First-tier Tribunal
(General Regulatory Chamber)
Information Rights

Appeal Reference: EA/2017/0089

Heard at Field House, London EC4A 1DZ
On 12 September 2017

Before
CHRIS RYAN
JUDGE
ROGER CREEDON
ANDREW WHETNALL
TRIBUNAL MEMBERS

Between

STUART FYFE

Appellant

and

THE INFORMATION COMMISSIONER

Respondent

DECISION AND REASONS

Attendances:

The Appellant represented himself and no other party attended or was represented.

Subject matter:

Environmental Information Regulations 2004

Exceptions, Regs 12(4) and (5)

- Request manifestly unreasonable 4(b)

IN THE FIRST-TIER TRIBUNAL **Case No. EA/2017/0089**

GENERAL REGULATORY CHAMBER

DECISION OF THE FIRST-TIER TRIBUNAL

The appeal is dismissed.

REASONS FOR DECISION

Introduction and Summary of our decision

1. In a Decision Notice dated 30 March 2017 (number FER 0646554) the Information Commissioner decided that Huntingdonshire District Council ("the Council") had been entitled to refuse a request for information submitted by the Appellant on 23 February 2016 ("the Request") on the basis that it was manifestly unreasonable. We have decided, for the reasons set out below, that the Information Commissioner's decision was in accordance with the law and we have, accordingly, decided to dismiss the appeal.

The Request and the Council's response to it.

2. The Request arose out of the Appellant's concerns that the occupier of land near his home ("the Occupier") had breached conditions imposed when he was granted a personal and temporary planning permission to place a mobile home and 3 traveller caravans on the land, to be used by his own family for a period of three years. The conditions required that the site was restricted to residential use, only one caravan was to be a residential mobile home, there should be no more than one commercial vehicle kept on the land for use of the occupiers, and no external storage was permitted of materials used in connection with any business. The planning permission was granted on appeal by a Planning Inspector, on 26 April 2010, application having previously been refused by the Council.

3. The Request was for information from three of the Council's planning enforcement files. It asked for:

> *"Details of the reference numbers, specific nature, and dates of occurrence, of all complaints registered on enforcement files 0900365ENCARA, 1000278ENBOC and 1400031ENBOC, together with details of action taken, advice given, or conclusions made by the enforcement team at* [the Council] *in consideration of the complaints, together with the details of the responses made by* [the Council] *to all complainants at the conclusion of the investigations."*

4. There is no dispute that, given the subject matter of the Request, the Council was correct to treat it as a request for environmental information under the Environmental Information Regulations 2004 ("EIR").

5. EIR regulation 5 requires public authorities that hold environmental information to make it available on request. However, that obligation is subject to certain exceptions and in this case the Council relied on EIR regulation 12(4)(b) as justification for refusing the Request. The relevant parts of regulation 12 reads:

> *"(1) Subject to paragraphs (2), … a public authority may refuse to disclose environmental information requested if –*
> *(a) an exception to disclosure applies under paragraphs (4) or (5); and*
> *(b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.*
> *(2) A public authority shall apply a presumption in favour of disclosure.*
> *(3) …*
> *(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –*
> *(a) …*
> *(b) the request for information is manifestly unreasonable;*
> *(c) …"*

6. The Appellant challenged the Council's reliance on regulation 12(4)(b) when he, first, asked the Council to carry out an internal review of its initial decision and then, that having produced the same outcome, in a complaint to the Information Commissioner.

<u>The Information Commissioner's Decision Notice</u>

7. In the Decision Notice the Information Commissioner first set out (in paragraphs 9 – 12) the approach she considered she should adopt in light of the terms of the EIR and the available judicial authority regarding its application. The Appellant has not argued that the Information Commissioner formulated the wrong test in those paragraphs and we are satisfied that she applied the right test. However, the Appellant does challenge, with vigour, the application of the test to the facts of the case.

8. The Information Commissioner, having summarised the information and arguments presented by the Council and the Appellant, came to the following conclusions:
    a. Case law required her to adopt a *"holistic and broad approach"* in balancing the purpose and value of the Request against the burden that disclosure would impose on the Council and its staff, taking account of the whole history of the relationship between the Appellant and the Council.
    b. Disclosure of the requested information might shed light on the effectiveness, or otherwise, of the Council's response to complaints made by the Appellant about the perceived failure by the Occupier to comply with various conditions that had been attached to the grant of planning consent.
    c. Considered in isolation, the Request therefore appeared to have a serious purpose and value.
    d. The weight to be applied to that factor in favour of disclosure was reduced by the fact that:

i. The Local Authority Ombudsman had already considered complaints on the same matter; and
ii. A judicial review instigated by the Appellant had been dismissed on the basis that the Appellant failed to establish an arguable illegality on the part of the Council.

e. The value and purpose of the Request was further reduced by the fact that it appeared to represent an attempt to reopen complaints which had already been adjudicated upon and the Appellant had *"crossed over the line between persistence and obsessiveness by forcing the council to revisit issues that it has already considered; issues which have been looked at by objective bodies."*
f. Balanced against those factors the burden on the Council in complying with the Request would be disproportionate. It would involve a significant number of office hours and an unreasonable diversion of resources away from core tasks. The Information Commissioner also doubted whether compliance with the Request would satisfy the Appellant – she anticipated that it would simply lead to further correspondence and would not bring the issue between the parties to an end. She also commented that:

> *"... the tone of the* [Appellant's] *correspondence goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive and would have an unjustified detrimental impact on its officers."*

g. The final element of the balancing exercise the Information Commissioner was required to undertake was that the Request represented an inappropriate use of freedom of information processes. She concluded that it did and that the exception was therefore engaged.

9. As required by EIR regulation 12(1)(b) the Information Commissioner then went on to consider whether the public interest in maintaining the exception outweighed the public interest in disclosing the information. In approaching that task, she:
    a. Acknowledged that the EIR required her to apply a presumption in favour of disclosure and to read exceptions restrictively;
    b. Acknowledged, too, that there was a default public interest inherent in the transparency of planning processes, especially those affecting Gypsy and Traveller establishments;
    c. Considered that there was a countervailing public interest in preventing the waste of public funds on inappropriate information requests;
    d. Concluded that there was:

> *"... little wider public interest in requiring disclosure of this information because of the fact that the matter has been considered by independent bodies and the Planning Enforcement Service is subject to internal audit, the council's Scrutiny Committee, and planning legislation. The Commissioner is strongly of the opinion that public authorities should be able to concentrate their resources on dealing with legitimate requests rather than being distracted by requests that have little merit and where the wider public interest would not be served by the disclosure of information."*

<u>The Appeal to this Tribunal</u>

10. The Appellant presented an appeal against the Decision Notice to this Tribunal on 24 April 2017. He asked that his appeal be determined at a hearing, rather than on the

papers, as was his right, and attached to his Notice of Appeal a 22-page statement setting out his grounds of appeal.

11. Appeals to this Tribunal are governed by FOIA section 58, as applied to EIR. Under that section we are required to consider whether a Decision Notice issued by the Information Commissioner is in accordance with the law. We may also consider whether, to the extent that the Decision Notice involved an exercise of discretion by the Information Commissioner, she ought to have exercised her discretion differently. We may, in the process, review any finding of fact on which the notice in question was based.

12. Although the Information Commissioner filed a written Response to the Appellant's Grounds of Appeal, she opted not to attend the hearing. The Council was not joined as a party to the Appeal and we have not therefore had the benefit of any evidence or argument addressing the Appellant's concerns, beyond what was included in relevant correspondence included in a bundle of documents provided to us.

The core issue in the Appeal and our views on it

13. The core of the Grounds of Appeal, as we understand them, was that disclosure of the requested information would shed light on a perceived discrepancy between two statements made by Council officers. First, a planning enforcement officer ("First Planning Officer") wrote the following e-mail to the Appellant on 24 August 2010:

    > "*As mentioned in my email of last week I am returning to the site tomorrow to meet with* [name of Occupier] *and intend to confront him with the allegations. I have been shown the photographs you sent to* [named Council employee] *and if I am met by denials by* [name of Occupier] *I would like to use the photographs as proof of his breach of the conditions. Particularly those yesterday which show a car being hoisted onto a lorry.*

    Subsequently, in 2013, a different Council officer ("Second Planning Officer") informed the Council's planning committee that there had been no demonstrable breaches of planning control from 2009 to November 2013. This led the Council's Development Management Panel to record (in the course of deciding to convert temporary planning permission to permanent status) that:

    > "*It is acknowledged that there have been a number of concerns regarding the activities of the applicant on this site: these have been investigated by the Council's Enforcement Team and it has been concluded that there has been no demonstrable breach of planning control*"

14. The Appellant addressed the perceived inconsistency between those two documents in the introductory passage of his Grounds of appeal. He said:

    > "*This specific contradiction, which was not addressed satisfactorily by either the* [Information Commissioner or the Council] *underpins, and is central to, the whole of my case.... My case is inextricably linked to these contradictory statements, and a request from the present head of planning services to answer why there are contradictory assessments of whether breaches of planning had occurred at the site, have been ignored on several occasions, and leads me to believe that either* [First

Planning Officer] *did not actually record the breaches of planning control at the site, OR, he DID record them, which would then PROVE that* [Second Planning Officer] *deliberately made a false statement to the planning committee, which is a serious offence at law, and may well, if proven, constitute a misconduct in public office, AND THIS is the real reason that* [the Council] *do not want me to see the three enforcement files AND THIS is the reason that I want to see them, and THIS is the reason that I made my FOI request."*

15. The Appellant placed great stress on the fact that this issue had never been considered by either the Local Government Ombudsman or the High Court. He also criticised the Council for having, in his words:

    "... attempted to shift the obvious cause and purpose of my FOI request, from one which seeks only to ensure that compliance with proper procedure in the compilation, assessment and recording of complaints has been adhered to by [the Council] *, in accordance with their own published procedure of doing so, to one in which I am alleged, wrongly, to be attempting to reopen issues of whether or not breaches of planning control can be sufficiently demonstrated so that enforcement action can be taken."*

    The Appellant also criticised the Information Commissioner for having chosen to interpret the Request in the manner indicated in the quoted passage.

16. It is the Appellant's view that the photographs which he provided to the First Planning Officer in 2010 constituted proof of a breach of condition. We were provided with copies and the Appellant explained to us what he observed at the time when they were taken. That combination of personal statement and photographic evidence suggested that a vehicle had been brought to the site on the back of a lorry, cut up on site and the pieces then loaded back on to the lorry. That appears to have been evidence of commercial activity. The photographs recorded a single incident, although the Appellant says that he observed many other instances of commercial activities and sent photographic evidence to the Council. The Council did not accept, on the basis of what had been provided to it, that it had unassailable proof that a planning condition had been breached. It appears, instead, to have treated the photographs as prima facie evidence of breach and to have set out to establish the facts directly by confronting the Occupier, rather than triggering immediate enforcement action. There appears to have been no absolute prohibition on commercial activity at this stage, and the Council faced difficulties with regard to the permissible length of stay by visiting families, and whether vehicles they brought on to the site were to be regarded as being kept there.

17. In our view, the word "proof" in the First Planning Officer's e-mail of 24 March 2010 was not meant to mean, (and read in context should not be treated as meaning), that the Council accepted that the photographs, on their own and without further investigation and evidence gathering (possibly over a period of time), established that there had been a breach of planning consent. In a letter of response to complaints from the Appellant dated 5 July 2013 the Council's Scrutiny and Review Manager explained that the Council had a duty to investigate breaches of planning control and did investigate all complaints it received. The Appellant's evidence was accepted at face value but the Council had to obtain its own evidence of unauthorised activities. Despite visits by several officials *"the necessary evidence to justify enforcement action has*

not been obtained." The letter also pointed out that Government Guidance "*makes it clear that enforcement action should usually be a last resort when attempts to resolve a matter amicably have failed.*"

18. We note, in passing, that the same letter included a warning that the Appellant's abrasive and uncivil attitude might be considered in the context of the Council's policy on unreasonable complainant behaviour. We have seen evidence that his abrasive language continued, despite the warning.

19. It follows, in our view, that the discrepancy on which the Appellant relies as the central basis of his appeal is not as stark as he believes. And it is certainly an inadequate basis for the allegation of maladministration and/or deceit, on which he relies.

20. When this suggestion was put to the Appellant during the course of the hearing he drew our attention to another email from the First Planning Officer. It was dated 6 March 2014. In the course of dealing with a number of issues that had been raised by the Appellant, the writer addressed the issue of the photographic evidence provided by the Appellant. He did so in these terms:

    > *"The use of the photograph would be that if anything like that was denied by* [name of Occupier], *then it could be shown to him. It was not. We do not by policy disclose who our complainants are in all enforcement cases. This would clearly show that it was taken from your house. The photograph shows what it shows and* [name of Occupier] *was advised/warned that such activity should not take place."*

    The Appellant interpreted the first two sentences as meaning that the relevant photograph had been shown to the Occupier and that he did not deny that it showed a breach of planning condition occurring. We do not think that it is capable of having that meaning, particularly when read in conjunction with the next two sentences. The clear meaning, in our view, is that the First Planning Officer did <u>not</u> show any photograph to the Occupier. Far from conceding that the photograph constituted clear and undeniable proof of breach, the e-mail points to the Council adopting a cautious approach of advice and warning when responding to the Appellant's request that the Occupier's use of the land be investigated.

21. As to the allegation that the Second Planning Officer must have lied in the statement that no demonstrable breaches of planning control had occurred at the site, we were provided with a copy of the full paper in which this statement was made (*Paper Recommending Renewal of Consent and Variation Conditions to the Development Management Panel, 18 November 2013).* It sets out at some length the representations submitted against extending permission. They are not attributed to particular individuals but come from a number of local addresses. Many of the points are recognisably those of concern to the Appellant. Having summarised the representations and complaints, as well as the changing national policy guidance on the approach to site provision for travellers, the paper went on at paragraph 7.62 to say:

> *"It has been acknowledged that there have been a number of concerns regarding the activities of the applicants on the site; these have been investigated by the Council's Enforcement Team and it has been concluded that there has been no demonstrable breach of planning controls."*

22. The paper is of further interest and relevance to the Appellant's concerns because it recommends a more explicit ban on commercial activity at the site than had hitherto applied. It suggested that conditions should include a provision that:

    > "*No commercial activities including no external storage of materials." (Section 8).*

    This proposed condition was explained at paragraph 7.126 as follows:

    > *"Representations on the application have raised concerns about business activities taking place on the site. Conditions 4 and 5 of the appeal decision* [ie the Inspector's Decision of 26 April 2010,] *prohibit external storage of business materials and limit the number and size of commercial vehicles on site to no more than one 3.5 tonnes in weight commercial vehicle, but the description of the approved development (Change of use to traveller site) did not make clear whether commercial activities are permitted on the site.*"

    The paragraph went on to explain that the Occupier had confirmed he had no intention of undertaking any business activities on the site and that the purpose of the prohibition proposed was that:

    > "*it is considered reasonable and necessary in the interests of safeguarding the character and appearance of the area and residential amenity to make it clear that there shall be no commercial activities on the site or on any adjoining land owned, rented or otherwise controlled by the occupant of the site."*

23. In this context, we cannot accept that the finding that there had been "*no demonstrable breach of planning controls*" was a lie, or that submission of the Appellant's photographs was all that was needed to prove breach of the site conditions as they stood between 2010 and the end of 2013. We can, however, understand why the Appellant questioned, and was frustrated by, what no doubt seemed to him to be an assessment that lacked detail and, in particular, was silent on the planning department's evaluation of the evidence he had presented.

24. The Council's conduct of its administration and enforcement activities had been subjected to independent review. We were provided with evidence that the Local Government Ombudsman dismissed the Appellant's complaint of maladministration by the Council in its operation of available enforcement procedures. It is true, as the Appellant has pointed out, that the Ombudsman declined to investigate events before 2013.

25. The general conduct of the Council with regard to its enforcement activities was also considered by the High Court in the Appellant's Judicial Review proceedings. Those proceedings ended with a decision of Mr Justice Lewis on 30 July 2014. It included this passage:

> *"Ground 10 makes complaint about the Council's alleged failure to investigate breaches of planning control. …The dispute is in essence between the claimant who thinks breaches of planning control can be demonstrated sufficiently so that enforcement action could be taken and the Council's Enforcement Team who consider that the evidence is not sufficient clearly to establish breaches of planning control. That difference of view does not demonstrate any arguable illegality on the part of the Council."*

26. Against this background the Appellant's case faces serious difficulty. Any move away from the narrow issue of the perceived discrepancy in approach between the First and Second Planning Officers leads to an undermining of the value or purpose of the Request – the issue which disclosure is said to illuminate has clearly already been judicially considered. But the argument on the narrow issue is fatally damaged, in our view, by the fact that, as previously explained, the discrepancy or inconsistency complained of between photographic evidence of commercial activities on the one hand, and the finding that there was no demonstrable breach of site conditions on the other, does not exist in law given that the site conditions in force at the relevant time included no specific prohibition of commercial activity.

27. It would perhaps have been helpful if the Council had been more forthcoming in attempting to explain to the Appellant why it was not able to prove contravention, and we understand why the Appellant may have been tempted to look for sinister explanations for the apparent inaction. His approach is illustrated by his reaction to an e-mail from the First Planning Officer dated 12 November 2013 which said:

    > *"I can only say that there have been complaints as you know and they were investigated by [the Council] and the [Environment Agency] and they were not able to prove any contravention of the permission."*

    When the Appellant's attention was drawn to this document during the hearing he pointed out that it was written shortly before the planning committee meeting in November 2013 and he characterised it as evidence of the author having abandoned his original view in preference for the agreed "party line" in preparation for that meeting. We have no evidence to support that suggestion and the contemporaneous materials we have seen do not support it.

28. The Appellant's error in characterising the March 2010 e-mail from the First Planning Officer as acceptance that a breach of condition had been established by that date led him to develop his case on a false basis. So, at a late stage in his Grounds of Appeal he refers to the photograph sent to the First Planning Officer in March 2010 and adds:

    > *"It naturally follows that as this singular photograph from me PROVES a breach of planning control to* [First Planning Officer] *in 2010, then the hundreds of others which I have sent over the years which also depict activities that are prohibited at the site, and which were sent to* [the Council] *between 2010, and the date of the planning application in 2013, are, OR MAY BE similarly a PROOF ….BUT, were they recorded as such?, that is all I want to know…. Because on the face of it, they weren't, if we are to believe the statement to the planning committee in 2013 by* [Second

Planning Officer] *that NO demonstrable breaches of planning control had occurred at the site…*
On the other hand, if all of these photographs indicating breaches of planning control that I have sent to [the Council] *actually WERE RECORDED as breaches of planning control, then this PROVES, and compounds the seriousness of the deliberate LIE that* [Second Planning Officer] *must then have made, as* [the Council's] case officer, to the planning committee in 2013.
This is the reason that the inspection of the enforcement files should be allowed, because it seems apparent that either the complaint by me which was acknowledged as proving a breach of planning control in 2010 in an email from [First Planning Officer], *was never recorded as a complaint, OR,* [Second Planning Officer] *has LIED to the planning committee in 2013…*
BOTH statements cannot be true, and this is the justification for my making my FOI request…"

29. To the extent that the Council's failure to obtain evidence of demonstrable breaches was unexplained we can see why the Appellant was concerned to understand the reasons and get a better picture of what the Council did or did not regard as a breach. However, his approach was abusive and threatening, as for example in an email of 2 May 2013. Even as it regrets past incivility it insists on the truth of very negative personal comments. We understand that this may be an aspect of the stress he was under at the time and his feeling that the Council was failing to protect him as it should. But this level of harassment of staff is nonetheless a consideration to which the Council and ICO rightly attributed weight in determining whether the Request was manifestly unreasonable.

<u>Our conclusions on the factors considered by the Information Commissioner in her Decision Notice and the parties' arguments on each.</u>

30. It follows from what we have said that the value or purpose of the Request is a great deal less than the Appellant has suggested. It remains the case, as the Information Commissioner acknowledged in both her Decision Notice and her Response to the Grounds of Appeal, that there was value and purpose in any request that targeted evidence about the Council's performance of its duties under planning law. However, this was very significantly diluted by the matters referred to in paragraphs 13 to 28 above.

31. Although the Appellant addressed the factors to be set against the value and purpose of the Request in both his Grounds of Appeal and oral submissions at the hearing, he did so in less detail than he applied to his core issue. As to burden, he expressed surprise and doubt as to size of the task the Council would face in responding to the Request, but did not put forward any argument for challenging the Information Commissioner's finding that it would impose a significant burden on the Council.

32. Both sides suggested a connection between the amount of work that would be involved and the Appellant's approach to the Request. The Information Commissioner argued, not that the burden on the Council would be excessive regardless of context, but that such effort as the Council would be required to apply was disproportionate in light of the previous dealings between the parties and the

perceived likelihood, against that background, that disclosure would not bring to an end the Appellant's questions and complaints. The Appellant invited us to draw a very different conclusion. As he wrote in his Grounds of Appeal:

> *"The burden of the request is not unreasonable, when considering that either a false statement has been made by* [the Second Planning Officer] *…. OR* [the First Planning Officer] *has not recorded a breach of planning control, when it was* [his/her] *duty to do so."*

If the Appellant meant by this that a request on an important issue should be answered regardless of the burden this would impose on a public authority, then his argument must be rejected. We give some weight to the First Planning Officer's claim that the Appellant had already seen a great deal of the requested information including the letters he sent and the reasoned replies he received to some but not all of his emails in return. The Request was essentially a return to old concerns repeating his 2013 requests for simple declarations as to whether activities reported were or were not regarded as breaches of planning conditions. He had received a reasoned (although to him unsatisfactory) reply. The Council could have made it clearer if they hesitated to take enforcement action partly because of their view that the site licence conditions did not expressly prohibit commercial activity. If this was so any number of photographs of commercial activity would not substantiate a breach of condition. However, we do not fault the Information Commissioner's determination that for all these reasons the burden of preparing the papers for disclosure would not be justified in the context of the previous course of dealings.

33. It is less clear to us whether providing the requested information would necessarily lead to further requests from the Appellant. He admitted to having written to the Council about his concerns on 85 occasions during an 18-month period (although he contested the Council's suggestion that there had been 125 communications). And, given what we have said above about his misunderstanding as to the supposedly inconsistent statements by Council employees, we suspect that disclosure of the requested files would not satisfy him with a simple yes or no as to whether each matter raised was regarded as a breach of consent conditions.

34. On the question of unjustified detrimental impact on Council staff, the Appellant said during the hearing that he regretted the tone he had adopted on occasions when addressing those responsible for the state of affairs that had arisen. We can understand how frustrating it must be, observing unchallenged activities on a piece of land, which is close to one's own home but not visible to others living in the area, and which convinces one that the law is being broken in a manner that is detrimental to the enjoyment of one's own land and, possibly, to the market value of that land. Even allowing for those considerations, however, we have to record, having reviewed the relevant correspondence, that the Information Commissioner was justified in concluding that the Council and its employees had suffered detriment as a result of the tone adopted by the Appellant on occasions. Despite apologies he has returned with some regularity to claims that officials lied, were biased against him, neglected their duties and showed behaviour which in his view amounted to corruption or conspiracy based on personal animus. The papers we have seen do not support this interpretation of the Officers' conduct. The First Planning Officer in particular demonstrated considerable patience and a willingness to consider further evidence from the Appellant, despite barbed, personal and offensive comments about laziness,

misconduct, unwillingness to consider evidence fairly and collusion with the site owner by giving advanced warning of visits.

35. The burden that would be placed on the Council, if it were directed to respond to the Request, would not be of the highest order. Nevertheless, the facts that:
    a. the information request returned to earlier demands for information which were, although set out by the Appellant in abusive and threatening terms, given a reasoned if not fully detailed response,
    b. the questions raised about the Council's conduct had been dismissed by the Local Ombudsman and a High Court Judge, and
    c. our conclusion that the value of the request was likely to be less than the Appellant perceived because the files consist largely of material he has already seen,

    considered together and set against the relatively slight weight applied to the purpose or value of the Request, fully justified the Information Commissioner in finding that, viewed overall, the Request was manifestly unreasonable and that the exception under EIR regulation 12(4)(b) was therefore engaged.

36. We have concluded, also, that the Information Commissioner was justified in concluding that the public interest in maintaining the exception outweighed the public interest in disclosure. For the reasons set out in paragraphs above, the public interest in disclosure is slight, on the particular facts of the case, although there is some public interest in maintaining an appropriate degree of transparency in planning processes generally. Even with the advantage, for the Appellant, of a presumption in favour of disclosure, the public interest in disclosure did not equal the public interest in public authorities avoiding the waste of public funds that would result from the work required to respond to the Request.

37. We conclude that the Information Commissioner was entitled to conclude, as she did, that the public interest balance was also against disclosure.

38. Our decision to uphold the Information Commissioner's decision does not mean that the persistence of the Appellant in seeking information about any suspected future contraventions of the revised site licence conditions would necessarily be vexatious. Each such case would have to be considered on its merits in light of the activity complained of and the terms of the condition then in force, which may be said to have been breached.

<u>Conclusion</u>

39. In light of the foregoing, we conclude that the Decision Notice was in accordance with the law and that the appeal should therefore be dismissed.

40. Our decision is unanimous.

Signed Judge Chris Ryan
Judge of the First-tier Tribunal
Date: Tuesday 9th January 2018