

IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL  
(INFORMATION RIGHTS)  
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000

EA/2014/0232

B E T W E E N:-

EPSOM & EWELL BOROUGH COUNCIL Appellant

-And-

THE INFORMATION COMMISSIONER Respondent

---

CONSENT ORDER

---

Pursuant to rule 37(1) of the Tribunal Procedure (First Tier Tribunal) (General Regulatory Chamber) Rules 2009, upon reading the parties agreed statement (in Annex A),

IT IS ORDERED BY CONSENT THAT:

1. The appeal is allowed in part.
2. The Decision Notice FS50541229 dated 20 August 2014 to be substituted in the terms set out in Annex B.
3. There is no order for costs

DATED this 11<sup>th</sup> day of February 2015

## ANNEX A

### **Statement of reasons for consent order**

1. This appeal concerned the Respondent's Decision Notice FER0532222 dated 20 August 2014. That Notice sets out the terms of the original information request at paragraph 7.
  2. The Council provided some information within the scope of the request but withheld the remainder relying upon regulations 12(5)(d), 12(5)(e) and 12(5)(f) EIR.
  3. In the said Decision Notice, the Respondent decided that the Appellant had failed to demonstrate that the exceptions were engaged.
- 
4. The Appellant appealed against the Decision Notice on 17 September 2014. On the same date, the Appellant wrote to the Tribunal advising that whilst it was in the process of analysing the information relevant to the appeal, the Appellant identified a new file which was potentially relevant to the request.
  5. Having completed its examination of the further information, the Appellant advised the Commissioner that a significant part of the information falls within one or more of the exceptions claimed in the appeal and accordingly propose to withhold this information and would make arrangement to disclose the remainder of the information falling within the request to the requester.
  6. The Appellant provided the further information and evidence to the Commissioner together with a schedule of the total withheld information setting out the exceptions relied upon and the reasons for doing so. The Appellant

confirmed that, in addition to the exceptions previously relied upon, it was now seeking to also rely upon regulations 12(4)(d), 12(4)(e), 12(5)(b) and 13 EIR.

7. The Commissioner then re-considered the withheld information disclosed to the Commissioner during his investigation together with the new information identified on appeal in light of the further information, evidence and arguments put forward. The Commissioner is now of the view that, save for information contained within a few documents, the exceptions were correctly relied upon by the Appellant with respect to the withheld information.
8. In view of all the circumstances and subject to the Tribunal's views, the parties jointly submit that it is appropriate for these proceedings to be concluded by way of a consent order, and that it is appropriate for the Tribunal to consider their joint application without holding a hearing (as envisaged by rule 37(2)).

#### **ANNEX B**

1. The Appellant was in breach of section 1(1)(a) and (b) of the Freedom of Information Act in that it held further information within the scope of the request for information which has now been disclosed to the requester.
2. No further steps are required to be taken.

Signed:.

Ms D. Surowiak

Principal Solicitor

Epsom & Ewell Borough Council

Town Hall

The Parade

Epsom

Surrey

KT18 5BY

For and on behalf of the Appellant

Signed.

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

---

SK9 5AF

For and on behalf of the Respondent