handling of his request for information.

Scope of the case

13. The complainant contacted the Commissioner on 15 August 2014 to complain about the way his request for information had been handled. Specifically, he complained about the Council's delay in responding to his original information request.
14. The complainant confirmed that his request has been fulfilled. However, he has stated that he expects the case to be reported upon within a decision notice in respect of the delay in complying with his information request.
15. The Commissioner considers the scope of the case will be to determine whether the Council handled the request in accordance with the EIR. Specifically, whether the Council breached regulation 5(2) of the EIR.

Reasons for decision

Is the information 'Environmental Information'?

16. Information is 'environmental information' if it meets the definition set out in regulation 2 of the EIR. If the information satisfies the definition in regulation 2 it must be considered for disclosure under the terms of the EIR rather than the FOIA.
17. Under regulation 2(1)(c) of the EIR, any information on activities affecting or likely to affect the elements or factors of the environment listed in regulation 2 will be environmental information. One of the elements listed is land.
18. The Commissioner has considered the nature of the information sought by the complainant. He has determined that the information is environmental information and the Council is incorrect to have considered the complainant's request under the FOIA.

Regulation 5(2)

19. Regulation 5 – the duty to make environmental information available on request
20. Under Regulation 5(1) of the EIR, a public authority holding environmental information is obliged to make that information available on request.
21. Under Regulation 5(2) the Council is required to provide the information as soon as possible and no later than twenty working days from the receipt of the request.
22. On 14 May 2014 the complainant requested information from the Council and as it did not respond to this, the complainant returned to the Council on 1 June 2014. This repeated request was not responded to and a further request was submitted by the complainant to the Council on 11 June 2014.
23. On 7 July 2014 the Council responded to the repeated request. It provided the complainant with explanations under each of the nine parts of the complainant's request.
24. The complainant contacted the Council on 8 July 2014 to inform it that some of the Council's responses have not answered the associated questions in his request.
25. On 10 July 2014 the Council offered the complainant a reconsideration of his request under its internal review process. However, the complainant notified the Council that he had not requested an internal review but he had requested that it supplied him with the outstanding information.
26. On 23 July 2014 the Council provided the complainant with the outstanding information for parts 1a), 3, 4 and 6 of his request. As the request was complied with 50 working days after it was submitted, the complainant asked the Commissioner to issue a decision notice based on the Council's failure to comply with his request within the statutory time limit.

Conclusion

27. The Commissioner's decision is that the Council did not handle the request for information in accordance with the EIR. The Council has breached regulation 5(2) of the EIR by failing to provide a substantive response to the request within the statutory timeframe of 20 working days.

Right of appeal

28. 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

29. 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.
30. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF