

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

### **Decision notice**

**Date:** 7 June 2023

**Public Authority:** Manchester City Council  
**Address:** Town Hall  
Manchester  
M60 2LA

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

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1. The complainant requested information relating to a planning application. The council disclosed some information and confirmed that further information was not held. The complainant believes that further information may be held by the council.
2. The Commissioner's decision is that, on the balance of probabilities, the council disclosed all of the relevant information to the complainant that it holds and that regulation 12(4)(a) applies but that it failed to carry out an internal review within the statutory time limit and breached regulation 11(4).
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 22 November 2022, the complainant wrote to Manchester City Council (the "council") and requested the following information:

[redacted]

"...the date(s) and timing(s) of the site visit(s) undertaken by the delegated officer during which she specifically assessed the resultant light-loss impact of a proposed development site. In particular, please forward the processes and full unredacted subsequent data collected upon which her decision was based."

5. The council responded on 29 November 2022 and confirmed that the requested date(s) of site visit(s) was not held. The response explained that all information relating to the assessment of the application was held within the officer report which was viewable online (the council provided a link to the online record).
6. On 23 December the complainant asked the council to review the handling of the request. The complainant asked the council confirm that it held no evidence of a site visit or impact assessments prior to granting planning permission and to confirm that no site visit and impact assessments took place. The complainant also stated:

"The officer report that the council has cited several times has a couple of vague sentences about light and impact which don't appear to be referring to or written about our site."

7. On 10 March 2023 the council provided the outcome of its internal review. This confirmed that it was maintaining its position, namely, that the date(s) of site visit(s) were not held and that no further information relating to the assessment of the planning application was held. The council reiterated that all information within scope of the request was accessible online via the case officer's report. The council also disclosed some photographs which had some relevance to the request.

## Scope of the case

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8. On 9 May 2023 the Commissioner confirmed with the complainant that their complaint had been accepted for investigation.
9. The complainant disputes the council's position that no further information relating to their request is held. The scope of this decision notice is, therefore, whether any further information is held by the council.

10. The complainant also raised concerns about the council's use of different reference numbers in its response to their request. The Commissioner considers that this is an administrative matter which does not relate to compliance under the EIR so he has not considered this further. However, he understands that multiple reference numbers used in this matter arose from a duplicate request for information from the complainant to which the council also responded. The council has explained to the Commissioner that the case references the complainant has highlighted consist of additional or duplicate emails which resulted in new case reference numbers being automatically generated on the system used for handling information requests.

## Reasons for decision

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### Regulation 12(4)(a) – information not held

11. The council argues that it does not hold any further information falling within the scope of the request for information. It has therefore applied regulation 12(4)(a) (information not held).
12. The Commissioner must decide whether, on the balance of probabilities, the council holds any additional information which falls within the scope of the request.
13. The complainant considers that further information may be held by the council.
14. In order to reach a decision in this matter the Commissioner approached the council with a range of standard questions he routinely asks in such cases.
15. In relation to searches carried out for relevant information the council confirmed that:

"A search of the business/ case management system used by the Planning team (Idox Uniform) was undertaken using the application reference number – [redacted], to try to identify if any of the information within scope of the request was held.

The Council also searched the case officer's emails for information connected to the planning application, including the date of the site visit. The planning application reference and address of the development site were used as separate search terms to locate the information. The Council considers these search terms to be adequate in locating the

information requested. All information concerning the planning application would be likely to include the planning application number, the address of the proposed development site or both.”

16. The council further confirmed that no paper searches were conducted as the council’s planning team stopped using paper files in 2020 and the application for the proposed development site the request relates to was made in 2021.
17. In respect of the request for the date and time of the site visit undertaken by the case officer, the council confirmed that information is not recorded in the business/case management system or the case officer’s email and linked calendar. It confirmed that no internal notes about the site visit or notes arising from the site visit itself were found in any of the electronic records linked to the planning application, including email. The council explained that there is no site visit assessment document that case officers are required to use.
18. In respect of the concerns cited in the complainant’s internal review, about the impact on light which was used as part of the assessment and decision-making process, the council confirmed that no further information was found in the council’s case management system or in the case-officer’s email, other than the report included in the council’s previous responses to the complainant.
19. In relation to its standard practice in relation to these matters, the council confirmed the following:

“Although a case officer will undertake a site visit as part of the detailed assessment of any planning application which is routine practice, not all information related to assessments or findings from site visits is recorded and retained, particularly information that is no longer required. This is in line with records management practice and the Council’s internal records management policy. Key information about the planning application relevant to assessments and site visits would however be held in the electronic planning application file and retained in line with the Council’s records retention schedule.”
20. The Commissioner understands why the complainant might believe that further information falling within the scope of their request might be held. However, he has not been provided with any direct evidence which contradicts the council’s position.
21. Having viewed the council’s submissions, the Commissioner considers that, should further information be held, the searches carried out would have been likely to identify any such information. As the searches made appear sufficiently thorough and reasonable, and did not locate further

information, the Commissioner has concluded that, on the balance of probabilities, it is likely that the council has disclosed all the relevant information that it holds. It follows, therefore, that the council correctly applied regulation 12(4)(a) in this case.

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

22. Regulation 11 sets out the duties of public authorities in respect of dealing with complaints about the handling of requests for information (“internal reviews”).
23. Regulation 11(4) requires that internal reviews should be completed within 40 working days of the date that a complaint is received.
24. In this case the complainant submitted their internal review request on 23 December 2022 and the council sent its review response on 10 March 2023. The Commissioner has, therefore, concluded that the council breached regulation 11(4).

## Right of appeal

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25. 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: 0203 936 8963  
Fax: 0870 739 5836  
Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

26. 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.
27. 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 .....**

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**