

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

Date: 13 March 2013

Public Authority: Eastleigh Borough Council
Address: Civic Offices
Leigh Road
Eastleigh
Hampshire
S050 9YN

Decision (including any steps ordered)

1. The complainant requested information in relation to the proposed site for a particular development referred to in the Eastleigh Borough Council's ('the Council') draft local development plan. The Council stated that the information requested was exempt under regulation 12(4)(e). At the time of its internal review, the Council also sought to rely in regulation 12(4)(d) in relation to the requested information.
2. The Commissioner's decision is as follows:
 - Regulation 12(4)(d) is engaged for some information but the public interest favours disclosure, and
 - Regulation 12(4)(e) is engaged for all of the withheld information, but the public interest in disclosure of the information outweighs the public interest in maintaining the exception.
 - For information which engages both exceptions the public interest in disclosure outweighs the aggregated public interest in maintaining both regulation 12(4)(d) and regulation 12(4)(e).
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - To disclose the information withheld under regulations 12(4)(d) and 12(4)(e).

4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 23 April 2012, the complainant wrote to the Council in relation to the proposed site for a particular development referred to in the Council's draft local plan and requested information in the following terms:

"Copies of –
 1. all officer prepared reports, notes, other papers and other advice to the Core Strategy Working Group, or to any other working group, insofar as these relate to the potential for sites in the Boorley Green and Allington Lane areas to provide locations for new housing development;
 2. any other reports, notes, other papers and other advice on the matters referred to in 1 above (for example prepared by any Councillor(s) or person retained by the Council); and
 3. the minutes, notes (formal or informal), and any other record, of discussions at, conclusions of, and decisions of, the Core Strategy Working Group, or any other working group, relating to the matters referred to in 1 above."
6. The Council issued a refusal notice on 24 May 2012 stating that the requested information was exempt under regulation 12(4)(e) of the EIR, and the public interest favoured non-disclosure.
7. The complainant requested an internal review on 1 June 2012. In this communication, he stated that he would not pursue his request further if the Council could provide an "unequivocal assurance that, in the context of the Cabinet / Council September / October decisions to opt for Boorley Green, the Council did rely only on those documents which were available on the website at that time, and that they did not / do not rely on undisclosed documents / papers". The complainant also stated that, if the Council were willing to disclose information relevant to parts 1 and 2 of his request, he would withdraw part 3 of his request.
8. Various exchanges took place between the complainant and the Council in June 2012, which culminated in the Council carrying out an internal review of its handling of the request on 10 July 2012. In its internal

review the Council upheld its position that the information requested was exempt by virtue of regulation 12(4)(e) of the EIR. It also stated that it considered the information to be exempt under regulation 12(4)(d).

Scope of the case

9. The complainant contacted the Commissioner on 9 July 2012 to complain about the way his request for information had been handled. In his complaint to the Commissioner, the complainant repeated that he was willing to reduce the scope of his request to parts 1 and 2.
10. The Commissioner considers this complaint to relate to whether the Council should disclose the information requested in relation to parts 1 and 2 of the request of 23 April 2012 or whether the Council was correct to withhold the information under regulations 12(4)(e) and 12(4)(d) of the EIR.

Reasons for decision

Background

11. The request in this case relates to information contained within the Council's draft Local Development Plan ('LDP') about preferred sites for the location of new housing development. Full details of the chronology and background information relating to the Council's local development plan process including the consultation on the draft plan is available on the Council's website¹.
12. In terms of the subject matter of this request, ie the decision to choose one particular location for housing development, the background is as follows. The Council carried out a strategic land availability assessment which included an assessment of sites suitable for potential housing development. At a meeting on 14 July 2011 the Council resolved to conduct a household opinion survey to gauge public opinion in respect of two options for large scale housing development in two distinct locations. This was carried out between late July and early September

¹ <http://www.eastleigh.gov.uk/planning--building-control/planning-policy--design/local-development-framework.aspx>

2011, with the closing date for survey responses being 9 September 2011.

13. At a Cabinet meeting on 15 September 2011, the Council's Cabinet considered a report on the outcome of the survey and Cabinet agreed that option B should be taken forward as the preferred option. Option B related to land north east of Boorley Green.
14. At a meeting on 10 October 2011, the Council's Cabinet agreed a draft LDP which included the land north east of Boorley Green as the location for 1,400 new homes. This was endorsed by the full Council at its meeting on 13 October 2011. The draft LDP was published on 28 October 2011 for consultation. According to the Council's website, many representations were received suggesting changes to the draft LDP and as a result some changes were made to the plan.
15. On 17 August 2012, following a decision taken by the Council and Cabinet on 26 July 2012 the pre-submission Local Plan was published for consultation. The pre-submission Local Plan is the version of the Local Plan (and related assessments and appraisals) that the Council intended to submit to the Secretary of State for formal examination.
16. The consultation on the pre-submission Local Plan ended on 12 October 2012 and the Council's intention was to progress the Local Plan to examination in 2013. However, according to an update on the Council's website dated 10 January 2013, a small number of representations raised issues which meant that the Council had to reconsider some of the Local Plan's proposals.

Regulation 12(4)(d) – information in the course of completion, unfinished documents and incomplete data

17. Regulation 12(4)(d) states that a public authority may refuse to disclose information to the extent that the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data.
18. The Council has applied regulation 12(4)(d) to all of the withheld information as it considers that it all relates to material which is still in the course of completion. The withheld information comprises papers, reports and presentations considered by a Cabinet Working Group which considered the Council's Local Development Framework, and notes of the meetings. The Council acknowledges that although some of the withheld documents may be taken as complete in their own right, each contributed to the local plan documents, which when finalised will be one document with numerous chapters and appendices. The Council

pointed out that, at the time of the request, the draft local plan had not been finalised and was still in the statutory consultation phase.

19. The Commissioner has considered the application of regulation 12(4)(d) to the withheld documents. There are three elements to regulation 12(4)(d); material which is still in the course of completion, unfinished documents, and incomplete data. No arguments have been made suggesting that this request relates to incomplete data so the Commissioner has not considered this aspect of regulation 12(4)(d) any further. He has however considered both whether the request relates to "material which is still in the course of completion" and whether it relates to "unfinished documents.
20. Much of the withheld information relates to reports or presentations considered at various meetings of the Cabinet working group on development sites to be included in the draft local plan. The reports and presentations primarily set out various options for development, and contain information about the characteristics of each site including issues such as ownership, location, maps, photographs etc. Some reports contain details about the advantages and disadvantages associated with each proposed site.
21. There is no evidence to suggest that the reports and presentations are draft or unfinished documents. As far as the Commissioner is aware, the reports and presentations were submitted to the Cabinet Working Group for it to consider the various options for development to be included in the draft local plan. The Cabinet Working Group appears to have considered their contents, made some recommendations, including the proposal to carry out a household survey (as detailed in paragraphs 12 and 13 above). The preferred/agreed sites were subsequently included within the draft local plan which was published for consultation in October 2011.
22. In addition, some of the withheld information comprise notes of a number of Cabinet Working Group meetings. These documents again do not appear to be draft minutes or unfinished documents and are simply a note of the discussions at each meeting and the actions/proposals agreed.
23. For the reasons explained above, the Commissioner has concluded that the unfinished documents element of regulation 12(4)(d) of the EIR does not apply in this case to the reports, presentations and meeting notes contained within the withheld information.
24. The withheld information does however contain two draft documents which are:

- (i) a draft outline of a report to be submitted to Cabinet (document attached to a paper relating to item 4 of the Cabinet Working Group on 6 June 2011); and
 - (ii) A draft of the local development plan considered at a Cabinet Working group meeting on 26 September 2011.
25. It is the view of the Commissioner that drafts are unfinished documents for the purposes of regulation 12(4)(d), and remain unfinished even upon completion of a final version. The Commissioner has viewed the above documents as published on the Council's website and is satisfied that the versions contained within the withheld information differ from the published versions. He is therefore satisfied that the "unfinished documents" element of the exception is engaged in respect of the two documents listed above.
26. For the information that doesn't engage the "unfinished documents" element of regulation 12(4)(d) the Commissioner has gone on to consider whether the "material in the course of completion" element can apply.
27. The Commissioner has taken into account that, as at the date of the request, the draft Local Plan had been endorsed by the Council and published on its website. He considers that the primary purpose of the withheld information was to feed into the production of the draft Local Plan. He concludes that once the significant step of publishing the draft plan had been taken the withheld information could no longer be said to be material in the course of completion.
28. As regulation 12(4)(d) is a qualified exception, the Commissioner has gone on to consider the application of the public interest test to documents listed at paragraph 24.

Public interest arguments in favour of disclosing the requested information

29. Some weight must always be attached to the general principles of achieving accountability and transparency through the disclosure of information held by public authorities. Regulation 12(2) of the EIR itself specifically acknowledges that there should be a presumption in favour of disclosure. This in turn can help to increase public understanding, trust and participation in the decisions taken by public authorities. In the case of environmental information, this can eventually lead to a better environment.
30. The Commissioner considers there is a strong argument that there is a public interest in exposing draft positions so that the public is given a fully informed picture of the policy making process, promoting

transparency and accountability in relation to the activities of public authorities. The Commissioner would add to this the fact that the information clearly is part of a major programme of development being undertaken by the Council to improve housing facilities in the area. Such development could have a significant impact on the environment and could affect people's lives. There is a particularly strong public interest in the public having access to information concerning such potential development.

31. The Council acknowledge that disclosure would promote transparency and accountability in relation to its activities and also recognises the importance of the public being fully informed of the policy making process.
32. The complainant put forward a number of specific reasons as to why he feels that, in this case, there is significant public interest in disclosure of the requested information. He believes it is clearly in the public interest that the public have access to all papers and evidence on which the Council based its decision in relation to areas proposed for development in the LDP. He believes the decision on where development should take place is a far-reaching one which will affect many local residents and it should be open to proper public scrutiny and transparency.
33. The complainant referred to the household opinion survey which the Council undertook of the two potential locations for new housing development (Option A - Allington Lane, West End and Option B – North East Of Boorley Green). He pointed out that there was only a 3% public response to the survey and the outcome was very close – 48.4% favoured Option A and 51.6% Option B). He said that the report on the household survey considered at the Cabinet meeting did not include any information, analysis, professional officer advice or recommendations and only dealt with the survey outcomes. However, on the basis of the report on the survey and a statement made by the Council leader at the meeting, at its meeting on 15 September 2011, the Cabinet agreed that option B should be taken forward as the preferred option.
34. The complainant pointed out that, whilst not a listed background paper for the meeting in question, the Council's professional staff had previously prepared a sustainability appraisal and strategic environment assessment of various sites, including the sites relating to Options A and B. The complainant said that the summary of these assessments clearly showed that Option A was the more appropriate location and had more positive scores and less negative scores in terms of sustainability than Option B. In addition, the complainant said that the Council clearly thought Option A was a realistic and acceptable option for development as it would not have conducted a household survey on it. However, in

the draft local plan published in October 2011, the site at Allington Lane (Option A) was described as "an unacceptable location".

35. Finally, the complainant referred to the fact that development at Boorley Green will involve the demolition of Botley Park Golf Course. At a meeting on 15 December 2011 (during the consultation period on the draft local plan), the Cabinet and full Council agreed a series of transactions, which once completed would involve the Council in funding the construction of a new hotel (in excess of £30 million), underwriting the costs of enhancements to another local golf course (the Rose Bowl), and taking a 999 year lease of the whole Rose Bowl and golf course area. The decision up-dated a decision made by the Council in 2009 to fund a new hotel at the Rose Bowl. The report considered by the Council at this meeting² stated that, in terms of the economic benefits:

"It is important to reflect on why the Council considers this project to be worthwhile and why in 2009 it embarked on a scheme that is outside what could be classed as its normal activities. The primary reason that Members have considered this scheme is the economic benefit that will result and, although it is recognised as important, not just to see Test Cricket in Hampshire or even to ensure the future financial stability of the Rose Bowl."

36. The complainant believes that the Council's decision in the draft local plan to redevelop the site on which Botley Park golf course is situated would be of substantial benefit to the operation of the improved golf facilities at the Rose Bowl site as it would eliminate a major competitor. The complainant believes that for the Council to be promoting the destruction of Botley Park golf course, at the same time it is intending to take on substantial interests in the successful of the Rose Bowl golf course is a clear and direct conflict of interest. He believes this increases the public interest in access to all relevant information which lead to the decision to opt for Boorley Green as the preferred site for housing development.

Public interest arguments in favour of maintaining the exemption

37. The Council put forward limited arguments in favour of maintaining the exception, which are detailed below:

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<http://www.eastleigh.gov.uk/meetings/documents/s50001687/Rose%20Bowl%20Report%2013122011%20Resources%20Scrutiny%20Panel.pdf>

- Disclosure of unfinished documents and policies will be misleading to the public;
- Disclosure of unfinished documents and policies may raise public concern unnecessarily; and
- Non-disclosure avoids the use of public resources to explain or justify draft documents or interim positions

Balance of the public interest arguments

38. In terms of the Council's view that disclosure of unfinished documents and policies will be misleading to the public, the Commissioner considers that this argument would only carry some weight if the information would create a misleading or inaccurate impression and there were particular circumstances that would mean it would be difficult or require a disproportionate effort to correct the impression or provide an explanation. However, the Council has not provided any specific examples as to how disclosure of the withheld information could mislead the public or that it would not be possible to correct any misleading impression given through disclosure easily so the Commissioner has not attached any weight to this argument
39. The Council advised that in assessing whether the public interest lay in this case, it placed particular weight on its argument that disclosure would result in public resources being expended to explain or justify draft documents or interim positions. This is because it believes it imperative that public resources are used prudently and in ways which benefit the community. However, the Council has again not presented the Commissioner with any cogent arguments that demonstrate how disclosure of the actual withheld disputed information would have the effect of raising public concern unnecessarily or result in the disproportionate use of public resources to explain or justify draft documents.
40. The Commissioner considers that it is not for him to argue a point on a public authority's behalf. Instead, it is the responsibility of the public authority to provide compelling arguments to support its position for the Commissioner to consider.
41. In this case it is the view of the Commissioner that the Council's arguments for the public interest test considerations associated with regulation 12(4)(d) do not go beyond largely generic submissions for withholding the disputed information. Arguments, in short, that are not of sufficient detail and depth to demonstrate why the EIR's presumption in favour of disclosure should be overridden.

42. The Commissioner acknowledges that there is a public interest in protecting safe space (thinking space) and drafting space inherent in regulation 12(4)(d). Applying the same principles as are accepted in relation to policy development, there is a public interest in enabling officials to get on with the job in hand without having to defend a preliminary position, or comment externally on what are only drafts and may not reflect fully formulated or agreed positions.
43. The Commissioner considers that the timing of a request can affect the relative weight of the public interest arguments. In this case, the Commissioner accepts that whilst the issue of the Council's local development plan was still a live issue in as much as the draft plan was out to consultation, the Commissioner notes that the information contained within the draft plan to be put out to consultation, including the preferred sites for development had been approved by the Council. Therefore, the first part of the process of the local development plan was in effect "completed".
44. The Commissioner accepts that there is always a general public interest in disclosure of environmental information, particularly in cases like this where there is likely to be a significant impact on members of the local community through development of land in their area. The issue of development at Boorley Green appears to have been a matter of significant local opposition³, including the setting up of a campaign group⁴. The Commissioner understands that Botley Park Golfers, a group of around 365 people submitted a comprehensive, detailed response to the consultation on the draft local plan, objecting to the proposal to develop housing on the Boorley Green site.
45. The Commissioner considers that there is also a public interest in understanding how a decision is reached by a public authority, and where there is a suspicion of wrongdoing or a lack of public confidence in a particular process there is a public interest in presenting the full picture.
46. The Commissioner accepts that, in this case, the complainant has raised genuine public concerns about the transparency of the decision making process which lead to Council choosing Boorley Green as the preferred

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http://www.dailyecho.co.uk/news/district/eastleigh/9541163.Golf_course_homes__not_a_d_one_deal_/

⁴ <http://www.bpag.org.uk/>

site for housing development, as identified in paragraphs 32 to 36. The Commissioner considers that there is a real possibility that the public may perceive there to be a conflict of interest on the part of the Council in terms of promoting a site for development which involves the demolition of one golf course (Boorley Park), whilst at the same time it is seeking to invest in a business venture to build a hotel, spa and golf course at the Rose Bowl stadium. The Commissioner notes that there has been a number of media articles referring to this potential conflict of interests⁵. The Commissioner feels that there is a strong case here for transparency to reassure the public in relation to the decision making process around the sites for proposed housing development.

47. In this case, the Council has provided no compelling arguments to demonstrate that the public interest in maintaining this exception outweighs the strong public interest in disclosing this information. The Commissioner is mindful of regulation 12(2) of the EIR, which states that a public authority should apply a presumption in favour of disclosure. This means that if there are no convincing arguments to demonstrate that the public interest rests in maintaining this exception, the information should be released.
48. For the reasons explained above, the Commissioner has decided in this case that the public interest in maintaining this exception is outweighed by the public interest in disclosure.

Regulation 12(4)(e) – Internal communications

49. Regulation 12(4)(e) provides that a public authority may refuse a request for environmental information if the request involves the disclosure of internal communications. Consideration of this exception is a two-stage process; first it must be considered whether the request would involve the disclosure of internal communications. Secondly, this exception is qualified by the public interest. This means that the information must be disclosed if the public interest in maintaining the exception does not outweigh the public interest in disclosure.
50. Regulation 12(4)(e) is a class-based exception, meaning there is no need to consider the sensitivity of the information in order to engage the

⁵ <http://www.golfclubmanagement.net/2012/03/council-accused-of-conflict-of-interest-over-golf-plans/>

<http://www.eastleighnews.co.uk/2012/06/dont-destroy-our-golf-course/>

exception. It is only necessary to demonstrate that the information falls within the category defined by the exception.

Internal Communications

51. The Commissioner considers that the concept of a communication in this context is broad and will encompass any information someone intends to communicate to others, or even places on file (including saving it on an electronic filing system) where others may consult it. An internal communication is also a communication that stays within one public authority.
52. The Council confirmed that the withheld information was prepared for internal consideration by its Cabinet Working Group and its circulation was strictly limited to those who attended these confidential internal meetings.
53. As mentioned earlier in this notice, the withheld information comprises reports and presentations considered at Cabinet Working Group meetings, and notes of a number of the working group meetings. Having considered the Council's submissions and the withheld information the Commissioner is satisfied that all of the withheld information constitutes internal communications and therefore the exception is engaged. He has gone on to consider the relevant public interest arguments.

Public interest arguments in favour of disclosing the requested information

54. The Council acknowledges that is a public interest in its decision being open to scrutiny and transparency promotes confidence in local authorities.
55. The Council accept that full disclosure of information relating to its decision making processes removes any suspicion as to how decisions have been made.
56. The complainant submitted a number of reasons as to why he feels that there is a significant public interest in disclosure of the requested information in this case. These are set out at paragraphs 32 to 36 above and are not repeated here. Essentially, the complainant believes the subject matter is one that will affect a significant number of local residents and he has also submitted a number of concerns about the Council's decision making process in relation to the proposed housing development at Boorley Park. He believes that in failing to provide background information relevant to the decision for development at Boorley Park, the Council has prejudiced the ability of local residents to properly challenge the related elements of the draft local plan, throughout the statutory consultation process.

Public interest arguments in favour of maintaining the exemption

57. The Council put forward the following arguments in favour of maintaining the exception:
- (i) The importance of officers and Members being able to debate issues and reach decisions without external input or comment;
 - (ii) The need to protect its internal decision making process in order to maintain the trust of its officers and Members;
 - (iii) Disclosure would inhibit officers and Members in future debate.
 - (iv) Formal documents relating to the draft local plan are available on the Council's website, and explain matters more fully than officers note from meetings;
 - (v) Informal notes may be an incomplete record and disclosure may be misleading; and
 - (vi) Disclosure of informal notes taken in meetings may have an inhibiting effect on the frankness of debate.
 - (vii) To publish all internal communications about the subject matter would mislead the public. There is a likelihood that disclosure would lead to distrust and unnecessary anger from members of the public as several possible development sites were considered during the draft local plan process. The Council considers that disclosure could lead to members of the public believing that all of the 16 sites would be developed in the future.

Balance of the public interest test

58. The Commissioner recognises that, inherent in the exception provided by regulation 12(4)(e) is the argument that a public authority should be afforded private space for staff in which issues can be considered and debated, advice from colleagues be sought and freely given and ideas tested and explored to protect the integrity of the deliberation process. The Commissioner also recognises that public authorities often require a safe space in which to debate issues without the hindrance of external comment and to develop their policies or opinions free from outside interference. However the Commissioner has to consider the specific information in dispute in this case in order to determine whether this safe space is still relevant and important.
59. The Commissioner considers that the need for a safe space will be strongest when an issue is still "live". Once a public authority has made a decision, a safe space for deliberation will no longer be required and

the Commissioner has previously adopted the approach that the public interest will sway more towards disclosure. In this case, the Commissioner accepts that, at the time of the request, the Council's draft local plan was a live issue as the document was under public consultation. However, the actual withheld information relates to potential development sites considered for inclusion within the draft local plan. Following consideration by the Council, which included conducting a household opinion survey on two potential sites, a decision was made about the potential development sites and the preferred development sites were included in the draft local plan which was published for consultation in October 2011. Therefore, the first part of the process of the local plan was in effect "completed" and a decision had been made about the preferred development sites prior to the request in this case and the need for private thinking space on the issue had therefore diminished.

60. The Council has argued that disclosure would inhibit officers and members in future debate. These arguments are known as the chilling effect and public authorities often argue that disclosure of internal discussions will inhibit free and frank discussions and the loss of frankness and candour will damage the quality of advice and lead to poorer decision making. The Commissioner is sceptical about broad arguments about a chilling effect on future unrelated discussions, but accepts that arguments about a chilling effect on on-going related discussions are likely to carry some weight. Accordingly, in terms of any chilling effect the Commissioner considers that the timing of a request, whether the issue is still live and the content and sensitivity of the information are key factors to take into account in attaching weight to such arguments.
61. In this case, again, the Commissioner accepts that the issue of the local development plan generally was on-going at the time of the request. However, the decision on the proposed development sites, which is the subject matter of this request had already been made. The draft local plan within which the proposed development sites were included was published for consultation in October 2011. The Commissioner considers that, in effect, the stage in the local development plan process regarding proposed development sites in terms of advice-giving and exchanging of views had therefore come to an end. Therefore, whilst the Commissioner has given some weight to the Council's arguments in terms of any chilling effect, he does not consider that the Council has made adequate public interest arguments which about the severity or extensiveness of any inhibition that would enhance this weighting.
62. The Council advised the Commissioner that when considering where the balance of the public interest lies in this case, more weight was given the arguments listed at points (v) and (vi) above. However, the

Commissioner notes that these points refer to informal notes taken by members and officers about the subject matter. Part 3 of the complainant's original request referred to informal notes taken by the working group. In his internal review request and his complaint to the Commissioner, the complainant indicated that he would withdraw part 3 of his initial request. As far as the Commissioner can see, the withheld information includes agreed notes of various Cabinet Working Group meetings, but no "informal notes". As such, the Commissioner has discounted the Council's public interest arguments relating to informal notes.

63. The Commissioner has considered the Council's argument that disclosure would mislead the public into believing that all of the potential sites considered would be developed in the future. Firstly, the Council has not provided any representations to suggest that this could not be addressed by explaining the context of the information in question in order to counteract any misleading impression it may give. In addition, the Commissioner notes that there is already information in the public domain about the assessment of a number of development sites. A report considered at a Cabinet meeting on 11 July 2011 refers to the Council's Strategic Land Availability Assessment⁶ which makes reference to the 16 broad locations assessed to accommodate housing needs. In addition, draft sustainability appraisals of these 16 broad locations considered for their development potential to accommodate large scale development were published in July 2011⁷. In view of the fact that there is already information in the public domain indicating that 16 broad locations were considered for development, the Commissioner does not attach any weight to this argument.
64. Finally, in his assessment of the public interest test under regulation 12(4)(d), at paragraphs 44 to 46 above, the Commissioner has already considered the significant public interest in disclosure in relation to the impact of the development on local residents, the local interest and opposition to development at Boorley Green and concerns raised about the transparency of the decision making process. He considers these points to also be relevant to the public interest considerations in relation to regulation 12(4)(e) and has not repeated them here.

⁶ <http://www.eastleigh.gov.uk/pdf/Microsoft%20Word%20-%20SLAA%20document.pdf>

⁷ <http://www.eastleigh.gov.uk/planning--building-control/published-documents/ldf-evidence/slaa.aspx>

65. For the reasons stated above the Commissioner has found that the public interest in disclosure outweighs the public interest in maintaining the exception.

Aggregated public interest test

66. For the information that engages both of the exceptions, the Commissioner has gone on to consider whether the aggregated public interest in maintaining regulations 12(4)(d) and 12(4)(e) outweighs the public interest in disclosure in this cases.

The relevant public interest arguments have already been set out in full in the Commissioners analysis of the individual exceptions above and, are not restated here. Having taken all the arguments into account the Commissioner has concluded that the public interest in disclosure in this case is greater than the aggregated public interest in maintaining the exceptions.

Right of appeal

67. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

68. 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.
69. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

**Lisa Adshead
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