

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 20 October 2015

Public Authority: Borough of King's Lynn and West Norfolk Council

Address: Kings Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Decision (including any steps ordered)

1. The complainant has requested recorded information from the Borough of King's Lynn and West Norfolk Council. The complainant seeks information relating to planning applications concerning the home of the Duke and Duchess of Cambridge at Anmer Hall on the Sandringham Estate.
2. The Commissioner's decision is that the Council has correctly applied Regulation 12(5)(a) of the EIR. The Commissioner finds that disclosure of the requested information would adversely affect the national security of the United Kingdom and it is for this reason that the Commissioner finds that the Council is entitled to withhold the information which the complainant seeks.
3. The Commissioner does not require the Council to take any further action in this matter.

Request and response

4. On 11 October 2014, the complainant wrote to the Borough of King's Lynn and West Norfolk Council to request recorded information concerning Anmer Hall on the Sandringham Estate. The complainant's request covers information held by the Council for the period beginning 1 January 2014 to the date of his request. The terms of the complainant's request are:

"1. During the aforementioned period has the Council received any planning applications which relate to the property and or its interiors and or its grounds. If the answer is yes can you please provide a copy of the application(s). In the case of each application can you please provide a copy of all documentation and correspondence (including emails) held by the Council. This documentation will include but will not be limited to correspondence and communications (including emails) with the owners and or the tenants and or the managers of the property – as well as any architect or agent, or lawyer on their behalf. It will also include but will not be limited to any sketches or designs, photographs. It will also include but will not be limited to surveyor's reports, correspondence with local residents and other interested parties including conservation groups and public bodies. It will also include but will not be limited to any documents generated by the Council itself.

2. During the aforementioned period has the Council received applications for listed building consent which relate to the property and or its interiors and or its grounds. If the answer is yes can you please provide a copy of the application(s). In the case of each application can you please provide a copy of all documentation held by the Council including correspondence and emails. This documentation will include but will not be limited to correspondence and communications (including emails) with the owners and or the tenants and or the managers of the property – as well as any architect or agent, or lawyer on their behalf. It will also include but will not be limited to any sketches or designs, photographs. It will also include but will not be limited to surveyor's reports, relevant designs, correspondence with local residents and other interested parties including conservation groups and public bodies. It will also include but will not be limited to any documents generated by the Council itself.

3. During the aforementioned period has the Council received any other application which involves work on the property and or its interiors and or its ground. If the answer is yes can you please provide a copy of the application(s) In the case of each application can you please provide a copy of all documentation held by the Council including correspondence and emails. This documentation will include but will not be limited to correspondence and communications (including emails) with the owners and or the tenants and or the managers of the property – as well as any architect or agent, or lawyer on their behalf. It will also include but will not be limited to any sketches or designs, photographs. It will also include but will not be limited to surveyor's reports, relevant designs, correspondence with local residents and other interested parties including conservation

groups and public bodies. It will also include but will not be limited to any documents generated by the Council itself.

4. Irrespective of whether there have been any applications of the kind outlined above – can the Council please provide copies of all correspondence and communications (including emails) with the owners and or the tenants and or the managers and or the agents of Anmer Hall. Please also include copies of correspondence and communications with any one architect and or agent and or lawyer acting on behalf of the property.”

5. On 5 November 2014 the complainant wrote to the Council again. In his email the complainant submitted a new request under the terms of the one he made on 11 October: This time the complainant placed the following caveats on his request:

“Please redact All information which relates to the actual internal and external security arrangements for the property.

Please do NOT include any photographs and or sketches and or designs which feature the exterior or the property or its grounds.

Please do NOT include any photographs and or sketches and or designs which feature security arrangements relating to the inside of the property.”

6. On 9 December 2014 the Council responded to the complainant’s second request. The Council stated that, it is of the view that all of the information in the scope of the initial request remains in the scope of your refined request, which would be exempt under Regulations 12(1)(a) and (b) and 12(5)(a) of the EIR.
7. The Council advised the complainant that it had consulted with the Cabinet Office and had decided that the information he seeks would prejudice national security if it were to be put into the public domain. The Council informed the complainant that security operations in place could be compromised and disclosure would allow research to be undertaken into those operations. The Council stated that it would not disclose any information that may expose individuals now or in the future to a risk of harm.
8. On 9 December 2014 the complainant wrote to the Council to ask it to carry out an internal review of its decision to withhold the information he seeks.
9. The Council completed its internal review and wrote to the complainant on 22 January 2015 to advise him that it had decided to uphold its

original decision to withhold the information in reliance on Regulation 12(5)(a) of the EIR.

Scope of the case

10. The complainant contacted the Commissioner on 27 February 2015 to complain about the way his request for information had been handled. The complainant expressed his belief that the information should be made available to the public under the provisions of the EIR. He stated that some of the works carried out at Anmer Hall had been publicly funded and had been subject to speculation by the media. He therefore proposed that there are strong public interest grounds for releasing the material.
11. This notice is the Information Commissioner's determination as to whether the Borough of King's Lynn and West Norfolk Council is entitled to rely on regulation 12(5)(a) of the EIR to withhold the information which the complainant seeks.

Reasons for decision

Relevant background information

12. Anmer Hall is a property on Her Majesty The Queen's estate at Sandringham. It has undergone alterations and is occupied by the Duke and Duchess of Cambridge and their family. The Duke is second in line to the Throne. The information sought by the complainant consists of planning files relating to alterations made at the Hall.
13. The Borough Council is the local planning authority. It holds the withheld information. During the planning process the withheld information was not placed into the public domain, although in ordinary circumstances this would be normal practice. The planning files were made available for viewing by statutory consultees on a strictly supervised basis.

Regulation 12(5)(a) where disclosure would adversely affect international relations, defence, national security or public safety

14. Regulation 12(5)(a) of the EIR provides an exception to the duty to disclose environmental information, where disclosure would adversely affect international relations, defence, national security or public safety.
15. The Council has confirmed its position to the Commissioner that disclosure of the withheld information would adversely affect national security and the safety of the public. The Council's application of

Regulation 12(5)(a) is founded on the fact that Anmer Hall is the residence of senior members of the Royal Family and lies in a rural location. The Council has drawn the Commissioner's attention to recent events which have resulted in a heightened level of threat to the security of the United Kingdom.

16. This being the case, the Council considers that withholding the requested information is fundamental to the maintenance of national security, in the context of the United Kingdom's constitutional arrangements.
17. The Council explained at great length its reasoning for withholding the requested information on grounds of national security. This extends to the extraordinary media interest in the lives of senior members of the Royal Family and the security risks which arise, in particular the threat of terrorist attacks. These arguments are well known and accepted. They do not need to be reproduced in this notice.
18. The Commissioner has taken all these reasons into account and has no hesitation in finding that disclosure would adversely affect national security, such that the exception is clearly engaged.

Regulation 12(5)(a) is subject to consideration of the public interest test required by Regulation 12(1).

The public interest

Arguments in favour of disclosing the requested information

19. The Commissioner considers that some weight must always be given to the general principle of achieving accountability and transparency through the disclosure of information held by public authorities.
20. Disclosure of information held by public authorities can assist the public in their understanding of how public authorities make their decisions and the basis of them. In turn, disclosure fosters trust in public authorities and may allow greater public participation in the decision making process.
21. In this case, disclosure of the requested information would help the public to understand some of the issues in the council's consideration of any planning applications made in respect of Anmer Hall.
22. The Commissioner accepts that there is a very high degree of interest and general public curiosity, nationally and internationally, in matters concerning members of the Royal Family and their residences.

Arguments in favour of withholding the requested information

23. It is clear to the Commissioner that disclosure of the requested information would make it easier for those with a terrorist or criminal intent to research and plan acts against the property and its residents.
24. Disclosure of this information would place into the public domain accurate and authoritative information. This information could be used by itself or in conjunction with other publicly available information to perpetrate terrorist or criminal acts at the property.
25. Any threat to members of the Royal Family must be considered a threat to the United Kingdom's constitutional arrangements and therefore to the national security of the United Kingdom. Very clearly, this is fundamentally contrary to the public interest.
26. The Commissioner recognises that this is a case where the public would be interested in the requested information, but this does not necessarily equate to the public interest.
27. The Commissioner is also mindful of the position of those charged with protecting members of the Royal Family and also ordinary members of the local community. The Commissioner considers that it cannot be in the public interest for unprotected members of the public and security personnel to be placed in a position of vulnerability by disclosing information contained in the planning files. He agrees with the Council that security personnel and members of the public in the vicinity of Anmer Hall would be put at a much greater risk of terrorism or other criminal acts should disclosure of the withheld information be made. This would be contrary to the public interest.

The balance of the public interest

28. It is clear to the Commissioner that disclosure of the withheld information could lead to greater transparency and accountability in the planning processes undertaken by the Council. The Commissioner does give some weight to this.
29. Nevertheless, the Commissioner cannot reconcile the public interest in transparency and accountability with the potential impact that disclosure could have in respect of the safety of Anmer Hall and its occupants.
30. Considering the constitutional significance and public profile of the Duke and Duchess of Cambridge, it would be reckless and irresponsible for the Council to place them under added and unnecessary risk by disclosing the requested information. The Commissioner considers the inherent public interest in safeguarding the national security of the United

Kingdom is very great indeed and far exceeds any public interest in the disclosure of the withheld information in this case.

31. The Council was therefore not only entitled to withhold the information requested by the complainant by virtue of Regulation 12(5)(a) but was entirely right to do so.

Right of appeal

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

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

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

33. 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.
34. 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

Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF