

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

Date: 15 April 2025

Public Authority: Telford & Wrekin Council
Address: Southwater Square
Southwater Way
Telford TF3 4GJ

Decision (including any steps ordered)

1. The complainant requested from Telford & Wrekin Council (the "Council") planning documentation in respect of a specific historic planning application.
2. The Council refused to provide the requested information under regulation 6(1)(b) of the EIR, as it considered the information requested to be publicly available and easily accessible to the complainant.
3. The Commissioner's decision is that the information is publicly available and easily accessible to the complainant, and therefore regulation 6(1)(b) of the EIR is engaged.
4. The Commissioner does not require any steps to be taken.

Request and response

5. On 23 September 2024, the complainant made the following request:

"Planning application W2009/1020 - Car Park Adjacent To, 87, Haybridge Road, Hadley, Telford, Shropshire.

The above planning application is not available on TWC Public Access as it was submitted prior to the LPA going digital. (March 2010).

I am acting on behalf of the owner of the site and in the interests of Freedom of Information, as a matter of public record please can you arrange for a copy of all of the documents and drawings on the file relating to W2009/1020 to be emailed to me please within 20 days.”

6. On 21 October 2024, the Council refused the request stating:

“Copies of historic notices, plans and documents are accessible under the Council’s Historic Documents Service. Customers can either pay for copies of documents or make an appointment to view the documents at our Southwater Offices.

The Council can confirm that it does hold a copy of this application and you can request a copy by emailing planning.control@telford.gov.uk and there is a charge of £50 + VAT per document / plan or you can request an appointment instead.

Please see the link below for full details: [Introduction - Copies of historic planning decisions, documents and plans - Telford & Wrekin Council](#)”

7. This position was upheld on internal review dated 4 December 2024.

Scope of the case

8. The complainant contacted the Commissioner on 5 December 2024 to complain about the way the request for information had been managed, and specifically that the Council’s charges for providing the information were too high.
9. The scope of this case and of the following analysis is whether the Council is entitled to rely upon regulation 6(1)(b) of the EIR. The Commissioner has not considered the matters raised under regulation 8, for the reasons given in this notice.

Reasons for decision

The requested information

10. The Council has explained that the requested information comprises 12 documents which can be viewed by appointment at Southwater Library.

Regulation 6 – Form and format of the information

11. Regulation 6(1) states that:

“Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless–

(a) it is reasonable for it to make the information available in another form or format; or

(b) the information is already publicly available and easily accessible to the applicant in another form or format.”

12. The Commissioner has published specific guidance on regulation 6¹ which explains in detail the responsibilities of a public authority in respect of requests for information to be provided in a particular form or format.
13. However, the duty to make the requested information available in the preferred form or format is not an absolute one. It is qualified by regulations 6(1)(a) and 6(1)(b) in that a public authority does not have to meet the requester’s preference if either (a) it is reasonable for it to make the information available in another form or format, or (b) the information is already publicly available and easily accessible to the applicant.
14. Although the Council did not specifically cite which EIR regulation it was relying on in its initial response or internal review, it has clearly stated that it considers the requested information to be publicly available to the complainant and provided the relevant links and information for the complainant to access the requested information.
15. Therefore the Commissioner considers that the Council is relying upon regulation 6(1)(b) of the EIR (that the information is already publicly available and easily accessible to the applicant in another form or format) and the Commissioner has proactively applied this regulation.

The Council’s position

16. The Council has provided the complainant with the correct link to order copies of the documents and has also explained how the documents can be viewed in person.
17. The Council has explained to the Commissioner that the requested information is publicly available for inspection at Southwater Library and appointments can be made with a member of staff Monday to Friday

¹ [Form and format of information \(regulation 6\) | ICO](#)

(between 9:00am and 5:00pm) with no restrictions in place. The member of staff would meet the complainant in reception and take them to the microfiche machine. They will give advice on how to operate the equipment, to view the documents, snip and save the information to email to their accounts, or photographs are permitted. There are public access PCs available at Southwater Library where printed copies of the information can be made @ 15p per black and white copy. Library staff are also available to assist with using the public access PCs and copiers.

18. The Council has further elaborated that information up to 1999 is held on microfiche; information between 2000 – 2009 is held on CD and information post 2010 is held digitally and available online.
19. The Council therefore argues that the information is easily accessible to the complainant by their making an appointment and attending Southwater Library.

The complainant's position

20. The complainant argues that the proposed fee of £1080.00 for the Council to send the information electronically within 3 working days after payment, or £720 within 15 working days following payment is "an extortionate fee which is completely inappropriate and completely unreasonable."
21. The complainant has argued to the Commissioner that the proposed fees for providing electronic copies of the requested documents

"is an extortionate amount of money for something that is a matter of public record. The council has confirmed that they have the file, so to charge over £1000 to send an email is unacceptable. I do not wish to travel to the council office to view the file for free as it is unsustainable to carry out an unnecessary journey. The charging regime makes no sense as it would take more officer time to meet me at the council offices (for free) than to send me an email with the attached file which they have already confirmed they have. Hence, there is no additional officer time required to locate the planning file."

The Commissioner's analysis

22. The Commissioner's guidance on regulation 6² of the EIR explains there is no geographical limit, or distance, beyond which information is not

² [Form and format of information \(regulation 6\) | ICO](#)

easily accessible for inspection. Any decision about whether information is easily accessible depends on the circumstances.

23. In the circumstances of this case, the Commissioner recognises that the complainant would need to travel to Southwater Library, incurring both time and cost.
24. However, the Commissioner also recognises that the information is available for inspection at Southwater Library. The Commissioner notes that one of the purposes of a local library is to maintain historic records and allow their public inspection.
25. The Commissioner's guidance on regulation 6 (and specifically the section on 'Inspection') explains that it is an expectation of the EIR that the public may inspect information at facilities "which the public authority makes available for that examination" (regulation 8(2)(b)).
26. The same guidance explains that the "establishment and maintenance" of such facilities is a specific requirement of Article 3(5)(c) of the European Council Directive 2003/4/EC, which the EIR implements in UK law.
27. Whilst the Commissioner recognises that the complainant will need to bear the cost of visiting Southwater Library, he is satisfied that the information is publicly available and easily accessible to the complainant by virtue of it being available for inspection at a facility established and maintained for the purpose (i.e. the local library).
28. As the Commissioner is satisfied that the information is both publicly available and easily accessible to the complainant, he therefore finds that regulation 6(1)(b) is engaged.

Regulation 8 - Charging

29. The Commissioner notes that if information is publicly available and easily accessible for the purposes of the EIR (i.e. that regulation 6(1)(b) is engaged), a public authority is not required to make the information available in another form or format. A public authority may choose to commercially provide the information in another form and format and apply a commercial charge for doing so (which the Council has done in this case). If a public authority chooses to do this, regulation 8 does not apply to the charges levied.
30. Therefore, in this case, as the Commissioner has decided that regulation 6(1)(b) is engaged, the Commissioner is not required to consider regulation 8 of the EIR.

Other Matters

31. The Council has advised the Commissioner that it has recently amended its fee structure for providing electronic copies of documents. The Council has advised the Commissioner that, should the complainant resubmit their request, they will be charged a lower fee for processing the request.

Right of appeal

32. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
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