

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 20 December 2023

**Public Authority:** Buckinghamshire Council  
**Address:** The Gateway  
Gatehouse Road  
Aylesbury  
HP19 8FF

#### **Decision (including any steps ordered)**

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1. The complainant has requested information with regards to agricultural restrictions on properties in a specific area. Buckinghamshire Council (the council) refused the request under regulation 6(1)(b) of the EIR – Form and format, based on the information being available in the public domain.
2. The Commissioner's decision is that regulation 6(1)(b) of the EIR is engaged. He also used his discretion to determine that regulation 6(1)(a) of the EIR is also applicable in this case - reasonable to make the information available in another format.
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 4 May 2023 the complainant made the following information request to the council:

"...how many properties have Agricultural restrictions or covenants on them in Chequers lane, Cadmore End, High Wycombe, Bucks.

And which properties these are.

Any property that has farming restrictions in place or removed and when it was removed.

Any application for removal of such ties – which properties and when was this application. What was the outcome of the application.

Present day how many properties are still in receipt of these restrictions.

How would someone apply for removal of the agricultural tie – what notifications of the application would be circulated and where?"

5. The council responded on 5 June 2023 stating that the information was available in the public domain, providing a link to its website.
6. The council then provided a second response on 6 July 2023 refusing the request under regulation 6(1)(b) of the EIR – Form and format, based on the information being available in the public domain. It provided the complainant with further details on how to locate the information.
7. The complainant requested an internal review on 9 July 2023 stating that the links do not provide the information requested.
8. The complainant also rephrased the request stating:

"Which houses in Chequers Lane, Cadmore End have an agricultural restriction placed on them today 2023.

Which houses in Chequers Lane, Cadmore End have applied to have this agricultural restriction removed?

How many of these applications have been successful?...

...I would also like to see the applications, if any, and the outcome of applications to remove agricultural ties on the properties."

9. The council provided its internal review on 13 July 2023, maintaining its initial response. It also said that it is not required to create information

to satisfy a request and that there is no ready-made list that it can provide. It would have to go through the publicly available information itself in order to provide the information requested, and as the information is already publicly available, it would be unreasonable under the circumstances to expect it to do so.

## Scope of the case

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10. The complainant contacted the Commissioner on 3 August 2023 to complain about the refusal of the request.
11. During the Commissioner's investigations the council provided the complainant with further detail on how to obtain the information, providing a link to its planning portal<sup>1</sup>. It also provided a link<sup>2</sup> to view historic applications that are older than 30 years. And lastly a link to its website<sup>3</sup> detailing how the complainant can arrange to visit its office to inspect the records.
12. The scope of the case is for the Commissioner to determine whether the council is correct to rely on regulation 6(1)(b) of the EIR to refuse the refined request. He has also used his discretion to consider whether regulation 6(1)(a) of the EIR would also be applicable in this case.

## Reasons for decision

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### Regulation 6(1)(b) of the EIR – Form and Format

13. Regulation 6(1)(b) of the EIR states:

“(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-

(b) the information is already publicly available and easily accessible to the applicant in another form or format.

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<sup>1</sup> <https://publicaccess.wycombe.gov.uk/idoxpa-web/>

<sup>2</sup> <https://mywycombe.wycombe.gov.uk/myWycombe.aspx>

<sup>3</sup> <https://www.buckinghamshire.gov.uk/planning-and-building-control/view-historical-planning-applications-and-records/>

14. In this case, the council has explained that the complainant can use its planning portal to check the specified area for any restrictions for the past 30 years. These restrictions would be either recorded either as a condition on a permission or as a planning application for a dwelling.
15. Searching for older records requires checking an index, usually a plotting card or map, with the application details held on microfiche. These again can be viewed online via the link provided to the complainant.
16. The public are also able to arrange to view the microfiche records at its offices.
17. The council has stated that it does not hold the information in any other way. A search of its records, as described, would be required in order to obtain the information.
18. The Commissioner notes that there are only a few houses on the lane in question. On review of the council's explanations, the Commissioner is therefore satisfied that the information is easily accessible to the complainant for the purposes of regulation 6(1)(b). The council is therefore entitled to rely on regulations 6(1)(b) of the EIR to refuse to provide the requested information.

Regulation 6(1)(a)

19. The Commissioner has used his discretion in this case as to whether regulation 6(1)(a) of the EIR would also be engaged. Regulation 6(1)(a) applies where it is reasonable for the public authority to make the information available to the requestor in another format to that requested.
20. As the council has told the Commissioner that the planning portal is the only place/ format the information is held, and that it would need to carry out exactly the same searches as the complainant would in order to respond to the request, the Commissioner is satisfied that this limb of the exception would also be applicable to the request in this case.

## Right of appeal

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21. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

22. 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.
23. 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 .....**

**Ian Walley**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**