

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 March 2021

Public Authority: London Borough of Ealing

Address: Percival House
14/16 Uxbridge Road
Ealing
W5 2HL

Decision (including any steps ordered)

1. The complainant requested from the London Borough of Ealing ("the Council") information relating to a specific planning application.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 20 November 2020, the complainant wrote to the Council and requested information in the following terms:

"I would like to know the following in relation to Planning Application no 201141FUL 178 Church Road Hanwell W7 3BP.

- *Details of any conversations, meetings or emails that any Planning Officials or Councillors have had with Luxgrove Capital Partners or their agents including Savills regarding the above planning application from 23 September to 20 November 2020 inclusive. Please can these be supplied in date order with the earliest date first. [Name redacted] is the Case Officer.*
 - *The Council's policy and any written guidance on how meetings and telephone conversations between Councillors/Council officials (including the planning department) and developers or their agents are recorded, filed and stored within Ealing Council."*
6. The Council wrote to the complainant on 23 November 2020 to acknowledge the request. By the date of this notice the Council had not provided the complainant with a substantive response to her request.

Scope of the case

7. The complainant contacted the Commissioner on 10 February 2021 to complain about the Council's failure to respond to her request.
8. The Commissioner contacted the Council on 22 February 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. The Commissioner also contacted the complainant on 22 February 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to her request.
10. The complainant provided evidence that she received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to her information request.
11. The scope of this notice and the following analysis is to consider whether the Council complied with regulation 5(2) of the EIR.

Reasons for decision

Was the requested information environmental?

12. Regulation 2(1)(c) of the EIR defines environmental information as being information on:

"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;"

13. The Commissioner notes that the wording of the request is for information about a planning application. She believes that this is likely to be information about policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in regulation 2(1)(a) and regulation 2(1)(b). For procedural reasons, the Commissioner has therefore assessed this case under the EIR.

Regulation 5

14. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

15. Regulation 5(2) of the EIR states that:

"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."

16. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the EIR.
17. From the evidence provided to the Commissioner in this case, it is clear that the Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.

Right of appeal

18. 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@justice.gov.uk

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

19. 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.
20. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
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Cheshire
SK9 5AF**