

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 26 January 2017

Public Authority: The London Borough of Camden
Address: Town Hall
Judd Street
London
WC1H 9JE

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Camden ("the Council") relating to a redevelopment of 156 West End Lane.
2. The Commissioner's decision is that the Council has correctly applied regulation 12(4)(b) and the public interest favours maintaining the exception.
3. However, the Commissioner considers that the Council has not met its obligations under regulation 9(2) in providing sufficient advice and assistance to the complainant.
4. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Provide assistance to the complainant on how to reduce the scope of his request so that it is no longer manifestly unreasonable.
5. 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

6. On 13 June 2016, the complainant wrote to the Council and requested information in the following terms:

5.1 Request 1 -Any electronic or hard copy correspondence between the persons specified below over the period 23 January 2013 - 30 June 2013 inclusive concerning the Site Allocations Development Plan for 156 West End Lane. We request any such correspondence sent or received by officers in the Council's Planning and Estates Departments. This is to include in particular correspondence between officers, and correspondence between officers and members.

5.2 Compliance with this part of our request is unlikely to be unduly burdensome: we ask that you contact the relevant officers and members and ask them to search all of their filing systems, email folders and computers for information using the above search parameters, namely the date range specified, the sender/recipients and/or search terms such as '156 West End Lane'.

5.3 We anticipate, for example, that the Planning and/or Estates Departments may hold hard-copy files or electronic files for 156 West End Lane containing such documents.

5.4 Request 2 -Any electronic correspondence between the persons specified below over the periods 19 November 2014 to 3 December 2014 inclusive and 15 September 2015 to 15 March 2016 inclusive which refer to or relates to [company name redacted] and/or 156 West End Lane. We request any such correspondence sent or received by officers in the Council's Planning, Estates, Legal and Finance Departments. This is to include in particular correspondence between officers, and correspondence between officers and members.

5.5 Again, compliance with this part of our request is unlikely to be unduly burdensome: we ask that you contact the relevant officers and ask them to search all of their email folders and computers for information using the above search parameters, namely the date range specified, the sender/recipients and/or search terms such as '[company name redacted]'. If it assists you in conducting your search, we are particularly interested in correspondence concerning (i) an exchange of emails between [name 1 redacted] and [name 2 redacted] between 19 November 2014 and 3 December 2014 and (ii) an exchange of emails between [name 3 redacted] and [name 4 redacted] and others (including [name 5 redacted]) between 15 September 2015 and 15 March 2016. The aforementioned individuals' names may assist as additional search terms.

5.6 Request 3 -Any memoranda, meeting minutes, records of phone conversations or other documentation (whether electronic or hard copy) held by the Council covering the period 23 January 2013 to 30 June 2013 inclusive) concerning the Site Allocations Development Plan for

156 West End Lane and which make reference to [company name redacted] and/or 156 West End Lane.

5.7 As indicated above, we anticipate, for example, that the Planning, Estates, Finance and/or Legal Departments may hold hard-copy files or electronic files for 156 West End Lane containing such documents.

6. As we have emphasised, we ask that all, or as much as possible of the information outlined above be disclosed without delay. We do not anticipate that the information above would be commercially sensitive or would fall within any other exceptions or exemptions. If you do intend to rely on any such exceptions or exemptions, please contact us without delay so that we can discuss how we may obtain as much information as possible without engaging any such provisions. We will also ask that you explain why you consider any such provisions to be applicable to the above information".

7. The request made it clear that the complainant's client (the complainant is a firm of solicitors) would be prepared to pay for all reasonable expenses incurred in providing the requested information. The complainant requested that the Council should discuss any charges it wished to make with respect to its response.
8. The complainant asked that this request should be responded to as quickly as possible and in any event within 20 working days. It reminded the Council that it had requested this information on 21 December 2015 and on 8 March 2016 but was not satisfied with the responses received. It asked the Council to consider its obligation to offer advice and assistance to a requester.
9. On 7 July 2016 the Council responded to this request. The Council explained it had aggregated these requests and that it had applied regulation 12(4)(b) of the EIR to the request as a whole. It explained that it considered the cost or burden of dealing with the requests to be excessive.
10. The Council broke down the time involved to respond to the request. It estimated the total time would be a minimum of 37 hours at a cost of £925.
11. The Council explained it has also considered the balance of the public interest in line with the EIR and it provided its public interest arguments.
12. On 21 July 2016 the complainant asked the Council to conduct an internal review. The complainant argued that the Council had failed to fulfil its duty to offer advice and assistance. The complainant also suggested search terms which could be used to locate the relevant information.

13. The complainant wrote again to the Council on 19 August 2016 to complain it had not yet received an internal review response.
14. Following a decision notice under the reference FER0638825 which ordered the Council to carry out an internal review, the Council sent the complainant its internal review response on 22 September 2016.
15. The Council's internal review response upheld its previous decision that it was correct to apply regulation 12(4)(b) to the request and the public interest favoured maintaining the exception.

Scope of the case

16. The complainant contacted the Commissioner on 13 October 2016 to complain about the Council's handling of his request. The complainant disputed the Council's application of regulation 12(4)(b) to the request. The complainant also complained about the Council's failure to provide advice and assistance.
17. The Commissioner has therefore had to consider whether the Council correctly applied regulation 12(4)(b) to the requests dated 13 June 2016 and, if the exception is engaged, whether the public interest favours maintaining the exception. She has also had to consider whether the Council complied with its obligations under regulation 9 to provide advice and assistance.

Reasons for decision

18. Regulation 12(4)(b) of the EIR provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable.
19. The Commissioner considers that the inclusion of 'manifestly' in regulation 12(4)(b) indicates Parliament's intention that, for information to be withheld under the exception, the information request must meet a more stringent test than simply being 'unreasonable'. 'Manifestly' means that there must be an obvious or tangible quality to the unreasonableness of complying with the request.
20. The exception will typically apply in one of two sets of circumstances; either where a request is vexatious or where compliance with a request meant a public authority would incur an unreasonable level of costs, or an unreasonable diversion of resources. It is for the latter reason that the Council has sought to apply regulation 12(4)(b) in this case.

21. Unlike the Freedom of Information Act 2000 ("FOIA") and specifically section 12, the EIR does not contain a provision that exclusively covers the cost and time implications of compliance. The considerations associated with the application of regulation 12(4)(b) of the EIR are, instead, broader than with section 12 of FOIA. This means that there are other considerations that should be taken into account when deciding whether the exception applies to environmental information. These include the following:
- Under the EIR there is no statutory equivalent to the "appropriate limit" – the cost limit beyond which a public authority is not obliged to comply with a request – described at section 12 of FOIA.
 - The proportionality of the burden that compliance would place on the public authority's workload, bearing in mind the size of the public authority and its ability to allocate resources to dealing with an information request.
 - The importance of the requested information, and the underlying issue to which the request relates, and the extent to which responding to the request would illuminate that issue.
22. The Commissioner considers that public authorities may be required to accept a greater burden in providing environmental information than other information. Unlike section 12 of FOIA, regulation 12(4)(b) of the EIR is also subject to the public interest test.
23. In order to test whether the Council was entitled to rely on regulation 12(4)(b), the Commissioner has asked the Council to provide further submissions regarding its cost methodology.

The Council's position

24. The Council returned to the Commissioner and explained that it had reassessed the work required to comply with the requests and detailed this in a table. The table details the four Officers in different departments within the Council that are likely to hold information falling within the scope of the requests and the searches they would be required to undertake to comply with the requests. The table also details a fifth Officer who would have to review any information held and determine whether it is exempt from release. The contents of the table are detailed below.

Officer 1

Request 1

25. The Officer explained that he would need to search his emails and ask other members of the Development Management team to do the same. The Officer believes two other Council members may have been involved in the work during the period identified.
26. The Officer explained that the search would include key words from the request such as 'west end lane', '156 wel' and the name of the complainant's client. The Officer explained that initial investigations suggest that a search time of approximately four minutes per search term to locate information falling within each search term and then three minutes to review each search term result. The Officer therefore estimated that it would take 21 minutes to locate and review information falling within the three search terms.
27. As the Council Officer believes two other Officers may have been involved in the work, there is potential for the time involved to be increased to 63 minutes (21 minutes x three Officers).
28. The Officer explained that this process may be longer as the Officers' shared folder filing system has recently been re-structured, archived and re-organised. The Officer believed that the time needed to search for Site Allocation Planning Documents related information across this filing system would take at least 30 minutes.
29. In total, the Officer believed it would take 93 minutes to comply with request 1.

Request 2

30. The Officer explained

"The request is prescriptive about the identified time periods – which are helpful. It also names planning officers, chiefly [redacted name] but then expands the list to 'We request any such correspondence sent or received by officers in the Council's Planning, Estates, Legal and Finance Departments'. Therefore I will need to cast my search wider than email and electronic information related to just [redacted name]."

31. Similarly to request 1, the Officer explained that the search would include key words from the request such as 'west end lane', '156 wel' and the name of the complainant's client.
32. The Officer explained that initial investigations in his inbox suggested a search time of approximately four minutes per search term to provide search results which vary widely in how many results they provide. The Officer then estimated that it would take five minutes to review each search result to identify any relevant information. This Officer therefore

estimated that it would take nine minutes per search or 27 minutes to cover the three search terms used.

33. The Officer explained that the other Officer who may hold relevant information has left the Council. However, he considers that her account may still be accessible as she left the Council just over three months ago. The Officer explained he would have to request security access to her emails and he estimated that this would take 30 minutes of his and an IT security Officer's time. The Officer explained:

"I have no experience of [redacted name's] email filing system and therefore it is difficult for me to accurately estimate how long it will take to search for the information requested. I would anticipate that it will take at least as long as searching my own files. That would add a further 27 minutes".

34. The Officer further explained that he would need to determine whether any other Development Management Officers would hold any of the requested information. The Officer believed that there would be one further Officer that would hold information that would fall within the scope of the request. He explained that this Officer would have to carry out the same search as him and he therefore estimated that it would take 27 minutes to carry out that search.
35. With regards to the shared folder, the Officer explained that he could filter the search used in request 1 to locate information within the scope of request 2. He believed that this would add an extra 15 minutes on to the estimate.
36. In total, Officer 1 believed it would take 126 minutes to comply with request 2.

Request 3

37. Initially, the Officer believed that information falling within the scope of request 3 would be held electronically and it would take one hour to locate and retrieve the information.
38. However upon review, the Officer explained:

"This request is similar to request 1, in respect of the information sought – but relates to paper copies, memoranda etc. It is likely that any DM-related paperwork from that period is either in off-site storage or within the building. I will need to consult with colleagues who oversaw the move from our previous building to our new offices in 2014 but I estimate that a request for off-site retrieval is unlikely to yield many results as any files considered unworthy of retention for immediate access(ie suitable for off-site storage) were most likely destroyed

before our building move. A check through our remaining paper-storage cabinets would take at least 30 seconds per shelf for each of the 3 shelves in each of the 28 cabinets – 42 minutes”.

39. The Officer further explained:

“A check with colleagues about who might have ‘memoranda, meeting minutes, records of phone conversations or other documentation (whether electronic or hard copy)’ would take 10 minutes. Any check by individual officers for this information would take additional time”.

40. In total, the Officer estimated it would take at least 52 minutes to comply with request 3.

41. To comply with requests 1, 2 and 3, Officer 1 estimated it would take a minimum of 271 minutes (four hours and 31 minutes).

Officer 2

Request 3

42. The Officer explained that he had carried out a windows explorer search of one service team’s folders (which contains 108 sub-folders) in order to locate information falling within the scope of request 3. The Officer explained that he used one of the suggested parameters of the requestors (the complainant’s name). The Officer confirmed that the filter was set to search the contents of the files as well as the title for the six month period as requested.

43. This process took the Officer 1 hour and 55 minutes and identified five documents. It then took two-three minutes to identify whether the documents would be relevant to the request. The Officer confirmed that this search only involved one of the search terms suggested by the requester, not the others put forward.

44. The Officer explained:

“Applying this timing across two further team folders (of similar sizes) where information might also logically be saved could therefore take approximately four hours. This would not include the time taken to scan and identify individual documents that could be relevant to this request. This could be estimated to c. 8-12 minutes for 20 documents using the above test”.

45. The Officer went on to explain that it took a further two hours to locate and identify documents in his Outlook and Archive Vault folder.

46. The Officer confirmed that at a minimum it would take him eight hours to comply with the request. However, he stated that this estimate did not take in to account the time taken to consider whether any of the requested information was exempt from release or the amount of time it would take to consider whether any information was held off-site and then search through any information located, which could potentially add an extra two hours on to the estimate. The Officer also confirmed that the estimate does not consider the time it would take another Officer who was involved with the Site Allocations DPD (subject of this request) to search for any relevant information.
47. In order to help the Commissioner understand the work involved, the Officer explained:

“Finally, perhaps the ICO needs to be aware that the reason that there are many possible locations across Planning to retrieve information for this particular request is that there are related, but independent functions and responsibilities between teams and officers including:

- *Dealing with planning applications*
- *Dealing with planning enquires on site*
- *Producing policy documents (such as Site Allocations DPD part of this request; note that this alone took c.4 years to get adopted – hence the number of files/folders, etc)*
- *Assisting the West Hampstead Neighbourhood Forum produce a Neighbourhood Plan*
- *Advising our Property Services on potential options for sites to be sold or redeveloped*
- *Preparing planning guidance for marketing of sites being sold*

And 156 West End Lane in many different forms and ways has cross-cut all these areas of work, hence the number of potential sources of information to cover”.

48. In total, Officer 2 estimated it would take a minimum of eight hours to comply with request 3.

Officer 3

Request 2

49. This Officer explained:

“Mindful that our electronic filing system does not permit full interrogation of documents along subject, recipient and date sent lines, this is a large undertaking and a great deal of information will have to

be looked at firstly before assessing whether it relates to the specifics of the request”.

50. The Officer explained that searches would have to be made for subject title and contents and any results would then need to be redacted. The Officer explained that request 1 and 3 could be searched for together and this would take eight hours. For request 2, the Officer explained that it would take seven hours to comply with the request.
51. In total, the Officer estimated it would take 15 hours for him to comply with request 1, 2 and 3.

Officer 4

Request 1

52. The Officer confirmed that he would hold no information falling within the scope of request 1.

Request 2

53. The Officer explained that he had spent one and a half hours on request 2. This included a search of his inbox for relevant information and carrying out two searches on the two folders and subfolders he has relating to the address detailed in the request.
54. The Officer explained that the task of searching for this information was made easier by the information being held electronically only, the time frames specified in the requests and the nature of the correspondence sought is narrowed down.
55. The Officer confirmed that his search returned no results for the information sought for the period 19 November to 3 December 2014. He further confirmed that for the second period detailed in the request (15 September 2015 – 15 March 2016), his search returned a number of emails. The emails made reference to a specific Councillor but the emails *“do not involve either the Cllr or any of the persons specified in the request”.*
56. The Officer estimated that it would take a minimum of three hours for him and the Business Services Unit to comply with request 2.

Request 3

57. The Officer confirmed that request 3 is not limited to electronic documents but it would involve hard copy records in hard copy files. The Officer also believed that request 3 is much wider than request 1 and request 2. He confirmed that his estimate was based on the searches for

records in his custody as part of Legal Services and his estimate was therefore based on this.

58. For background, the Officer explained that Legal Services moved into 5 Pancras Square at the end of June 2014 and until that time, Legal Service kept and maintained hard copy files. The Officer confirmed that he maintained four hard copy files relating to the address in question up until the move.
59. The Officer further detailed his involvement with the matter behind the request. It is clear that the Officer would hold extensive records relating to 156 West End Lane and the complainant's client.
60. The Officer explained that request 3 would involve the following steps:
 - (1) Checking the archive database for the relevant archive records for the boxes containing my archived hard copy files. The Officer explained that this would take approximately 15 minutes.
 - (2) Procuring his Business Services team to retrieve the identified archive boxes from Archive. The Officer explained that this would take approximately 10 minutes (and including transportation off-site storage about 50 minutes);
 - (3) Studying the various hard copy files retrieve from archiving for the relevant material. The Officer explained that this would take one and a half hours.
 - (4) Undertaking an electronic search of his computer for electronic documents relevant to the request. The Officer estimated that this would take one hour.
 - (5) Considering whether there are valid reasons for declining to release relevant material identified through the search. The Officer explained that this step would be included in the estimate provided for step (3).
 - (6) Copying hard copy documents for disclosure. This Officer estimated 20 minutes for this step.
61. The Officer therefore estimated that it would take four hours to comply with request 3.
62. In total, the Officer estimated it would take seven hours to comply with request 2 and 3.

Officer 5

63. Officer 5's estimates are based on the consideration of whether any exceptions applied to the requested information.
64. The Officer considered that regulation 12(3) and regulation 13 which relates to third party personal data would apply to information falling within the scope of the requests. The Officer considered that information such as names and contact details of relatively junior officers, contractors and members of the public would all need to be redacted on the grounds that it was third party personal data. The Officer estimated it would take one hour to redact 100 pages.
65. The Officer further considered that regulation 12(5)(b) which relates to information in the course of justice would also apply. The Officer estimated it would take 5 minutes per page to determine whether the information fell under this exception.
66. Additionally, the Officer considered that regulation 12(5)(e) which provides an exception to information that relates to the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. The Officer considered that it would take 10 minutes per page to determine whether this exception applied.
67. The Officer also considered that he would have to consider whether information was exempt under regulation 12(4)(e). This exception relates to the disclosure of internal communications. The Officer estimated it would take 10 minutes per page to determine whether this exception applied.
68. The Officer emphasised that it is very difficult to calculate the time it would take to consider exceptions as it is unknown how much information is held. He also explained that some public interest arguments may be complex and need consideration by the Council's Legal Department which can take a few days if not weeks to consider.
69. At a rough estimate, the Officer considered that it would take 10 hours to consider which exceptions applied to the requested information.

The complainant's arguments

70. The complainant argued that the Council is in breach of its duty to take all reasonable steps towards at least partial compliance; particularly bearing in mind that regulation 12(4) only applies "to the extent" a request is manifestly unreasonably.

71. The complainant continued to argue that the Council has used a blanket refusal to the request which he disagrees with. The complainant explained that despite the request being made up of a number of distinct parts that could be acted upon individually, and despite their plea for advice and assistance in order to ensure that the request could be taken forward without causing undue burden, the Council completely ignored this.

72. The complainant referred the Commissioner to a paragraph in the Council's internal review response. This stated:

"Lastly we would like to emphasise that our team leader with lead responsibility for FOI/EIR requests has spent a significant amount of time (circa 3 hours) discussing the request with [redacted name] since we have received it, to determine the exact requirements of the request, whether that could narrow the request so that we might be able to provide them with some of the requested information. However they were not cooperative and unable to provide any further information that would assist us".

73. The complainant strongly rejected this point and explained that the telephone conversations that the Council referred to were made prior to the request under consideration in this decision notice. The complainant advised that it had asked the Council for advice and assistance in order to receive the maximum possible amount of information that could be made available under the EIR.

74. To support its position that the refusal of the request was *"patently unlawful"*, the complainant referred to the Upper Tribunal's decision in *Craven v IC and DECC* [2012] UKUT 442 AAC and *Dransfield v IC* at the Upper Tribunal ([2012] UKUT 440 AAC) and Court of Appeal ([2015] EWCA Civ 454). The complainant explained:

"The principles from those cases are reflected in the Information Commissioner's guidance. In short, the hurdle for relying on regulation 12(4)(b) EIR or section 14 FOIA is a high one. Burden can only be relied upon to refuse a request under these provisions where the request 'has no reasonable foundation, that is, no reasonable foundation for thinking that the information sought would be of value to the requester, or to the public or any section of the public'." (Lady Justice Arden in the court of Appeal)

The Commissioner's position

75. As in all cases where a public authority is relying upon an exemption to withhold information on the grounds of costs, the Commissioner is in a difficult position as she is unable to carry out searches on the public

authority's systems herself and she must therefore rely upon the public authority's submissions and trust that they are reasonable and as realistic as they can be.

76. The Commissioner notes that the complainant has previously submitted three similar requests to the Council. The first two requests were refused on the grounds of being manifestly unreasonable. The request under consideration in this decision notice is a third attempt to narrow down the request. The Commissioner notes that the request has been significantly reduced in an attempt to allow the Council to comply with it. The Commissioner also acknowledges and appreciates the complainant's reasons for seeking the requested information. The request has value, a purpose and relates to a matter of public interest.
77. Referring to the complainant's argument set out in paragraph 70, the Commissioner is of the view that a public authority should not be expected to provide information up to a point that it considers the request to be manifestly unreasonable. This approach provides consistency with section 12 of the FOIA where it is not considered good practice to provide information until the cost limit has been reached. The Commissioner considers that if a public authority has provided calculations to show that the cost to comply with a request is manifestly unreasonable, the public authority should not have to work to the cost limit to establish that. Notwithstanding this, if a public authority provided information up to the cost limit, it could potentially pick and choose what information it wanted to provide.
78. Although the majority of estimates of time provided by the Council are detailed, a few calculations lack merit. For example, Officer 3 has failed to provide a detailed breakdown of his estimate of 15 hours. There is no explanation as to why it would take 15 hours to comply with the three requests. This is despite the Commissioner returning to the Council seeking a detailed breakdown of its cost methodology.
79. In addition to this, the Commissioner further considers that some estimates are not realistic. For example, Officer 1 states that it would take four minutes to carry out a search of his inbox. The Commissioner considers that four minutes to carry a search using one search term on an email account is not reasonable.
80. However the Commissioner still considers that the cost of complying with the request would still exceed the appropriate limit as set out under section 12 of the FOIA. Under the FOIA, the Council would be able to refuse a request if the time taken to comply with it would exceed 18 hours. In this case and based on the arguments provided the Council, the Commissioner considers that the time to comply with the requests is likely to exceed the 18 hour limit.

81. The Commissioner is also of the view that the time to comply with the request is likely to increase. She considers that some estimates of time provided are conservative. For example, Officer 2 has provided an estimate just for the time it would take him to comply with the requests even though he refers to other Officers who may hold information. However estimates of time are not provided for the other Officers. Therefore the time to comply with the request is likely to exceed that estimated by the Council.
82. The Commissioner is therefore satisfied that the request is manifestly unreasonable in accordance with regulation 12(4)(b).
83. As the Commissioner is satisfied that regulation 12(4)(b) is engaged, she will now consider the public interest test.

The public interest test

84. Under regulation 12(1)(b), a public authority can only withhold information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. The Commissioner has gone on to consider the related public interest arguments in this case.
85. The Commissioner's guidance states:
"There will always be some public interest in disclosure to promote transparency and accountability of public authorities, greater public awareness and understanding of environmental matters, a free exchange of views, and more effective public participation in environmental decision making, all of which ultimately contribute to a better environment".
86. However this must be balanced against the burden and disruption that will be placed upon the Council if it were to comply with the requests.
87. The Council acknowledged that there was a public interest in disclosing the requested information as it would improve transparency for the general public in the Council's decision making process in dealing with matters of this kind.
88. On the other hand, the Council argued that it would create a large burden in terms of Officer time and cost to the Council. It further argued that this would constitute a significant diversion of resources away from the Council's core business activities and it would consequently have a detrimental impact on its provision of services to the public. The Council also explained that it is not in the public interest for the Council to neglect its raison d'être to focus on one information request.

89. The complainant considered that there was a very strong public interest in the requested information. The complainant argued:

"This is not only because of the presumption in favour of disclosure under regulation 12(2) EIR. It is also because the ICO and Tribunals have consistently emphasised the importance of transparency as to local authorities' discharge of their planning functions: see for example LB Southwark v IC, Lend Lease and Glasspool (EA/2013/0162) and RB Greenwich v IC and Brownie (EA/2014/0122). The public interest is heightened where – as here – the Council is both landowner and planning authority. The information requested is important in allowing the public, including our client, to assess for themselves whether the Council's officers and members have discharged their duties effectively as regards the proposals for 156 West End Lane".

90. In finding that the exception was engaged, the Commissioner recognised that there was a strong public interest in the information requested. The Commissioner further recognises the importance of public participation in, and engagement with, planning decisions.
91. The Commissioner has considered the effects or consequences of compliance with the request in terms of the concept of proportionality. There is no question that the requested information is of significant importance to the requestor and the Commissioner does not doubt his interest, purpose and value for seeking the requested information.
92. This public interest is particularly relevant when the sale will result in a change of land use. The land specified in the request for information is currently a showroom, builders' yard and offices. Employees and members of the public who use the facility will have an interest in the impact of this change. In addition to this, those living near the area will have an interest due to the change of land use and the impact it would have of the appearance of the local area.
93. After considering the public interest arguments, the Commissioner has concluded that the weight lies in maintaining the exception. The Commissioner considers that the public interest in these requests is not sufficient enough to justify the level of burden and disruption on the Council's core functions if it were to comply with the request.

Regulation 9 - advice and assistance

94. Regulation 9(1) states that:

"A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applications".

95. Regulation 9(2) states:

“(2) Where a public authority decides that an applicant has formulated a request in too general a manner, it shall –

(a) ask the applicant as soon as possible and in any event no later than 20 working days after the date of receipt of the request, to provide more particulars in relation to the request; and

(b) assist the applicant in providing those particulars”.

96. The Commissioner views this as an obligation for public authorities to help requesters reduce the scope of manifestly unreasonable requests, where those requests have been refused because of costs and the burden of compliance is too great.

97. In this case, there is a dispute between whether advice and assistance had been provided. The Council explained that it had spent numerous hours on the telephone talking to the complainant's client and discussing how the request could be narrowed down. As set out in paragraph 73, the complainant strongly disagrees with this.

98. Without any evidence to show that advice and assistance was provided to the complainant, the Commissioner has found that the Council has not met with its obligations to provide advice and assist in relation these requests. The Commissioner requires that the Council inform the complainant on how to reduce the scope of his request so that it is no longer manifestly unreasonable and to comply with the steps detailed in paragraphs 4 and 5 of this notice.

Right of appeal

99. 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

100. 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.

101. 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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