

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

Date: 9 September 2015

Public Authority: London Borough of Bromley
Address: Civic Centre
Stockwell Close
Bromley
BR1 3UH

Decision (including any steps ordered)

1. The complainant has requested the council to disclose a set of drawings which accompanied a planning application. To the date of this notice, no response has been issued.
2. The Commissioner's decision is that the council has breached regulation 5 of the EIR in this case.
3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation:
 - The council should now issue a response to this request under the EIR.
4. The council 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.

Request and response

5. On 21 May 2015, the complainant wrote to the council and requested information in the following terms:

"1. With reference to my 27 April 2015 letter within which you find that having outlined those issues once again I asked (Point 4) [named redacted] to provide a copy of the planning application drawings he clearly stated on the 21 April 2015 he had seen showing the patio and railings.

2. As there appears to be another drawing or possibly drawings that have not date been openly made available to us and the general public I asked within Point 5 (i) of my letter for confirmation whether the drawing (on the website) was the one to which [named redacted] referred in his letter and if it wasn't I asked (5 ii) for a copy of the relevant drawings.

3. Within Point 6 I asked for a copy of the proposed plan view (effectively looking down on what was proposed) that clearly shows the third dimension (i.e. not a reverse view from the other side of the same elevation) necessary to construct a three dimensional structure such as the patio.

4. I have been left with no option that to make this a formal Freedom of Information Act request I additionally ask that the copies provided to me are:

i. Full size 1:1 copies of the requested drawings

Or, if for some reason that is not possible full sizes 1:1 copies (though there are however plenty of copy shops in Bromley who can copy 'AO' size drawings and engineering drawings) and the London Borough of Bromley are merely going to provide me with reduced size copies I ask the following:

ii. The copies of the drawings provided are as large as possible to limit the possibility of any scaling errors.

iii. The Chief Planner draws a clear and accurate scale on all the reduced copies from which it is possible for us and others to accurately 'scale' dimensions.

iv. The Chief Planner signs the copies to certify the accuracy of the scaling they've provide.

I would prefer that any documents are provided in paper copy, however if any of those documents quoted from or referenced are accessible via the internet then please provide me with the precise internet/website URL address. "

6. The complainant hand delivered this request to the council on the afternoon of 21 May 2015 and has provided the Commissioner with

proof of its receipt. He explained that the reception staff date stamped the envelope he used to provide proof of receipt, as the council had run out of receipt books at this time.

7. As the complainant did not hear from the council, he wrote to the council again on 23 June 2015 chasing a response and requesting an internal review.
8. Again the complainant's letter of 23 June 2015 was hand delivered to the council and he received a receipt from the reception staff to acknowledge the receipt of his correspondence.
9. To the date of this notice, the complainant has not received a response. He has received responses to other information requests made on 6 March and 17 June 2015 (references 9928 and 10144) but no formal response to his information request of 21 May 2015.

Scope of the case

10. The complainant contacted the Commissioner on 25 July 2015 to complain about the way his request for information had been handled. He is unhappy that the council has still not responded to his request despite him chasing the matter up and having evidence that his correspondence was received at the time.

Reasons for decision

Is the information requested environmental information?

11. Regulation 2(1) of the EIR defines environmental information. The Commissioner considers this request falls within the scope of the EIR because the request is for a set of drawings which accompanied a planning application. A planning application is a measure as defined in regulation 2(1)(c) of the EIR which will or would be likely to affect the elements of the environment outlined in regulation 2(1)(a) such as the land, soil and landscape. The drawings requested is information *on* the measure identified.

Procedural breaches of the EIR

12. Regulation 5(1) states that a public authority which holds environmental information shall make it available on request.

13. 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 receipt.
14. The Commissioner is satisfied in this case that the complainant has provided evidence of his information request being received by the council on the afternoon of 21 May 2015. As the request was clearly received and has not to date been responded to, it is clear in this case that there is an obvious breach of regulation 5 of the EIR.
15. The Commissioner therefore now requires the council to respond to the request in full having regard for the form and format the complainant has specified in accordance with regulation 6 of the EIR.

Right of appeal

16. 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

17. 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.
18. 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

Rachael Cragg
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