

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

**Date:** 21 November 2016

**Public Authority:** Transport for London (TfL)  
**Address:** Windsor House  
42-50 Victoria Street  
London  
SW1H 0TL

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to a proposed redevelopment. To date TfL has failed to respond to the request.
2. The Commissioner's decision is that TfL has breached regulation 5(2) of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Respond to the request in accordance with its obligations under the EIR.
4. The public authority 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

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5. On 10 August 2016 the complainant emailed TfL and requested information in the following terms:

"I hereby make a Freedom of Information request for the following;

1. documents relating to any exchanges between TfL and Lambeth council concerning the proposed Kennington Green headhouse and/or Kennington Green redevelopment (including any letters, emails, notes of meeting or conversations, but not including any documents produced before 19 June 2014 or any formally submitted as part of the current planning application which can be seen on line on Lambeth's Planning Portal);
  2. documents produced after 19 June 2014 (including any letters, emails, notes of meeting or conversations) relating to the design of the Kennington Green headhouse and in particular any that explain the increase in size between the original design and the new design, any alternatives considered and any consequences that would flow from keeping to the original design."
6. TfL acknowledged receipt of the request on 8 September 2016. However. To date it has not provided the complainant with a response despite the complainant sending the authority two reminders in October 2016.

## Scope of the case

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7. The complainant contacted the Commissioner on 13 October 2016 to complain about the way his request for information had been handled.
8. Having taking account of the matter to which the request relates, i.e. a planning proposal to redevelop some land, the Commissioner considers the information that has been requested is most likely to be environmental information. So far as is relevant, environmental information includes information on measures (such as a proposed redevelopment) which is likely to affect the state of the elements of the environment. The elements of the environment include the land itself and as well the landscape. This would mean that the request should be dealt with under the EIR. Under these regulations a public authority has a duty to respond to the request, by either making the information available or refusing the request, within specified time limits.

9. The matter to be decided is whether TfL complied with these time limits. A failure to comply with the relevant time limits is recorded as a breach of regulation 5(2).

### **Reasons for decision**

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10. Regulation 5(1) of the EIR provides that a public authority shall make environmental information available on request, subject to the application of any exceptions. Under section 5(2) the information has to be made available within twenty working days of the request being received. Under regulation 7 where the request is particularly complex or voluminous that period may be extended to forty working days. But even then the public authority must inform the applicant of the need to do so within the twenty working days initially allowed for responding to the request.
11. Under regulation 14, where a public authority considers the request, or part of it, can be refused, it must inform the applicant that it is refusing the request within twenty working days. Again, regulation 7 allows this period to be extended to forty working days
12. In this case the request was received on 10 August 2016. To date TfL has not responded to that request. Even if TfL had wished to extend the period for compliance to forty working days, the complainant should have been provided with a response by 6 October 2016.
13. The Commissioner finds the authority's failure to provide any response within the statutory time for compliance is a breach of regulation 5(2). TfL is now required to provide the complainant with a response which satisfies its obligations under the EIR.

## Right of appeal

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14. 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)

15. 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.
16. 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 .....

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