

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

### **Decision notice**

**Date:** 18 September 2018

**Public Authority:** Cambridgeshire County Council

**Address:** Shire Hall  
Castle Hill  
Cambridge  
CB3 0AP

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

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1. The complainant has made two information requests about various specified locations in Ramsey, Cambridgeshire. Cambridgeshire County Council ("the Council") responded by either providing held information, requesting clarification, or confirming that it does not hold the requested information.
2. The Commissioner's decision is that in respect of request 1 and request 2 (parts 1, 3 and 4) the Council does not hold the requested information, or does not hold any further information described in the request which has not previously been disclosed to the complainant. In respect of request 2 (part 2) the Council has correctly sought clarification under regulation 9(2) by providing appropriate advice and assistance; as the complainant has not provided such clarification the exception provided by regulation 12(4)(c) is engaged.
3. The Commissioner does not require any steps to be taken.

## Request and response

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4. On 11 October 2017, the complainant submitted request 1:

*I note that you submitted a Planning Application Reference 15/00587/FUL Installation of footbridge to allow continuation of right of way across High Lode river, plus widening of existing footpath | Land Between Mugglestons Lane And Abbey Rooms Lane Ramsey.*

*Would you kindly provide me with the names, service addresses and Title Deeds References of the owner(s) of the land between Mugglestone Lane and Abbey Rooms Lane. I note that your Council sought and received their permission to widen the footpath.*

*The Land Registry Title Deeds have to date not been updated to show the legal owners of the land in question.*

5. The Council responded on 12 October 2017. It stated that no information was held, and directed the complainant to the Land Registry.

6. On 9 November 2017 the complainant submitted request 2:

*1. What is the legal status of the vehicle access and right of way from/to the former Territorial Army Drill Hall and Methodist Chapel site [UPRN 010000160854] over the "Sixth Private Carriage Road" over the privately owned Flag Holt Common [UPRN 010009225920] and privately owned Mugglestone Lane [UPRN 010012046145] from/to the Classified publicly maintained Public Carriage Road named the High Street, Ramsey.*

*2. What is the legal status of the vehicle footway crossover and access way from/to the classified publicly maintained Public Carriage Road named the High Street, Ramsey that serves No 49 and No 45, No 47, and the former Territorial Army Drill Hall and Chapel site [UPRN 010000160854].*

*3. Who is the legal owner of Flag Holt Common [UPRN 010009225920]?*

*4. Who is the legal owner of Mugglestone Lane [UPRN 010012046145]?*

7. The Council responded on 24 November 2017. It disclosed information in respect of question 1, asked for clarification in respect of question 2, and stated that no information was held in respect of questions 3 and 4.

8. On 25 November 2017, the complainant asked the Council to undertake an internal review; but did not provide clarification in respect of question 2.
9. Following internal review of its responses, the Council wrote to the complainant on 13 December 2017 and 28 December 2017. It maintained that its responses to request 1 and request 2 were correct.

### **Scope of the case**

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10. The complainant contacted the Commissioner to complain about the way his requests for information had been handled. The requested information is about the land, roads and built environment close to the complainant's home. The Council has dealt with the requests as seeking environmental information under the EIR. The Commissioner agrees that the requested information is environmental information.
11. The Commissioner considers the scope of the complaint is that the Council has not provided valid responses to the two requests. The Commissioner's investigation has therefore been to determine, to the normal civil standard of 'the balance of probabilities', whether the Council holds information described in the request which has not been disclosed to the complainant, and whether the Council has otherwise complied with the terms of the EIR.

### **Reasons for decision**

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#### **Regulation 5(1) – Duty to make information available on request**

12. Regulation 5(1) of the EIR states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions that may apply.
13. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
14. In the circumstances of this case the Commissioner will determine whether, on the balance of probabilities, the Council has complied with the request by disclosing all relevant held information.

#### Context

15. The Commissioner understands (from comments received from both the complainant and Council) that the information sought by the two requests is the same as that which has previously been requested by the complainant in 2010 (and which was subject to Decision notice FER0397352, issued on 30 January 2012). In particular, the Commissioner notes that request 2 has the exact wording of the request made in 2010.
16. The Commissioner further understands that the basis on which the complainant has made further requests for the information is that the Council has since made a planning application in respect of certain land.
17. This planning application was made to Huntingdonshire District Council (as the relevant planning authority) in 2015, and it was processed under the reference of *15/00587/FUL*. The relevant documentation to this planning application is publicly available on the online planning portal managed by Huntingdonshire District Council.
18. The complainant believes that the Council's submission of this planning application means that it now holds the information he originally requested in 2010.

#### The Council's position

19. The Council has asked the Commissioner to refer to the previous Decision notice issued in 2012, which contained a full consideration of the Council's position on the substantive matter that these two requests relate to.
20. In respect of request 1 and request 2 (parts 3 and 4), which seek information about land ownership, the Council has informed to the Commissioner that its position remains the same as previously considered by the Commissioner in Decision notice FER0397352. The Council has explained that it is under no legal obligation to record the ownership of private land or private rights of way, and likewise, owners of such are under no legal obligation to inform the Council of this. Instead, such information is held by the Land Registry as the relevant public authority.
21. Whilst incidental information about private ownership (or claims of) on a specific date may be held by the Council (for example, in matters involving public rights of way), such information is not updated, and the Council does not have the ability to confirm the current legal owner of private land or private rights of way. The Council further notes that whilst it still holds recorded information about the two parties who were given as land owners in the planning application of 2015, this

information is already publicly available and easily accessible to the complainant (who has directly referred to having accessed it).

22. In respect of request 2 (part 1), which seeks the legal status of a 'vehicle access and right of way' the Council has advised the Commissioner that it has consulted with the relevant planning team, who have confirmed that the Council's position remains the same as previously considered by the Commissioner in Decision notice FER0397352. The Council has directed the complainant to the recorded public footpaths contained in the 'Definitive Map and Statement', but maintains that it is under no legal obligation to record the ownership of private land or private rights of way, and likewise, owners of such are under no legal obligation to inform the Council of this.

#### The Commissioner's conclusion

23. The Commissioner understands that the requests in this case have been made following a planning application made by the Council in 2015 (in respect of changes to a public right of way).
24. Whilst the Commissioner has noted this context, the available evidence indicates that, in respect of request 1 and request 2 (parts 1, 3 and 4) there has been no substantive change to the Council's position since Decision notice FER0397352, and that the Council does not hold any statutory responsibility to record the current legal ownership of private land and private rights of way. As such, it is reasonable for the Commissioner to conclude that the Council will not hold information about the legal ownership of private land or private rights of way on the dates that the complainant made the two requests.
25. Whilst it is understood that the Council recorded the names and addresses of those parties (which it understood to be owners) within the planning application made in 2015, it is noted that this information is publicly available and easily accessible to the complainant.
26. The Commissioner understands that the Land Registry is the relevant public authority in respect of the legal ownership of land, and the Commissioner notes that the complainant has both contacted, and received information from, the Land Registry in February 2018 in relation to this request.
27. Having considered the above factors, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold further information beyond that which has been made available.

#### **Regulation 12(4)(c) – Requests formulated in too general a manner**

28. Regulation 12(4)(c) of the EIR states:

*For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that-*

*(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9...*

29. Determining whether a request has been framed in "too general a manner" will depend on the particular facts of each case. The words "too general" refer to a request that is too unclear or non-specific for the authority to identify and locate the information requested, or a request that is ambiguous, and therefore could be interpreted in more than one way.
30. When in doubt, the authority should seek clarification of the meaning of the request.
31. In this case, the Council asked the complainant to clarify request 2 (part 2). This part seeks the legal status of a 'vehicle footway crossover and access way', and the Council asked the complainant to indicate (on a provided plan) the precise area that the information is sought about. The Council has informed the Commissioner that it understands part of the area described in the request is public highway, and part of it is privately owned; however without knowing the area that the complainant is interested in, the Council cannot provide a correct response.
32. The Commissioner understands that the request seeks the legal status of an access way, and that such status will differ based on location. In such a scenario the Commissioner accepts that it is necessary for the Council to seek clarification of the request, as without receiving such clarification it cannot properly consider the request under regulation 5(1). The Commissioner has considered the complainant's request for an internal review (of 25 November 2018) and notes that it does not provide this clarification.
33. The Commissioner therefore finds that regulation 12(4)(c) applies to request 2 (part 2).

#### Public interest test

34. As with all EIR exceptions, regulation 12(4)(c) of the EIR is subject to the public interest test.
35. The act of seeking clarification for the request would, of necessity, cause some delay to the complainant. However, if the Council did not seek to clarify the request there is a considerable chance that it may provide

information that is not being sought; wasting both time and resources of the Council and the time of the complainant.

36. The Commissioner therefore finds that the public interest lies in the Council requesting clarification of the request, rather than disclosing what could be the wrong information.

### **Regulation 9 - Advice and assistance**

37. Regulation 9(2) of the EIR requires a public authority to provide advice and assistance "*so far as it would be reasonable to do so*" when it receives a request that is formulated in too general a manner.
38. In this case, the Commissioner has viewed the Council's response and has noted that it clearly identified to the complainant which part of the request it required clarity on before it could proceed. The Council sought clarity by providing plans on which the complainant could indicate the area of land he was interested in. However, the complainant did not provide any response to this. The Commissioner therefore accepts that no clarification has been provided for the Council to be able to respond further.
39. The Commissioner therefore finds that the Council has complied with regulation 9(2). As such, the option remains with the complainant to provide clarification in respect of request 2 (part 2) should he wish to do this.

## Right of appeal

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40. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

41. 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.
42. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
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