

**Freedom of Information Act 2000 (Section 50)  
and  
The Environmental Information Regulations 2004.**

**Decision Notice**

**Date: 9 December 2010**

**Public Authority:** Southampton City Council  
**Address:** Civic Centre  
Southampton  
Hampshire  
SO14 7LU

**Summary**

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The complainant submitted a request to Southampton City Council ('the Council') for information from environmental records held on a property in Southampton. The complainant specified that he wished to view the records in person. The Council agreed to provide the information requested but only on the provision of a set fee. The Commissioner's decision is that the Council failed to comply with regulation 5(1) as it failed to make information available on request, and 5(2) as it failed to make it available within the statutory time for compliance. The Council breached regulation 6(1) by failing to comply with the complainant's request to make information available in a particular format. The Council also breached regulation 6(2)(a) by failing to explain that information would not be made available for inspection within the statutory time for compliance, and regulation 6(2)(c) by failing to advise the complainant of the enforcement and appeal provisions of the Act. In addition, the Council breached regulations 11(3) and 11(4) by failing to conduct an internal review within the statutory time for compliance. The Commissioner requires the Council to make the requested information available for the complainant to inspect within 35 days of this notice.

**The Commissioner's Role**

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1. The Environmental Information Regulations (The Regulations) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that The Regulations shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the

enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into The Regulations.

## Background

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2. Section 3 of the Local Land Charges Act 1975 compels all local authorities to generate, maintain and update a Local Land Charges Register. In order to obtain information from a local search, an application for an Official Search must be submitted to the relevant Local Authority on form LLC1. This is usually accompanied by form CON29R.
3. The CON29R form is comprised of two parts. Part 1 contains a list of standard enquiries about a property. Optional enquiries are contained in Part 2.
4. When a property or piece of land is purchased or leased, a request for a search is sent to the relevant local authority.
5. The complainant represents a company which provides information about property and land issues.

## The Request

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6. On 5 February 2010 the complainant telephoned the Council to request access, free of charge, to the land charges register and to records containing the information necessary to complete a CON29R form.<sup>1</sup> The complainant requested this information in relation to a specific named property, and specified that he wished to inspect these records in person.
7. On 8 March the complainant emailed the Council to enquire when he might receive a response to this request. The Council states that it has no record of receiving this email.
8. On 16 April 2010, the complainant asked that the Council conduct an internal review of its failure to respond to his request. The Council states that it has no record of receiving this email.

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<sup>1</sup> Annex A details the nature of the information relevant to each CON29R enquiry.

9. On 8 June 2010, the Council responded to the complainant. It stated that whilst it reserved its position pending a further statement from the Local Government Association, it understood that the EIR only permitted free of charge inspection to information held “in public registers or lists of environmental information”. It stated that it was entitled to make a reasonable charge for providing environmental information under regulation 8(1), and that it continued to charge the fee of £22 for inspection of the Local Land Charges Register, as set out in the Local Land Charges (Amendment) Rules 2009. The Council further clarified that it would continue to charge a fee for providing information that did not appear on a public register, or where a statutory provision applied. Other information would be disclosed in accordance with regulation 8(2) of the EIR. However, the Council did not clarify what information it was prepared to allow the complainant to inspect in relation to the particular property named in the request, or explain how inspection would be facilitated. The Council also referred to the judgment of Mr Justice Hickenbottom in the case of [One Search Direct v York City Council \[2010\] EWHC 590 \(Admin\)](#) (‘the High Court Decision’) in support of its position.

## The Investigation

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### Scope of the case

10. On 16 July 2010, the complainant contacted the Commissioner to complain about the Council’s decision to refuse access to the requested information.
11. During the course of the investigation, the Council informed the Commissioner that as a result of the [Local Land Charges \(Amendment\) Rules 2010](#), it would now make the Local Land Charges Register available for inspection free of charge and this has therefore been excluded from the scope of the Decision Notice.

### Chronology

12. On 16 July 2010, the Commissioner wrote to the Council and asked that it reconsider its response to the complainant’s request under the Environmental Information Regulations. The Commissioner also drew the Council’s attention to the decision notice [FER0236058](#), and the subsequent Information Tribunal decision, [East Riding of Yorkshire Council v Information Commissioner \(EA/2009/0069\)](#) (‘the East Riding Tribunal decision’), which had dealt with a similar request for access to

- building control information. The Council acknowledged this email on 20 July 2010 and confirmed its intention to respond.
13. On 30 July 2010, the Commissioner wrote to the Council to draw its attention to the publication of the [Local Land Charges \(Amendment\) Rules 2010](#). The amendment was published on 29 July 2010, and came into force on 17 August 2010. It revoked the set charge of £22 levied for inspection of the Local Land Charges Register.
  14. On 6 August 2010, the Council provided a detailed submission in support of its position to the Commissioner. Whilst the Council acknowledged the recent Amendment to the Local Land Charges Rules 1977, it maintained that "the CPSR and associated regulations set a statutory fee of £22 as a personal search for inspection of the Local Land Charges Register". The Council also argued that disclosure of information to property search companies contradicts the ethos of the EIR, that it was entitled to license the re-use of information, and that the High Court Decision supported its position.
  15. The Commissioner acknowledged the Council's submission on 10 August 2010, and wrote to the Council with further queries on 11 August 2010. In particular, the Commissioner asked that the Council clarify whether it intended to continue to charge a fee of £22 to allow inspection of the Local Land Charges Register in spite of the introduction of the new Amendment. The Commissioner also asked that the Council confirm exactly what CON29R information was available for inspection free of charge.
  16. The Council responded to the Commissioner on 23 August 2010 and provided a response to queries about access to the Local Land Charges Register
  17. The Commissioner wrote to the Council on 25 August 2010 to again enquire about the Council's position on access to CON29R information.
  18. The Council responded to the Commissioner on 10 September 2010, and explained that it would levy a charge to provide answers to CON29R information.
  19. On 13 September 2010 the Commissioner wrote to the Council to ask that it explained why it felt it was reasonable to make information available in a format other than inspection.
  20. On 8 October 2010, the Council provided a response to these queries.

## Analysis

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### Substantive Procedural Matters

#### Regulation 2

21. The Commissioner has considered whether the information requested by the complainant is environmental information as defined by the EIR.
22. The Commissioner considers that the information requested falls within regulation 2(1)(c): “measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect these elements”. Information about a plan or a measure or an activity that affects or is likely to affect the elements of the environment is environmental information. The Commissioner therefore considers the information requested by the complainant to be environmental information. The Council also accepts that the requested information is environmental.

#### The High Court decision

23. In its letter to the Commissioner of 6 August 2010, the Council refers to the High Court decision in the case of [Onesearch Ltd v City of York Council \[2010\] EWHC 590](#). The property search company involved in this case sought a judicial review of a policy of the City of York Council. This policy states that the Council is not obliged to allow open access to all of its unrefined property information.
24. The High Court decision found that whilst the [Local Government Act 1972](#) permits public authorities to allow access to their property search records, it does not compel them to do so. Additionally, the court found that the CPSR do not create any obligation to allow searches of property information. Therefore, the High Court found that York City Council’s policy of refusing to provide access to some property search information was lawful.
25. The Commissioner accepts that if a decision of the High Court addressed the same issues as a decision of the First Tier Tribunal, the High Court decision would take precedence. However, the High Court decision in the case of *Onesearch v York City Council* did not address or make any comment on access to the information requested under the provisions of the EIR. The Council contends that it is “inconceivable” the decision was made in ignorance of the EIR. However, the

Commissioner can only take into account the content of the promulgated High Court decision and it is therefore irrelevant to this complaint.

## **Regulation 5**

26. Regulation 5(1) provides that environmental information shall be made available upon request. Regulation 5(2) provides that this information should be made available within 20 working days following receipt of the request.
27. The complainant's original request for information was made on 5 February 2010. The Commissioner concludes that the Council has breached regulations 5(1) by failing to make the information available on request, and regulation 5(2) by failing to make information available within 20 working days following receipt of the request.

## **Regulation 6**

### ***Regulation 6(1)***

28. The Commissioner has set out his interpretation of regulation 6(1) in decision notice [FER0236058](#). Regulation 6(1) provides an applicant with the right to request that information be made available in a particular form or format. It is the Commissioner's view that although regulation 6(1) may appear primarily to be concerned with the form or format information is provided in, it should be interpreted broadly and does provide a right to request to inspect environmental information.
29. A public authority should comply with this preference unless one of two exceptions applies. These exceptions are at regulation 6(1)(a), which provides an exception from the duty to comply with preference for a particular format where it is reasonable to make the information available in another format, or 6(1)(b), which applies when the information is already publicly available and easily accessible in another format.
30. The Council does not accept the Commissioner's interpretation. Rather, it views the term 'form or format' as referring to the way in which information is "physically presented or arranged". Therefore, it does not accept that regulation 6(1) gives an applicant the right to request to inspect information. However, the Commissioner reiterates that based on passages in interpretative aids such as the Directive and the Implementation Guide, he considers that 'inspection' constitutes a 'form or format' under regulation 6(1), and consequently, the complainant is entitled to request to inspect the requested information.

31. Despite the fact that the Council does not accept that regulation 6(1) includes the right to inspect information, it has, in anticipation of the Commissioner's position, also chosen to rely on regulation 6(1)(a) in relation to information relevant to CON29R enquiries. It has provided a comprehensive submission to support this position. As the Commissioner does not accept the Council's contention that regulation 6(1) excludes the right to request inspection, he has considered the Council's arguments for its reliance on regulation 6(1)(a).

Regulation 6(1)(a)

32. The Council first refers to the East Riding Tribunal decision. This found that whilst East Riding had not demonstrated that it was reasonable to provide inspection in a format other than inspection, another public authority may be able to demonstrate that it was reasonable to do so. Therefore, there is no "unqualified right" to inspect environmental information. The Commissioner agrees that this is the case.
33. The Council points out that it has made environmental information progressively available to the public, and that it has made progress in allowing information to be accessed free of charge, particularly via its website. The Council has provided arguments about why it feels that it is reasonable to make information available in a format other than the complainant's preferred format of inspection, and instead provide it in the alternative format of a compiled report. The Commissioner has considered these below.
34. The Council argues that it is reasonable to refuse access to inspect information "whenever any expenditure at all has been incurred to enable the public generally to have such access", especially given the continuing pressure on public finances. However, the Council has not given any details of the financial burden that would be incurred by complying with this request.
35. The Council also argues that personal search companies, such as the one represented by the complainant, may sell the information they receive on in order to make a profit. The Commissioner however notes that the EIR are motive and applicant blind. The Commissioner's opinion is that if the requested information is environmental in nature, then it should be dealt with in accordance with the EIR, regardless of why the public authority believes the complainant wishes to access it. The Commissioner also notes that this consideration is largely irrelevant to the Council's argument that it should not be compelled to comply with the complainant's request to inspect the requested information. The Council argues that this "runs contrary to the ethos

and intent of the EIR". The Commissioner however does not accept that the intended purpose is a factor that the Council is entitled to consider in deciding whether to comply with a request for inspection.<sup>2</sup>

36. Since neither of the exceptions to the Council's obligation to provide information in the form and format requested can be satisfied, the Commissioner concludes that the Council has breached regulation 6(1) in relation to the information relevant to CON29R queries. The Commissioner also notes that he would consider the Council's obligation under 6(1) satisfied if it provided copies of the information, such as printed screenshots or photocopies for the complainant to inspect. This would also allow the Council to redact personal information. The complainant has confirmed that he is happy with this approach.

### ***Regulation 6(2)***

37. Regulation 6(2)(a) provides that if information is not made available in the form or format requested, the public authority shall explain the reason for its decision as soon as possible and not later than 20 working days after the date of receipt of the request.
38. Regulation 6(2)(c) provides that if information is not made available in the form or format requested, the public authority shall –  
"inform the applicant of the provisions of regulation 11 and the enforcement and appeal provisions of the Act applied by regulation 18"
39. The complainant submitted his request on 5 February 2010. In its letter of 8 June 2010, the Council explained that some of the requested information would not be made available for inspection. The Commissioner therefore finds that the Council has breached regulation 6(2)(a). Enforcement and appeal provisions were not explained to the applicant and so the Commissioner finds that the Council has breached regulation 6(2)(c). The Council has acknowledged and apologised for these breaches.

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<sup>2</sup> The Council also states it is entitled to make a charge for allowing information to be sold on under the [Re-Use of Public Sector Information Regulations 2005](#). The Commissioner's remit is only to decide whether the request has been dealt with in accordance with the EIR. The subsequent use of that information is not a matter that falls within the Commissioner's jurisdiction.



## Regulation 8

### *Regulation 8(2)*

40. Regulation 8 provides a general right for public authorities to charge for making information available. However, that right is subject to a number of conditions. The relevant conditions in this case are set out in regulation 8(2).
41. Regulation 8(2)(a) states that a public authority shall not make any charge for allowing an applicant to access any public registers or lists of environmental information, and regulation 8(2)(b) states that a public authority shall not make any charge for allowing an applicant to examine the information requested at a place which the authority makes available.

### *The CPSR*

42. The [Local Authorities \(England\) \(Charges for Property Searches\) Regulations 2008](#) ('CPSR') set out fees that can be charged for the provision of answers to the CON29R form. The Council contends that it is entitled to charge a fee for providing the requested information in line with these regulations and states that until they are repealed, it will continue to recover its 'reasonable costs' in line with their provisions.
43. The Commissioner's position is that regulation 5(6) specifically disapplies the charging provisions under the CPSR. This regulation provides that "any enactment or rule of law that would prevent the disclosure of information in accordance with these regulations shall not apply".
44. The Council argues that imposing a fee for access to this information does not prevent its disclosure in line with the EIR, but rather regulates it. It is the Council's opinion that a charge "sets a condition precedent to enabling disclosure". However, the Commissioner's view is that as regulation 8(2)(b) provides that no charge can be made for allowing an applicant to inspect environmental information, charging a fee is clearly preventing disclosure in accordance with the EIR.
45. Consequently, the Commissioner considers that if the property records comprise environmental information as defined by regulation 2 of the EIR, the CPSR cannot be used as the basis for charging and the Council must adopt the charging provisions of the EIR. The Council has not disputed that this property information is environmental. Therefore, regardless of the charging provisions of the CPSR, the information

should be considered for disclosure under the EIR. For the reasons set out above, the Commissioner considers that the EIR entitle the complainant to request to inspect the requested information free of charge, and the CPSR cannot apply. This position also acknowledges the primacy of EU legislation whereby European law, such as the EIR, takes precedence over domestic law.

### Regulation 8(2)(b)

*Can the Council levy a charge for collating the information?*

46. The Council argues that whilst it acknowledges that no charge can be levied for allowing the complainant to inspect the requested information, it can under regulation 8(3) levy a reasonable charge which represents the cost to the authority of collating and refining the information in order to prepare it for inspection. However, the Commissioner considers that regulation 8(2)(b) is clear that when information is provided for inspection, no charge can be levied. This includes the cost of 'preparing' information. In any case, the Commissioner notes that the costs of extracting and collating information cannot be taken into account in any calculation of 'reasonable' costs under regulation 8(3).
47. Regulation 8(2)(b) provides that a public authority is not entitled to charge a fee for allowing inspection of information. As the Commissioner has concluded that the Council has refused to allow the complainant to inspect the requested CON29R information, it follows that in this particular case the Council could not have actually attempted to charge for allowing inspection. In light of this the public authority has not breached regulation 8(2)(b). However, the Council must not impose a charge for allowing the complainant to inspect the requested information.

### **Regulation 8(3)**

48. The Council has provided substantive arguments about the interpretation of 'reasonable' charges under regulation 8(3). However, the Commissioner is of the opinion that where information is available for inspection, regulation 8(2)(b) conclusively prevents *any* charge from being levied to provide the requested information. As he has found that the Council should allow the complainant to inspect the requested information, the Commissioner has not gone onto consider the Council's arguments around the interpretation and provisions of regulation 8(3).

## Regulation 11

49. Regulation 11(3) provides that a public authority must reconsider its response to a request for information upon receiving representations from an applicant. Regulation 11(4) provides that the outcome of a decision under regulation 11(3) must be communicated to the applicant as soon as possible and within 40 working days after representations were received.
50. The complainant requested an internal review on 16 April 2010. The Council states that it has no record of receiving this request. However, the complainant has provided a copy of an email sent to a Council email address, with the corresponding email headers. Consequently the Commissioner accepts that the complainant submitted a request for an internal review which the Council did not act upon. Therefore, the Commissioner finds that the Council has breached regulation 11(3) and regulation 11(4).

## The Decision

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51. The Commissioner's decision is that Southampton Council did not deal with the request for information in accordance with the EIR. The Council has breached regulations 5(1) by failing to make information available upon request, and regulation 5(2) by failing to make it available within the statutory time for compliance. The Council has breached regulation 6(1) as it failed to comply with the complainant's request to make the information available in a particular format. It also breached regulation 6(2)(a) by failing to explain that information would not be made available for inspection within the statutory time for compliance, and regulation 6(2)(c) by failing to advise the complainant of the enforcement and appeal provisions of the Act. The Council has also breached regulations 11(3) and 11(4) as it did not provide an internal review outcome to the complainant.

## Steps Required

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52. The Commissioner requires that the Council make the requested information available for the complainant to inspect free of charge.
53. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## **Failure to comply**

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54. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Right of Appeal

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55. 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,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Dated the 9<sup>th</sup> day of December 2010**

**Signed .....**

**Gerrard Tracey  
Principal Policy Adviser**

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

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### **Regulation 2 - Interpretation**

**Regulation 2(1)** In these Regulations –

“the Act” means the Freedom of Information Act 2000(c);

“applicant”, in relation to a request for environmental information, means the person who made the request;

“appropriate record authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“the Commissioner” means the Information Commissioner;

“the Directive” means Council Directive 2003/4/EC(d) on public access to environmental information and repealing Council Directive 90/313/EEC;

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

### **Regulation 5 - Duty to make available environmental information on request**

**Regulation 5(1)** Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

**Regulation 5(2)** Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.

### **Regulation 6 - Form and format of information**

**Regulation 6(1)** Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless –

- (a) it is reasonable for it to make the information available in another form or format; or
- (b) the information is already publicly available and easily accessible to the applicant in another form or format.

### **Regulation 8 - Charging**

**Regulation 8(1)** Subject to paragraphs (2) to (8), where the public authority makes environmental information available in accordance with regulation 5(1) the authority may charge the applicant for making the information available.

**Regulation 8(2)** A public authority shall not make any charge for allowing an applicant –

- (a) to access any public registers or lists of environmental information held by the public authority; or
- (b) to examine the information requested at the place which the public authority makes available for the examination.

### **Regulation 11 - Representation and reconsideration**

**Regulation 11(1)** Subject to paragraph (2), an applicant may make representations to a public authority in relation to the applicant's request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.

**Regulation 11(2)** Representations under paragraph (1) shall be made in writing to the public authority no later than 40 working days after the date on which the applicant believes that the public authority has failed to comply with the requirement.

**Regulation 11(3)** The public authority shall on receipt of the representations and free of charge –

- (a) consider them and any supporting evidence produced by the applicant; and
- (b) decide if it has complied with the requirement.

**Regulation 11(4)** A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the receipt of the representations.

**Regulation 11(5)** Where the public authority decides that it has failed to comply with these Regulations in relation to the request, the notification under paragraph (4) shall include a statement of –

- (a) the failure to comply;
- (b) the action the authority has decided to take to comply with the requirement; and
- (c) the period within which that action is to be taken.



## **Annex A - CON29R Enquiries**

**1.1** Which of the following relating to the property have been granted, issued or refused or (where applicable) are the subject of pending applications:

- f) building regulations approval
- g) a building regulations completion certificate
- h) any building regulations certificate or notice issued in respect of work carried out under a competent person self-certification scheme

**3.4** Is the property (or will it be) within 200 metres of any of the following:

- a) the centre line of a new trunk road or special road specified in any order draft order or scheme
- b) the centre line of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway
- c) the outer limits of construction works for a proposed alteration or improvement to an existing road involving (i) construction of a roundabout (other than a mini roundabout) or (ii) widening by construction of one or more additional traffic lanes
- d) the outer limits of (i) construction of a new road to be built by a local authority, (ii) an approved alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (iii) construction of a roundabout (other than a mini roundabout) or widening by construction of one or more additional traffic lanes
- e) the centre line of the proposed route of a new road under proposals published for public consultation
- f) the outer limits of (i) construction of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (ii) construction of a roundabout (other than a mini roundabout) or (iii) widening by construction of one or more additional traffic lanes under proposals published for public consultation.

**3.6** Has a local authority approved but not yet implemented any of the following for the roads, footways and footpaths which abut the boundaries of the property:

- a) permanent stopping up or diversion
- b) waiting or loading restrictions
- c) one way driving
- d) prohibition of driving
- e) pedestrianisation

- f) vehicle width or weight restrictions
- g) traffic calming works including road humps
- h) residents parking contracts
- i) minor road widening or improvement
- j) pedestrian crossings
- k) cycle tracks
- l) bridge building

**3.9** Do any of the following subsist in relation to the property or has a local authority decided to issue, serve, make or commence any of the following:

- a) an enforcement notice
- b) a stop notice
- c) a listed building enforcement notice
- d) a breach of condition notice
- e) a planning contravention notice
- f) another notice relating to breach of planning control
- g) a listed buildings repairs notice
- h) in the case of listed building deliberately allowed to fall into disrepair, a compulsory purchase order with a direction for minimum compensation
- i) a building preservation notice
- j) a direction restricting permitted development
- k) an order revoking or modifying planning permission
- l) an order requiring discontinuance of use or alteration or removal of building or works
- m) a tree preservation order
- n) proceeding to enforce a planning agreement or planning contribution