First-tier Tribunal
(General Regulatory Chamber)
Information Rights

Appeal Reference: EA/2016/0164

Heard at Decided without a hearing
On 28th October 2016

Promulgated on 17th November 2016

Before

MELANIE CARTER
JUDGE

HENRY FITZHUGH
NIGEL WATSON
TRIBUNAL MEMBERS

Between

NORMAN INGLE

Appellant

and

INFORMATION COMMISSIONER

Respondent

DECISION AND REASONS

1. This is an appeal under the Freedom of Information Act 2000 ("the Act") by Mr Normal Ingle against the decision of the Information Commissioner ("the Commissioner") in his Decision Notice of 16 June 2016 . The Tribunal has decided, for the reasons set out below, to reject the appeal.

Background

2. In 1943, the Appellant's mother purchased a plot of land on Station Road in the village of Willingham ("the plot"). In 1969, Cambridgeshire County Council ("the Council") or its predecessor refused a planning application to erect a dwelling on the plot. The Appellant dealt with an appeal to the Ministry of Housing and Local Government on his mother's behalf and believes that the Council erred in its handling of that appeal in two respects.

    a. Firstly, the Appellant considers that the Council breached the relevant procedural rules by failing to provide a document on which it sought to rely at least 28 days prior to the hearing which took place on 24 February 1970. Specifically, the Appellant states that the Council only furnished him with a plan of road accidents in the Station Road vicinity ("the plan") for the first time on the morning of the hearing.

    b. Second, the Appellant argues that the plan, which included details of several serious accidents including one fatality near to the plot, was inaccurate.

3. On 8 April 1970, the Planning Inspector dismissed the Appellant's appeal and made the following points in relation to the plan:

    a. *The main arguments advanced by* [the Appellant] *were ...the county surveyor did not object on traffic grounds, and as there was an existing access, no additional traffic hazards would arise,*

because the alignment of the road prevented fast speeds. The fatal accident did not occur at the point shown by the council, but much farther north, and this casts doubt on the accuracy of the other details of accidents, which had not been substantiated. This was a fairly safe stretch of road …

b. *The main arguments advanced on behalf of the council were, … Use of the access for a dwelling would increase dangers to passing motorists on a well trafficked through route, because of slowing, turning and stationary vehicles on the carriageway … The information about the incidence of accidents came from the police and there was no reason to doubt it, although the occurrences had not been precisely pin-pointed on the map …*

c. *From my inspection of the site and surroundings and representations made … it would be unwise to add to the number of existing residential accesses on this stretch of unrestricted highway, which is comparatively straight, and thus increase the risk of danger to motorists … "*

4. Shortly thereafter, the Appellant contacted the Council to complain about its handling of the appeal. The Council is said to have replied that it had:

> *"…made enquiries about the conduct of the appeal and* [is] *satisfied that your allegations are unfounded…"*

5. The Appellant has told the Tribunal that the Council in July 1980 again stated that after considerable research they found nothing wrong with the accident plan.

6. After further communications, the Council wrote to the Appellant on 14 October 1980 to confirm that it had now checked the plan. It acknowledged that there were some errors in the plotting of the accidents and that the seriousness of some of the accidents had been overstated.

7. In March/April 1981, the Council provided the Appellant with a four page document setting out further information as to how the above errors had

occurred. The Appellant says the Council referred to *"...inexact Police descriptions, changes in the recording systems used and how difficult it may have been to transcribe data from a large plan to a small plan..."*

8. In July 1981, the Council produced an amended plan and schedule of the accidents which, the Appellant states, demonstrated that the Police had provided grid references to the Council. The Appellant goes onto say that *"...it is common sense to say that this data must be notified to the Council in a timely manner. It defies common sense to suggest that the Council were not notified of the grid reference until after ... 1981 ... and we have no other information..."* Accordingly, the Appellant argues that the Council knew of the grid references in 1970 but *"...decided to keep quiet about it. This is the reason why I claim that the Council have lied, and lied and lied again..."*

9. In 2004, the Council introduced a Persistent Complainants Policy. As part of that Policy, the Council met with the Appellant to discuss his concerns and ascertain if he had any new evidence in support of those concerns. However, on 28 May 2004, the Appellant was made subject to the Council's Persistent Complainants Policy.

10. On 16 December 2005, the Appellant submitted a request to the Council for the *"...notes of the conclusions of those who purported to look into these matters in April and May 2004 and copies of the documents that have been sent to me in the past which give the reasons found by others..."*

11. In response, the Council allowed the Appellant to access all the material it held except for five documents which were withheld under section 42 of the Act.

12. The Appellant complained to the Commissioner about the Council's handling of his December 2005 request and appealed the Commissioner's decision notice to the First-tier Tribunal (EA/2007/0023). In dismissing the appeal on 29 June 2007, the Tribunal commented:

    a. *Mr Ingle has inspected these records (some 900 pages) but has not found "the reasons already given to you by others" within them. He does not dispute that he has been given access to the*

Council's complete records, and he takes no issue with the 5 documents withheld as privileged. He does not allege the documents he seeks are held somewhere else, or have been withheld from him. He accepts they may not exist. ...

b. *...the Council assert, and the Commissioner and Mr Ingle accept, Mr Ingle has been given access to the Council's complete record of their dealings with him on this issue, he has been given access to all the recorded information the Council holds. There is nothing further to disclose...."*

13. Also, it appears that in connection with the request of 16 December 2005, the Council discovered approximately 300 pages of new material. Accordingly, the Appellant asked the Council to revisit his Persistent Complainant status in light of this. The Council declined. The Appellant issued an unsuccessful claim for judicial review of the Council's decision.

14. In 2013, the Council is said to have written to the Appellant to reiterate that the mistakes on the plan were due to human error.

The Requests

15. On 13 April 2015 , the Appellant submitted the following request which the Council dealt with under reference SAR 675:

"...Some years ago I was given access to the whole file in this matter. The Council kept 5 documents back. Whatever the rights and wrongs of that decision, I now make a further application for disclosure of them. The basis of my application is that since 6 years have elapsed there is nothing in them that could be used in any legal proceedings and therefore the Council have nothing to fear from disclosing them. The documents are:

Email 28.8.02 Head of Insurance and Risk Management – CE

Email 23.8.02 Head of Legal Services – CE

Memo 11.07.01 Acting Head of Legal Services – CE

Memo 30.09.03 Head of Legal Services – Lead Member

Memo 24.4.01 Solicitor – Transport Development Officer…"

16. On 31 May 2015, the Appellant submitted the following request which the Council dealt with under reference FOI 5364:

> *"…In the summer of 2009 I sought through Mark Lloyd a meeting with Peter Vale, the person who drew the plan that was falsified. Mr Lloyd refused a meeting and his email to me (date unknown but probably August 2009) contained phrases like 'he has only minimal recollection of events' and 'on the basis of what he says'. Clearly therefore someone has contacted him. Unless someone concocted these statements! I therefore require copies of all emails between the Council and Mr Vale and vice-versa and transcripts of all notes of meetings and telephone conversations with him…"*

17. On 11 June 2015, the Appellant submitted the following request which the Council dealt with under reference FOI 5397:

> *"…Mark Lloyd and others before him have always denied that there was anything wrong with the conduct of the 1970 Appeal. I have always maintained that Inquiry Procedure Rules were breached. By inference, therefore, Mr Lloyd must have read a different set of Rules to me. Will you please supply a copy of the Rules that he has read and relies upon…"*

18. On 19 June 2015, the Council advised the Appellant that it would not provide information in response to his request of 13 April 2015 in reliance on Schedule 7(1) of the Data Protection Act 1998 ("DPA"). On 24 June 2015, the Appellant

wrote to the Council asking it to review its handling of this request under the DPA rather than the Act but added *"...I assume that this review will find against me because the mind-set of the Council is to have nothing to do with me and be as obstructive as possible. I will therefore require a FULL note of the reasons for the decision..."* The Appellant also made the following request:

> *"...I make the following FOI application. It stands to reason that the present application passed through a number of hands and various people made comments on it. ... I therefore require copies of all internal emails, notes of meetings and conversations that took place once my application was received in April..."*

19. On 9 July 2015, the Appellant submitted the following request which the Council dealt with under reference FOI 5478:

> *"...May I have full details of every 'Article 12' direction issued by the County Surveyor in respect of the B1050 Station Road Willingham between 1.1.1970 and 31.12.75..."*

20. On 9 July 2015, the Council responded to the Appellant's request of 11 June 2015 (FOI 5397). In support of its claim of section 14(1), the Council said:

> *"...while on its own this request does not impose a significant burden on the Council, it is one of 58 requests received from you since March 2011. These frequent and often overlapping requests have been accompanied by considerable amounts of correspondence to multiple officers throughout the Council. The Council has also considered that these requests demonstrate unreasonable persistence, deliberate attempts to circumvent the provisions of your designation as a persistent complainant and an abuse of the process. The appeal of 1970 has been*

addressed to the fullest extent of the Council's capabilities and the outcome is not going to change..."

21. On 9 July 2015, the Appellant submitted the following request (Council reference: FOI 5480) in response to the above reply:

> *"...Someone with a knowledge of the dispute has obviously drafted this reply. I require disclosure of all internal emails notes of meetings and telephone conversations that relate to this application..."*

22. On 17 July 2015, the Appellant submitted the following request (Council reference FOI 5557):

> *"...On or about 3rd June Mr Lloyd received a letter from Lucy Frazer QC MP concerning my dispute with the Council. I require a copy of that letter together with copies of any notes of internal meetings, telephone calls and emails generated between that date and 10th July. It took someone 5 weeks to answer, something must have been happening!..."*

23. On 18 July 2015, the Appellant submitted the following request (Council reference FOI 5558):

> *"...On or about 3rd June 2015, the Council received a letter from Lucy Frazer MP concerning the dispute I have with the Council. I require a copy of any response that the Council has made to her..."*

24. On 22 July 2015, the Appellant submitted the following request (Council reference FOI 5569):

> *"...I have been in touch with the Archives people at Shire Hall hence this enquiry to you. Do you possess any old records for*

the period 1969 to 1975 from the County Surveyor / Highways / Transportation that relate to Willingham and in particular Speed limits and / or Road Traffic Accidents. This may include old strip maps that show the location of accidents.

Do you have anything from the County Planning Department on Willingham in particular development boundaries and village envelope for the period 1960 to 1974? If the answer to any of this is YES, what arrangements could be made to view the documents..."

25. On 28 July 2015, the Appellant submitted the following request (Council reference FOI 5569):

"...It was on 24th June that I submitted my review application ... Under the FOI legislation I shall require copies of all emails notes of meetings and telephone conversations that relate to this application from the date you received it in April until the day you respond in August. Please do not treat me as an idiot and tell me there are no meetings..."

26. On 28 July 2015, the Council refused to comply with the request of 31 May 2015 (FOI 5364) in reliance on section 14(1).

27. On 28 July 2015, the Appellant requested an internal review of the Council's decision in relation to FOI 5364.

28. On 29 July 2015, the Appellant submitted the following request (Council reference: 5561) in relation to requests 5364 and 5397:

"...These have both been refused on the spurious grounds that they are vexatious. This is a new tactic to cover the truth. I assume (a) the decision was made further up the greasy poll and (b) following joint consultations. I therefore require notes of

all conversations, meetings, emails and led to the making of this decision in respect of me.

With reference to 5364, it took the Council some 7 weeks to respond ... I therefore require to see the work sheet / log or any other document that show which hands this application passed through and when..."

29. On 3 August 2015, the Appellant submitted the following request (Council reference FOI 5582):

"...When this matter is reviewed I hope that the reviewer will obtain a log of FOI requests made since March 2011 and the subject matter of them. It may then be found that some relate to a totally different matter. May I have a copy of the log..."

30. Also on 3 August 2015, the Appellant submitted the following request (Council reference: 5583) in relation to request 5468:

"...It took almost 4 weeks for a response to be made. Unless the application was sitting on someone's desk, it must have passed through other sets of hands. I therefore require copies of all emails, notes of conversations and telephone calls that relate to Mr Lloyd as he is the one who can put an end to this nonsense by talking to me..."

31. On 5 August 2015, the Council refused to comply with the Appellant's request of 9 July 2015 (FOI 5478) in reliance on section 14(1). The Council confirmed that this also applied to the Appellant's other requests, namely, 5480; 5557; 5558; 5569; 5559; 5561; 5582 and 5583.

32. On 26 August 2015, the Council provided the Appellant with its review of its handling of his request of 13 April 2015 (SAR 675). The Council maintained that it was correct to deal with the request under the DPA. It also advised that

it held no information in response to the Appellant's information of 24 June 2015.

33. On 10 September 2015, the Council upheld its application of section 14(1) to refuse to respond to the request of 28 July 2015 (FOI 5364) and all the requests listed at §36 above.

34. In November 2015, the Commissioner responded to the Appellant's complaint concerning the handling of his request of 13 April 2015 under the DPA rather than the Act. The Commissioner dealt with this matter under reference RFA0599501. At the conclusion of that investigation, the Appellant asked the Commissioner to take the Council's refusal to deal with this request into account as part of his ongoing investigation under the Act. Thereafter, the Commissioner contacted the Council which confirmed it sought to rely on section 14(1) to refuse to comply with the request of 13 April 2015.

35. On 16 June 2016, the Commissioner issued his decision notice in which she concluded that the Council was entitled to rely on section 14(1) and/or regulation 12(4)(b) to refuse to comply with the material requests.

36. On 7 July 2016, the Appellant issued a Notice of Appeal.

THE LAW

37. Section 14 of the Act provides that a public authority is not obliged to comply with a vexatious request. Regulation 12(4)(b) EIR provides that a public authority may refuse a request for information where that request is "manifestly unreasonable".

38. The Upper Tribunal has provided guidance on section 14(1) FOIA and regulation 12(4)(b) EIR in the linked cases of *Information Commissioner v Devon Country Council & Dransfield* [2012] UKUT

440 (AAC); *Craven v Information Commissioner & Department for Energy and Climate Change* [2012] UKUT 442 (AAC) and *Ainslie v Information Commissioner & Dorset County Council* [2012] UKUT 441 (AAC). The last two cases dealt with requests made under the EIR.

39. The leading case on the application of section 14 FOIA is *Dransfield*. In *Dransfield*, the Upper Tribunal defined a vexatious request as one which is a *"manifestly unjustified, inappropriate or improper use of FOIA"* (at [43]).

40. The judgment of the Upper Tribunal has been upheld by the Court of Appeal: *Dransfield v The Information Commissioner, Devon County Council* [2015] EWCA Civ 454.

41. The Upper Tribunal analysed the definition of *"vexatious"* by reference to four broad issues: (a) the present or future burden on the public authority; (b) the motive of the requester; (c) the value and serious purpose of the request; and (d) whether the request causes harassment of, or distress to, staff.

42. The Upper Tribunal emphasised the importance of viewing a request in its context. Thus, in relation to issue (a), the Upper Tribunal noted (at [29]):

> *"... the present or future burden on the public authority may be inextricably linked with the previous course of dealings. Thus the context and history of the particular request, in terms of previous dealings between the individual requester and the public authority, must be considered in assessing whether it is properly to be characterised as vexatious."*

43. In relation to (b), the Upper Tribunal explained that a request which may seem reasonable and benign *"may be found to be vexatious in the wider context of the course of dealings between the individual and the relevant public authority"* (at [34]).

44. The Upper Tribunal in *Dransfield* said, at [11] that section 14 FOIA:

"...allows the public authority to say in terms that 'Enough is enough – the nature of this request is vexatious so that section 1 does not apply.'"

45. The Court of Appeal, which upheld the UT decision in *Dransfield* found that the starting point for an assessment of vexatiousness is whether there is any *"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"* (at [68]). The Court of Appeal agreed that the previous course of dealings between the requester and the Authority could affect this assessment. Arden LJ, giving the judgment of the Court, said at [68]:

"... If a requester pursues his rights against an authority out of vengeance for some other decision of its, it may be said that his actions were improperly motivated but it may also be that his request was without any reasonable foundation."

46. *Dransfield* was taken by Judge Wikeley as the lead case in the troika of cases and he used it to undertake a detailed analysis of the application of section 14 FOIA.

47. In *Craven*, at [2] Judge Wikeley noted that regulation 12(4)(b) EIR *"provides the public authority with a broadly equivalent* [to section 14 FOIA] *'escape clause' where the request is 'manifestly unreasonable.'"* He stated at [7] that his decision in that case was to be read in light of the analysis undertaken in *Dransfield.*

48. At [22] of *Craven*, Judge Wikeley accepted the *"principle submission that in practice there is no material difference between the two tests under section 14(1) and regulation 12(4)(b)".* At [83] of *Craven*, Judge Wikeley expressly adopted his reasoning at [24] – [39] of *Dransfield.* At [91] he confirmed that the *"core factors to be considered in assessing whether a request is 'manifestly unreasonable' under regulation 12(4)(b)...are essentially the same as those relevant to section 14(1)".*

The Appellant's Grounds of Appeal and the Commissioner's Response

EIR v FOIS

49. The Appellant argues that the Commissioner erred in concluding that some of the information fell to be considered under the Regulations and that *"...if the EIR arguments are discounted, what is left?..."*

50. Although there are some differences between the structure of section 14(1) under the Act and regulation 12(4)(b) of the Regulations; these differences should make no real practical difference in the way in which both provisions are applied. This was considered in the Upper Tribunal in the case of Craven v Information Commissioner and Department of Energy and Climate Change [2012] UKUT 442 (AAC) where it was said at §22 :

> *"...22. I do not believe that the existence of the explicit public interest test in the EIR and the statutory presumption of a restrictive interpretation of regulation 12(4)(b) should mean that, even at the margins, it is in some way "easier" to get a request accepted under the EIR than under FOIA..."*

Purpose or value behind request

51. Generally, the Appellant that the purpose/value and motive behind his requests are so serious such that the Council was incorrect to rely on section 14(1). He asserts that the continued refusal to disclose the requested information "has less to do with the Council wishing to protect their resources and more to protect themselves from the disclosure of material that will show that an ongoing scandal exists here". The purposes is said to be "to help put right an injustice that happened in 1970 and has been covered up to the present day".

52. Specifically, the Appellant argues that the Council breached relevant procedural rules governing the conduct of the Planning appeal in 1970 by only providing him with the plan on the morning of the hearing. Albeit not

specifically argued, it appears that the Appellant is arguing that this demonstrates the serious purpose behind his request of 11 June 2015 (FOI 5397), namely, to see whether the Council had considered a different set of procedural rules.

53. In the Tribunal's view, even if a procedural breach did occur; this did not appear to result in any significant unfairness to the Appellant who was able to draw on his own knowledge to make representations at the hearing on one inaccuracy on the plan and its implications for the weight to be given to the other details. Indeed, the Inspector refers to the same in his report as well as the Council's acknowledgement that *"...the occurrences had not been precisely pin-pointed on the map..."*

54. Secondly, the Appellant argues *"...is it not reasonable to suppose, looking at the history of this matter, that someone decided to give the Council's case a helping hand by falsifying traffic data ..."* Although not specifically argued, the Appellant appears to suggest that this is the serious purpose or value behind his request of 31 May 2015 (FOI 5364) as he argues:

> *"...The recollections of the plan drawer are of vital interest. For what it is worth, I think he drew a correct plan and it was delivered to the Planning Office where a member of staff altered it. What Mr Vale who drew the plan remembers must be vital..."*

55. The request of 31 May 2015 refers to an invitation from the Appellant in 2009 to the Council to arrange a meeting with Mr Vale. The Tribunal considers that it would have been more appropriate for the Appellant to make a request for any recorded information in 2009 rather than wait for six years to request such information. This delay goes some way to reduce the serious purpose behind the request for that information in May 2015 particularly when the Appellant was clearly aware of the option of making a formal request for information having made a request under the Act and challenged the Council's and Commissioner's handling of the same before the First-tier Tribunal some two years earlier.

56. In any event, the Tribunal notes that the Appellant does not consider that it was Mr Vale who allegedly falsified the plan such that this information is unlikely to assist the Appellant in attempting to ascertain who did. In addition, the Council has already indicated, understandably, that in 2009 Mr Vale only had a *"...minimal recollection of events..."* dating back nearly 40 years. As such, it is unlikely that any information from Mr Vale's 2009 contacts with the Council would assist the Appellant in pursuing his underlying complaints and if Mr Vale had provided any such information; the Council would have pursued the matter in 2009.

57. The Appellant also makes the following general arguments:

> *"...The point is that the deliberate falsity or otherwise of the 1970 plan has never been examined outside the walls of Shire Hall Cambridge ... They will do anything to prevent this matter from coming to the outside gaze...*
>
> *...I consider that a grievous wrong was done to my family in 1970, a wrong that has been covered up to the present day. Just like the victims of high profile sex offenders and the families of the Hillsborough disaster, I feel that the wrong doers should be accountable for their actions..."*

58. The Tribunal notes however that Council has already accepted that there were inaccuracies on the plan but that these were due to human error. Further, the Council acknowledged that it had not *"...precisely pin-pointed..."* the accidents on the plan in 1970 and this detail was taken into account by the Planning Inspector. The Appellant was also provided with access to all material held by the Council in 2005 which would have allowed him to see whether there was any recorded information at that time which would go to support his case. The Tribunal considers that all of the above goes to reduce any serious purpose behind the requests.

59. It appears that part of the Appellant's motive for making the requests is that the disclosure of the requested information would allow an external body to scrutinise the Council's actions in 1970. However, the Local Government Ombudsman ("LGO") cannot investigate any complaint in relation to the plan as the complaint relates to an event which pre-dates the LGO's existence. Subsequent complaints to the LGO about the Council's handling of this matter since that date have been dismissed. Further, the Appellant is unlikely to be able to pursue any litigation against the Council given the passage of some 45 years since the date of the alleged incident. In any event, the Appellant says that he already has over *"...20 strands of circumstantial evidence..."* in support of his assertions. If this is so, the Appellant can pursue whatever avenue of redress he considers appropriate without the information now requested. Again, in the Tribunal's view all of the above goes to reduce any serious purpose behind the requests.

60. The Tribunal further notes that the other outcomes sought by the Appellant are for the Council to admit its maladministration with the possibility of a compensation payment to the Appellant; or for the Council to have a face-to-face meeting or mediation sessions(s). However, the Council has concluded that no maladministration occurred in 1970 and that any inaccuracies were due to human error. The Council has also refused the Appellant's invitation to have a face-to-face meeting or engage in mediation and continues to maintain that it will not address any further issues arising out the 1970 appeal. Accordingly, the disclosure of the requested information will not secure these specific aims. In any event, it is not the purpose of the Act or Regulations to provide a mechanism by which an individual can continue a dialogue and seek to compel a public authority to revisit an issue.

61. Finally, the Tribunal took into account that a number of the material requests made by the Appellant are meta-requests whereby the Appellant follows up a request with additional requests for information about the handling of the initial request.

62. Taking into account all of the above, the Tribunal has concluded that there is little serious purpose or value in the requests.

Burden

63. The Appellant disputes the Commissioner's arguments on burden. Specifically, the Appellant says:

> *"...the figure of 50 requests over 5 years is mentioned at one stage, this figure having been supplied by the Council. The problem with this figure is that it is not clear whether all the requests refer to this dispute. ...Even if 50 is correct, that is not quite 1 a month. 50 in relation to how many? If there are only 3 requests a month then it is a high proportion. If it is 1 request out of 300 a month then it is low proportion...the figure of 50 on its own is, frankly, meaningless..."*

64. The Tribunal noted paragraph §23 of the Decision Notice where it was said that the Council has *"...recorded 50 information requests alone which were submitted by the complainant between 1 March 2011 and the date of the first refused request (13 April 2015) on the topic of the dispute..."* Accordingly, the Council had indicated that it had received 50 requests specifically relating to the Council's handling of the 1970 Planning appeal and wider correspondence connected with issues flowing from that appeal in a little over four years.

65. Further, in deciding whether compliance with the material requests would constitute a disproportionate burden on the Council's resources; the term 'disproportionate' does not generally refer to the proportion of requests submitted by the Appellant as part of the overall number of requests being considered by the Council in any one period. Instead, the term is intended to allow consideration of whether the requests represent a manifestly unjustified, inappropriate or improper use of the Act taking into account the context and history of the Appellant's interaction with the relevant public authority and the factors identified in the Dransfield decision above.

66. In the context of section 14 and/or regulation 12(4)(b), the question of whether any response to the material request(s) would likely generate further requests and correspondence is also relevant. It appeared to the Tribunal that even if the Council responded to all thirteen requests which have been refused under section 14/regulation 12(4)(b); the Appellant would still continue to engage with the Council on this issue.

67. In light of the above, and for the reasons set out at §31 of the Decision Notice, the Commissioner considers that compliance with the material requests would result in a disproportionate burden on the Council's resources.

Conclusion

68. In conclusion, the Tribunal decided that any purpose or value behind the request is outweighed by the burden which would be caused to the Council by compliance . As such, the Council had been entitled to refuse to comply with the information request under section 14 or regulation 12(4)(b) and the Commissioner in turn, correct in agreeing with that decision.
69. Although not specifically argued by the Appellant the Tribunal considered the public interest balancing test that would apply if decided under EIR and concluded that the factors against disclosure far outweighed the public interest factors in favour.

70. In light of the above reasoning, the Tribunal upholds the Commissioner's decision notice and dismisses this appeal.

Signed

Judge of the First-tier Tribunal
Date: 16th November 2016