

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 13 December 2017

Public Authority: Croydon Council
Address: Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Decision (including any steps ordered)

1. The complainant has requested information from the council in relation to a public consultation of a proposed 20 mph limit and information relating to proposed road closures and a resident's questionnaire. The council has acknowledged receipt of the complainant's requests but has failed to respond in accordance with regulation 5(2) of the EIR.
2. The Commissioner has therefore decided that the council has breached regulation 5(2) of the EIR and now requires the council to take the following steps to ensure compliance with the legislation:
 - Issue a response to the complainant's request of 5 June 2017 in accordance with the EIR.
 - Issue a response to the complainant's request of 11 July 2017 in accordance with the EIR.
3. 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 Act and may be dealt with as a contempt of court.

The requests and responses

4. The complainant wrote to the council on 5 June 2017 and made a request for information (request 1).
5. The complainant also wrote to the council on 11 July 2017 and made a separate request for information (request 2).
6. The full details of both requests are contained in an annex at the back of this notice.
7. In relation to request 1, the complainant confirmed that this request was made as a result of a response issued by the council to another applicant. This response can be accessed via this link:

<http://bit.ly/2ju1BI9>
8. The complainant received an acknowledgement from the council. But then on 21 June 2017 the complainant received a further email advising him that the council had withdrawn the request, as it would be responding to his enquiries via the relevant service area.
9. The complainant received no response. He therefore emailed the council again on 30 June 2017 and requested that his enquiries were answered under the FOIA/EIR.
10. The council responded on 14 July 2017. It stated that it considered the complainant's email of 5 June 2017 directly related to his legal challenge and therefore had already been dealt with through questions and answers provided by the council's solicitors.
11. The complainant referred the matter to the Commissioner on 24 July 2017.
12. The Commissioner wrote to the council on 9 October 2017 and requested that it responds to the request in accordance with the EIR/FOIA within 10 working days.
13. The council issued a further response on 19 October 2017. However, this response addressed another request the complainant made on 7 June 2017 not the request of 5 June 2017 (request 1).
14. To the date of this notice, no response has been issued to the complainant's request of 5 June 2017 (request 1).
15. In relation to request 2, the complainant chased an acknowledgement from the council on 21 July 2017.

16. The council responded on 31 July 2017. It stated that it did not receive the complainant's initial email of 11 July 2017 and only received this when he emailed the council on 21 July 2017 requesting an acknowledgement. The council confirmed that it felt the request was covered by other information and was in part making suggestions, which could be considered as part of their ongoing investigations. It advised the complainant that it was unable to therefore dedicate any more time to answering this request.
17. The complainant emailed the council on 1 August 2017 and stated that his email of 11 July 2017 should have been treated as a FOI/EIR request, if the council was unwilling to respond as 'Normal Business'.
18. The complainant emailed the council again on 11 August 2017. He stated that he has still not received an acknowledgement from the council's FOI Department.
19. The council acknowledged the request on 11 August 2017 and apologised for not doing so earlier.
20. As the complainant received no response, he referred the matter to the Commissioner on 2 November 2017.
21. The Commissioner contacted the council on 14 November 2017 in relation to request 2. The Commissioner forwarded a copy of the request to the council and it confirmed on 15 November 2017 that it would respond in due course.
22. To the date of this notice, the Commissioner understands that no response has been issued.

Scope of the case

23. As stated above, the complainant first contacted the Commissioner on 24 July 2017 to complain about the way request 1 had been handled. He then referred a further request to the Commissioner on 2 November 2017; request 2.
24. The Commissioner considers the scope of this investigation is to determine whether the council has responded to these requests in accordance with regulation 5(2) of the EIR.
25. The Commissioner has decided that the EIR appears most applicable in this case, as both requests seem to relate to traffic, road closures and a public consultation on a 20mph speed limit in a particular area. The Commissioner considers these are either measures or plans (in

accordance with regulation 2(1)(c) of the EIR) which will affect the elements of the environment outlined in regulation 2(1)(a) and (b) of the EIR.

26. It is also noted that the council has responded to the complainant's request of 7 June 2017 under the EIR.

Reasons for decision

27. Regulation 5(1) of the EIR states that subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of the Regulations, a public authority that holds environmental information shall make it available on request.
28. Regulation 5(2) of the EIR states that information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of the receipt of the request.
29. In relation to both requests, it is clear from the chronology above that the council is in receipt of both information requests and acknowledged receipt in some form. Request 1 has been outstanding since 5 June 2017 and request 2 has been outstanding since 11 July 2017. Clearly, the 20 working days prescribed by regulation 5(2) of the EIR has expired for both requests.
30. As the council has failed to respond to both requests the Commissioner has recorded a breach of regulation 5(2) of the EIR. She now requires the council to respond to both requests in full in accordance with the EIR.

Right of appeal

31. 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

32. 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.
33. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

Request of 5 June 2017

"All objections were acknowledged, but due to the quantity received, this may not have been strictly in order of receipt. No specific timescale was set to acknowledge objections."

The council standard acknowledgement is within a week

Why was no time set in this case?

What was the intention and practice?

"The Council received by electronic and written any objections there have been recorded onto a spreadsheet which is redacted to take out personal data and is available on the councils website and part of the background documentation for the Traffic Management Advisory Committee on the 9th May 2017.

"The council will be retaining both a hard copy of every representation received and a spreadsheet detailing each of the objections made."

Presumable "electronic" means by email and "written" means on paper – please confirm.

How many came by emails, and how many on paper?

"The Council does not hold this information in a single place and would have to review all 3,357 objections received, it is estimated that it would take 3-5 minutes to check each objection which will take more 178-280 hours. And so to collate the response in this case would take an inordinate amount of time due to the huge volume of information involved. We believe that the cost of compliance would be too great and we therefore contend that the request is manifestly unreasonable."

How were statements of Support, and Comments processed?

How many of each were there?

How many distinct individuals submitted objections, how many submitted statements of Support, and how many made comments.

If there were 3357 objections in total, then we may assume there were about 300 on paper and 3050 by email:

For paper objections, were these scanned into the computer?

How were these numbered?

Regardless, it would take no more than 10 seconds each to check each for a postcode and enter this into a spreadsheet, or "not given", so these could be done in an hour.

For the email objections, the council has an inbox where all were received.

The inbox will contain at least:

SUBJECT

SENDER NAME

SENDER EMAIL

DATE

TIME

The council can easily create an XLS spreadsheet with those columns from the inbox.

Then it is simple to remove the sender name, and replace the full email address with the email domain.

<http://bit.ly/2rxQXs8>

<https://exceljet.net/formula/get-domain-...>

Likewise for the acknowledgements the council will have a Sent box or Outbox.

It can easily create a similar XLS spreadsheet with the date and time of each acknowledgement.

Linking the Subject will allow linking each entry in one sheet with date and time received, with in the other the date and time of acknowledgement sent.

For the published spreadsheet background document, that is a pretty useless PDF.

Please publish an XLS version (not XLSX which has more restricted usage).

That should also include the time of receipt, and the text of the objection.

The council must have a simple way of creating its published spreadsheet from its inbox, so adding time would be simple.

As "personal data" has already been redacted, there can be no objection to revealing the substantive of each objection

Please provide XLS versions:

Inbox spreadsheet described above

Outbox spreadsheet described above

Spreadsheet described above with date and time of receipt and sending of acknowledgement”

Request of 11 July 2017

“You claim as below – but it is hard to see how the claims are true – when in fact you are making it much harder to get around the area.

This project addresses the corporate policies adopted in the Corporate Plan 2015-2018 to enable Growth, Independent and Liveability. This report helps address the Growth and Liveability strategy of the Plan with particular emphasis on the Transport vision to:

? Implement the 20-year Transport Vision to **improve** safety and **access for all road users**, particularly pedestrians, cyclists and people travelling by public transport.

? Creating a place where businesses and people want to be.

? To create a place that communities are proud of and want to look after as their neighbourhood.

? To build a place that is **easy and safe for all to get to and move around in.**

1 Please supply me with a copy of the actual questionnaire sent to residents in respect of the proposed closure of Canning Road and Addiscombe Court Road.

Did the council inform residents of the council’s view as per ?9.2 and 9.3?

2 Why were the questions posed as quoted in the TMAC Report?

4.5 Respondents were asked to give a yes or no answer to each question.

1. Do you support the Councils (*sic*) plans to introduce no-entry restrictions on Addiscombe Court Road.

2. Do you support the Council’s plans to introduce no-entry restrictions on Canning Road.

3. Would you support the Councils plans to introduce no-entry restrictions on Addiscombe Court Road if Canning Road was made no-entry.

4. Would you support the Council's plans to introduce no-entry restrictions on Canning Road if Addiscombe Court Road was made no-entry.

They are very strange and confusing – I read them several times before deciding what they actually meant?

What is the difference between case 1 and 3 – unless case 1 means only this one road – ie why would you say YES to 1 but not to 3 – so YES to 1 means this road only?

Why did you not ask the simple question as below.

PLEASE CHOOSE ONE ONLY OF THE OPTIONS BELOW.

1 I support a closure of both Canning Road and Addiscombe Court Road as shown on the council plan.

2 I support a closure of Addiscombe Court Road but not a closure of Canning Road.

3 I support a closure of Canning Road but not a closure of Addiscombe Court Road.

4 I do not support a closure of either road.

That way it would be quite clear what residents thought of the various options the council was considering.

3 In the event, it is likely that some were confused by the questions.

Why else would there be the big difference between the YES answers to A1 and A3?

Regardless, for Canning Road, those there voted clearly NO and the overall majority voted clearly NO.

Why then do you recommend going ahead with the closure in this road?

4 Why did the council only consult on these two options?

Why notably no option for a northbound route?

Why do you dismiss making Lebanon Road one-way northbound – the reasons given are not valid – you are wrongly comparing a one-way flow with a two-way flow situation.

5 At the previous TMAC meeting it was agreed there needed to be a full traffic analysis of the area.

Why has this not taken place?

6 In the TMAC Report, you mention likely impacts, however the council has produced **no real traffic data**, has done **no proper traffic stuffy**, and from the report has **no real idea of the impacts** of their proposal.

Paragraphs 9.2 and 9.3 state some worrying impacts , but the "most congested" for example is not quantified – even by words like slightly or much.

9.2 By restricting traffic movements at access/egress points local residents will need to alter their motor vehicle journeys to and from their homes. This can involve additional distance and increased journey time driving along the main road network which would also become more congested as a result of these measures.

9.3 The main road network will become more congested, vehicle journey times will increase and it is likely that traffic will simply displace onto the nearest north-south through route.

7 It is obvious that the road closures will have a **severe adverse impact on local movement**, notably for people within the boundary of the A222, A232 and Clyde Road (and in that road) getting to and from their homes.

What there is not is any quantification of these impacts.

I estimate on current queues on the main roads, it could easily be an extra 5 minutes – which is a large delay, but as below, it could easily in fact be 8-10 minutes at busy times.

However this scheme will not retain current main road queues.

It will cause **VERY SEVERE new worse traffic congestion**.

Remember the current council has done this before with the Norbury Avenue closure – though that did not badly affect the main roads.

I am talking about potential gridlock along the A232 at and from the Fairfield Halls, with huge jams across a wide area, for example to the 64 bus on Park Hill Road from Selsdon.

8 What would be your evaluation of this option?

REVERSE the one-way working on Lebanon Road.

INSTALL the proposed closure on Addiscombe Court Road

LEAVE Canning Road as is.

Do this under an Experimental Order, so it can be quickly changed if necessary.

This proposal would allow residents reasonable or good access to and from their homes.

It would not encourage any increase in through traffic.

It would avoid the head-to-head issue in the roads where it has been raised.

12.1 in the report is plainly wrong – one way working is LRd not the same as the current two-way flow in ACRd.

My proposals would also avoid any real adverse impact on the main road network.

Surely this is a much better way forward?"