

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 25 September 2018

**Public Authority:** Islington Council

**Address:** Town Hall  
Upper Street  
London  
N1 2UD

#### **Decision (including any steps ordered)**

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1. The complainant has requested from Islington Council various information relating to an area of land at Windsor Street, London N1. In response to the request, and during the Commissioner's investigation, the requested information was received by the complainant.
2. The Commissioner's decision is that Islington Council has breached Regulations 5(2) and 11(4) of the EIR by failing to respond to the initial and internal review requests within the statutory time limits.
3. The Commissioner does not require Islington Council to take any steps to ensure compliance with the legislation in this case.

#### **Request and response**

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4. On 30 September 2015 the complainant wrote to Islington Council (the Council) and requested information in the following terms:

*'This request is made under the freedom of information Act.*

*The request relates to land at Windsor Street, N1, principally the site of a car park and series of garages identified by the red dotted line in the diagram below. I don't have a specific street address, but the site will be known to your Officers as it is presently the subject of development proposals by LBI, which I understand is being project managed by [name redacted] (Capital Project Manager, Housing & Adult Social Services, Housing Strategy & Development Team).*

*The information sought represents a focussed, clear and reasonable request. There are no justifiable reasons to withhold any information that is available.....*

*In the context of this request "correspondence/documents" include, but are not limited to, written letters, email, file notes of meeting/telephone calls, memorandum or other recorded communications that may be employed by the LPA to communicate between officers and/or members and external parties; reports to committees or other LBI decision making/review groups (documents referred to or relied upon in those reports) and any minutes.*

*The information requested in relation to the above site is:*

- *Whether the land in question appears on a schedule of council assets for development, 'exploitation' or disposal and a copy of the information/status of the site and identified opportunity that may be retained by the council.*
  - *Whether the site has been the subject of either formal or informal pre-application inquiry by either a council department, a third party, potentially acting on the council's behalf or an independent third party. If so, a copy of the information submitted as part of that request and a copy of the Council's response.*
  - *Whether the council has prepared any planning or development or internal briefs for the site and copies of such documents.*
  - *Any reports relating to the proposed development of the site that have been presented to planning committee and/or other members such as but not restricted to: site survey; tree surveys; daylight/sunlight reports; viability assessments; heritage reports; design/architect reports and plans; quantity surveyor reports.'*
5. The Council responded on 23 November 2015. It apologised for the delay and disclosed various information falling within the scope of the request.
  6. On 16 December 2015 the complainant requested an internal review as she was dissatisfied with the Council's response.
  7. The Council wrote to the complainant again on 24 May 2016 with the outcome of its internal review. Having reviewed the Commissioner's guidance it concluded that the majority of the information requested was 'environmental' within the meaning of the Environmental Information Regulations 2004 (the EIR). It therefore processed the review under the EIR. Further documents were disclosed and information relating to pre-planning advice was withheld under 12(5)(f) of the EIR.

## **Scope of the case**

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8. The complainant contacted the Commissioner on various occasions between July and October 2016 to complain about the way her request for information had been handled.
9. Between November 2016 and March 2018 the Commissioner corresponded with the Council to clarify and identify the recorded information held falling within the scope of the request and to ascertain which EIR exceptions were applicable.
10. During the course of the Commissioner's investigation further information came to light and explanations were provided by the Council to the complainant's outstanding issues.
11. As the complainant has now received all of the recorded information held by the Council, the scope of the Commissioner's investigation is limited to the timeliness of its responses to her initial and internal review requests.

## **Reasons for decision**

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### **The Environmental Information Regulations 2004 (the EIR)**

12. The Council has dealt with the complainant's request under the EIR on the basis that the information is a measure affecting or likely to affect the elements and factors of land and landscape under Regulations 2(1)(a) and (c) of the EIR.
13. The Commissioner agrees with the Council that the requested information is environmental within the meaning of the EIR.

### **Regulation 5(2) – time for compliance**

14. Regulation 5(2) of the EIR requires public authorities to provide environmental information specified in a request as soon as possible and no later than 20 working days after the date of receipt.
15. In this case the Council took 39 working days to respond to the complainant's request and thereby breached Regulation 5(2) of the EIR.
16. On 4 June 2018 the Commissioner made the Council aware of this fact and reminded it of its obligations in relation to future EIR requests.

### **Regulation 11 – internal review**

17. Regulation 11(1) provides that an applicant may make representations to a public authority, if he or she considers that the authority has failed to comply with the requirements of the EIR in relation to the request.
18. Regulation 11(3) requires that the public authority consider the complainant's representations, along with any supporting evidence provided by the complainant, to decide whether it has complied with the requirements of the EIR.
19. Finally, regulation 11(4) requires that the public authority notifies the applicant of its decision in relation to the applicant's representations as soon as possible and no later than 40 working days after receipt of those representations.
20. In this case the Council took 109 working days to respond to the complainant's representations and thereby breached Regulation 11(4) of the EIR.
21. On 4 June 2018 the Commissioner made the Council aware of this fact and reminded it of its obligations in relation to future EIR requests.

## Right of appeal

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22. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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** .....

**Deborah Clark**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**