

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 April 2022

Public Authority: London Borough of Croydon

Address: Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Croydon ("the Council") relating to notes taken during a pre-application planning meeting held on 17 December 2021. By the date of this notice, the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has 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 13 February 2022, the complainant made the following request for information to the Council:

“Dear [REDACTED],

Thanks for this. In that case could you please supply your notes? These are disclosable (for example under FOI which covers all recorded material). I trust in the circumstances that you will not stand on the 20 working day wait, which would fall outside the closing date for comments.

It is important that those who may be affected by planning applications should have complete factual and balanced information, which the pre App process provides from Council experts. As to the applicant, they have chosen to apply before receiving the formal pre App advice. It is their choice and contrary to the Council's emphatic advice.

A scan of handwritten notes would be fine assuming it's in a hand better than mine. I am keen that the notes are clearly original and not clouded by anything that could create a different perception.”

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 14 March 2022 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 21 March 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Council has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

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

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

12. 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."

13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF