



NCN: [2024] UKFTT 812 (GRC)

Case Reference: EA/2023/0139

First-tier Tribunal
General Regulatory Chamber
Information Rights

Heard: Determined on the papers
On: 1 December 2023
Decision given on: 9 September 2024

Before

TRIBUNAL JUDGE JACQUELINE FINDLAY
TRIBUNAL MEMBER PIETER DE WAAL
TRIBUNAL MEMBER EMMA YATES

Between

BRISTOL CITY COUNCIL

Appellant

and

THE INFORMATION COMMISSIONER

First Respondent

HELEN POWELL

Second Respondent

Decision

The appeal is Allowed.

Bristol City Council (the Council) was entitled to rely on regulation 12(4)(b) of the Environmental Information Regulations 2004 (EIR) as a basis for refusing the Requests.

REASONS

Background and Request

1. This appeal is brought under s.57 of the Freedom of Information Act 2000 (FOIA), as modified by regulation 18 of the EIR against the Decision Notice (DN) of the Information Commissioner (the Commissioner) dated 10 February 2023 with reference IC-156483-G0T3 which is a matter of public record.
2. The parties opted for a paper determination of the appeal. The Tribunal was satisfied that it could properly determine the issues without a hearing within rule 32(1)(b) of The Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009, as amended (the Rules).
3. In reaching its decision the Tribunal took into account all the evidence before it in an agreed open bundle and closed bundle and made findings on the balance of probabilities.
4. It is necessary to withhold the information in the closed bundle because it contains the withheld information and to do otherwise would defeat the purpose of the proceedings.
5. The full details of the background to this appeal, Ms Powell's request for information (the Request) and the Commissioner's decision are set out in the DN.
6. Ms Powell, acting on behalf of a local community group We Love Stoke Lodge (WLSL) raised concerns with the Council about the condition of the walkways around the perimeter fence of Stoke Lodge Playing Fields (the Playing Fields). Ms Powell made Request 1 on 23 August 2020 and repeated it on 23 May 2021 for information held by the Council about the Playing Fields, in the following terms:

“please would you provide copies of your correspondence and/or any notes of discussions (internally and/or with Cotham School) about this issue.”

7. Ms Powell, acting as a member of WLSL, raised concerns with the Council about works carried out on the pavilion at the Playing Fields. Request 2 was made on 15 December 2021 in the following terms:

“disclosure of all notes and minutes of discussions/meetings with Cotham School and all correspondence to and from the school, in relation to works to the pavilion (including additional external works), from 27 September 2019 to date.”
8. The Council responded on 20 January 2022 and refused the Requests on the basis that s. 14 of FOIA applied (vexatious request).
9. The Council provided one response to three internal review requests it had received from Ms Powell (including Requests 1 and 2). The Council upheld its previous decisions to refuse the Requests under section 14 of FOIA.
10. Following an internal review, the Council wrote to Ms Powell on 3 August 2021. It amended its response to state that regulation 12(4)(b) of the EIR applied (manifestly unreasonable requests).
11. Ms Powell contacted the Commissioner on 2 September 2021 to complain about the way her Requests for information had been handled.
12. The Commissioner considered that the Requests were not manifestly unreasonable and the Council was not correct to apply regulation 12(4)(b) of the EIR to refuse the request.
13. The Commissioner required the Council to respond to the Requests again without relying on regulation 12(4)(b) to refuse the Requests.
14. The Commissioner found a breach of regulation 14(2) of the EIR as the Council failed to issue a refusal notice in response to either request within 20 working days.
15. The Council lodged an appeal dated 10 March 2023.

The Council's grounds of appeal

16. The decision reached by the Commissioner was incorrect. The exception in regulation 12(4)(b) of the EIR was engaged. This decision is linked to DN IC-127328-V0W6 in which the Commissioner set out his position in relation to the broader issue of the numerous requests received in relation to the Playing Fields.
17. The Council accepts that, in isolation, the Requests relating to the condition of the walkway and/or the planning permission relating to the pavilion would be reasonable, however, the Commissioner has erred in failing to give sufficient weight to the circumstances behind the Requests.
18. The Playing Fields are owned by the Council and were let to the Cotham School (the School) on a long lease in 2011. The School erected a fence around part of the Playing Fields. As is its right, the community group has and continues to explore every legal avenue available in order to try and get the fence removed. One of the options being pursued by the group is to create sufficient burden by the weight of information requests, complaints and questions at meetings as to persuade the Council to attempt to resolve the issue in its favour, so as to prevent the continuing burden.
19. The Commissioner in a previous decision stated that he "is satisfied that an issue such as this is likely to raise concerns which many parties may decide to make requests over. As such, the Council is likely to receive a large number of requests from parties interested in its actions in the various different capacities in which it acts." The logical progression of this statement is that it is not possible for a request in relation to these Playing Fields to be 'manifestly unreasonable' unless it was either stated to be for the purposes of harassment or a very high number of requests were submitted by a single individual, both of which are easily avoidable. On this basis, a reasonably well-organized community group may orchestrate a campaign designed to cause harassment against a public authority with impunity for any such period of

time as is necessary in order to achieve its aim, on which basis the Council believes the Commissioner to have erred.

20. It is possible to infer that there was a campaign and the Council asserts that the breadth of the requests adds weight to that inference, rather than the alternative conclusion reached by the Commissioner. That combined with the period of time over which the requests have been submitted are sufficient to evidence a campaign on the balance of probabilities. Furthermore, it is the Council's position that the overall burden placed upon the authority over a sustained period of time (four and a half years) is unreasonable.
21. These Requests were made by Ms Powell who is the self-identified spokesperson of the WLSL. Whilst there are inherent evidential difficulties in determining that requests from individuals are related to a group campaign (whether co-ordinated by WLSL or otherwise), the Council is of the view that at the very least in relation to those that actively identify themselves as being part of the group, there is a stronger case to be made and the Commissioner has not given the appropriate weight to this. The Council asserts that, whilst there are difficulties in identifying whether individual requests are co-ordinated by WLSL, there is, on the balance of probabilities, a campaign taking place and that Ms Powell is, by clearly identified association with WLSL, key to that campaign. On that basis, these Requests should reasonably be considered in the light of being part of a broader campaign.
22. The Council set out the background and history to the matter and details of the previous legal proceedings in its Final Submission. The Council invited the tribunal to consider it plausible that there are alternative political outcomes which have not been considered by Ms Powell.

The Information Commissioner's Response

23. The Commissioner opposes the appeal and submits that the appeal should be dismissed.

24. Campaigns are not in themselves vexatious; the existence of a campaign may reflect concern about a particular issue and a weighty public interest in disclosure of the information.
25. It is accepted that a public authority may be able to categorise a request for information as 'vexatious' or 'manifestly unreasonable' if there is evidence of a campaign to disrupt the public authority by the weight of requests for information being submitted.
26. The Requests are from Ms Powell who is evidently linked to WLSL (an organisation which might be said to be a 'campaigning' organisation). These points do not however automatically render the Requests as 'manifestly unreasonable'; a bare link between the Requests and WLSL is insufficient to engage regulation 12(4)(b) EIR.
27. There is insufficient evidence to support a claim that the Requests are so similar to each other or other requests received that they evidence or indicate a campaign to disrupt the public authority and there is no information or evidence to suggest that the Requests are so voluminous that compliance with them places a grossly oppressive burden on the Council.
28. The Commissioner has concerns that the Council is seeking to apply a blanket approach to requests received about the Playing Fields from the group. The issues raised are of public importance both from the view of public access to formerly open public space but also from the point of protecting the land and landscape within and around the site. There are health and safety aspects relating to the use of the land also.
29. The Council has not sufficiently justified its position to infer that the group is acting in concert in terms of making information access requests with a view to deliberately harassing the council into changing its position. The Commissioner does not accept that the receipt of such requests would have the effect of causing distress to Council

officers, but he accepts that they may be irritated by the number of requests received overall relating to the site, particularly if the same issues arises within those requests.

30. The Commissioner suggests witness evidence and documentation which the Tribunal wish to consider in reaching an evidenced-based decision. The Commissioner refers to his non-statutory guidance on regulation 12(4)(b) EIR that public authorities will be expected to be able to support the application of regulation 12(4)(b) with evidence which could include detailed costs estimates, sample correspondence, correspondence logs or other documentary evidence.

Ms Powell's grounds of opposition

31. Ms Powell opposes the appeal.
32. Ms Powell submits that the unspecified material in the closed bundle is referred to in paragraph 38 of the earlier DN (reference IC-127328-V0W6) and this decision was not challenged by the Council and is not now open to appeal.
33. The closed bundle should only contain the 'disputed information' and 'any information which is necessary for the Judge/Panel to consider and which cannot be in the open bundle'. This material is likely to be about the response of Council officers (that is, whether the Council considers that it should be categorised as 'distress' rather than 'irritation'); however, the key issue in this appeal is whether WLSL is a campaign which has the objective of harassing the Council.
34. The Council states that it was not the intention of the campaign to cause distress, but rather that it was calculated to create sufficient burden and annoyance in order for the Council to intervene on behalf of WLSL in order to have the fence removed. She does not see why material should be in the closed bundle which demonstrates the alleged objective because it would have presumably originated from WLSL.

35. Ms Powell is concerned that as the Appendices provided by the Council contain mistakes and inaccuracies the closed bundle may be equally inaccurate and misleading and would not be open to factual challenge or correction.
36. WLSL's objective has never been to burden or harass the Council or its officers but to restore unfettered public access via the appropriate legal process and to ensure the decisions in relation to the Playing Fields are properly and transparently made.
37. Some of her requests were made as part of her research and information-gathering and others were made by her or others on behalf of WLSL. She has no responsibility for request made by third parties. None of her Requests were made frivolously or with malicious intent.
38. The logical end result of the Council's attempt to class her personally as being responsible for an allegedly vexatious and hostile campaign, is that the spokespeople for any community group could be silenced and their right to request information from the Council would, for practical purposes, be removed.
39. WLSL's aim is to protect the community's access to and enjoyment of this historic parkland. It is not a negative campaign against the Council, it is a positive campaign to protect important open space for future generations. To carry a campaign of this nature to completion requires extraordinary levels of resilience and stamina as well as the commitment of hundreds of hours of research. The campaign has been clean, respectful and considerate.
40. WLSL has become a point of liaison between the Council and the wider community and reduces the amount of correspondence with which the Council would otherwise have to deal.
41. The Council has agreed that the Requests are reasonable in themselves. If Request 1 had been dealt with in a timely manner it would not have been rejected. The fact that Request 1 was ignored for an egregious length of time cannot make it manifestly unreasonable. Both Requests arose out of correspondence which appears in the

bundle (C112 to 118, D131 and 132 and D144 to 146) and a response to WLSL regarding the pavilion works. This was noted by the Commissioner and weakens the Council's argument.

42. It would be significantly less of a burden for the Council to respond to the Requests rather than to repeatedly dedicate time and resources to trying to avoid disclosing the information requested, especially when the context for the Requests shows that the reason for making them is entirely justified and understandable.
43. Ms Powell has asked the Tribunal to provide guidance as to the parameters around this exception to assist in the making of future requests in other circumstances.
44. The number of requests relating to the fence, perimeter walkways and the pavilion were of significant public interest and were a normal public response to matters of public interest and not indicative of any organised campaign against the Council.
45. Ms Powell disagrees that a significant proportion of the requests are for the same material. The requests in Appendix 1 were made by different individuals with no explicit link to WLSL. There is no evidence of any intention on her behalf or on the part of WLSL to disrupt the Council by the weight of requests for information and there was no such intention.
46. When a community campaign continues over many years and addresses multiple different and evolving issues it is inevitable that multiple information requests are likely to be made. This does not make the campaign vexatious and the rights of access to information should not be restricted because a public authority opposes the objectives of the campaign or would prefer them to give up and go away.

The Applicable Legislation

47. A public authority that holds 'environmental information' is required to make it available on request (regulation 5(1) EIR).

48. “Environmental information” is defined in regulation 2(1) EIR as any information in written, visual, aural, electronic or any other material form on:

“(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) 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;...”

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).”

49. A public authority may refuse to disclose environmental information to the extent that the request is manifestly unreasonable (regulation 12(4)(b) EIR) and in all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosing the information (regulation 12(1)(b)).

50. There is a presumption in favour of disclosure (regulation 12(2)).

51. The purpose of regulation 12(4)(b) is to protect public authorities from exposure to a disproportionate burden or an unjustified level of distress, disruption or irritation in handling information requests.
52. The exception can be used:
 - (a) When the request is vexatious; and/or
 - (b) When the cost of compliance with the request is too great.
53. In *Craven v Information Commissioner & DECC* [2012] UKUT 442 (AAC) Judge Wikeley stated that:

“... in deciding whether a request is ‘manifestly unreasonable’ under the EIR, a tribunal should have regard to the same types of considerations as apply to the determination of whether a request is ‘vexatious’ within FOIA. The conceptual structure for decision making is different, but the outcome will surely be the same, whichever route is adopted. Insofar as a request is for environmental information, it therefore follows that the meaning of the expression ‘manifestly unreasonable’ is essentially the same as ‘vexatious’. (para 30).
54. The leading case on the approach for assessing vexatiousness is the case of *Information Commissioner v Devon County Council & Dransfield* [2012] UKUT 440 (AAC) (in particular paragraphs 24-39). On appeal, the Court of Appeal did not depart from the UT’s approach.
55. The Upper Tribunal set out four broad themes when considering whether a request is vexatious:
 - (a) The burden (on the public authority and its staff);
 - (b) The motive of the requester;
 - (c) The value or serious purpose of the request; and
 - (d) Any harassment or distress of or to staff.

56. The Upper Tribunal emphasised however that this was not a checklist and that:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (para 82).

57. In *Craven* the Upper Tribunal confirmed that public authorities could rely on regulation 12(4)(b) if the cost of complying with the request was excessive, but this would be subject to the public interest test:

“it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as ‘manifestly unreasonable’, purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent to section 12 of FOIA makes such a conclusion inescapable.”

Conclusions

58. The Tribunal considered whether it should adjourn to obtain further evidence and information (paragraph 30 above) and decided that there was adequate evidence to determine the appeal and it was not proportionate in all the circumstances to do so.

59. The Council is the freehold owner of the Playing Fields and a 125-year lease for the use of the fields was granted to the School when it became an Academy in 2011. There have been tensions between the School and members of the local community over the use of the Playing Fields ever since the lease was granted. The school erected a fence around the Playing Fields in 2018. WLSL is a community group dedicated to keeping the Playing Fields as an open space for use by the community and therefore is campaigning to have the fence removed. As part of the WLSL campaign there have

been two Town and Village Green applications, numerous Public Rights of Way applications, applications for Tree Preservation Orders, and a complaint to the Local Government and Social Care Ombudsman. It is clear that WLSL have been active and enthusiastic in using the various options available to it to campaign for the removal of the fence.

60. The Council is not directly involved in the dispute between residents and the School. However, the Council as the landlord of the Playing Fields, has a number of functions relating to the land, including being the local planning authority and the commons registration authority.
61. The Tribunal found that the Council's role has involved it in interacting with the WLSL, the local community and the School and this has resulted in a high number of information requests.
62. Any possible political decision which might deliver a satisfactory outcome for WLSL (referred to by the Council in its Final Submission) is not relevant to the tribunal's decision.
63. Regulation 12(4)(b) of EIR is designed to protect public authorities from exposure to a disproportionate burden or an unjustified level of distress, disruption or irritation in handling information requests. It is not, as suggested by Ms Powell, used by local authorities to frustrate the purpose of the legislation and avoid disclosure and transparency about matters that are of considerable local public interest. The legislation has not been used, as asserted by Ms Powell, to attempt to class her as personally responsible for an allegedly vexatious and hostile campaign.
64. The Tribunal found that the Requests were manifestly unreasonable, not Ms Powell, or WLSL and the campaign.
65. Ms Powell has requested that the Tribunal provide guidance as to the parameters around this exemption to assist in the making of future requests in other

circumstances. The Tribunal is concerned with the facts of this appeal and with the determination of this appeal only. Any future request should be dealt with on its facts.

66. Ms Powell submits that the unspecified material in the closed bundle is referred to in paragraph 38 of the earlier DN (reference IC-127328-V0W6) and this decision was not challenged by the Council and is not now open to appeal. The Tribunal has reached its decision on the basis of the evidence before it in this appeal and not on the basis of any other evidence.
67. Ms Powell is a self-identified organiser and spokesperson of WLSL which as stated by Ms Powell is a campaigning group which was formed and is active in the pursuit of getting the fence erected by the School removed. As Ms Powell stated she had a long correspondence on behalf of WLSL about the redevelopment/refurbishment of the pavilion and she has made a number of requests for information to the Council in connection with the campaign. In addition, the Council received various requests for information from members and associates of and on behalf of WLSL.
68. In reaching its decision the Tribunal considered the four broad themes set out in *Dransfield*.

The burden on the Council and staff

69. Between 1 January 2019 and 31 December 2022 the Council received 55 information requests and 52 complaints about matters relating to the Playing Fields and the pavilion. A large amount of the information requested used similar language, for example, referred to internal and/or external correspondence, and/or minutes of calls and meetings. The Tribunal found there was a link between the previous requests and Ms Powell's Requests.

70. In relation to Request 2, between 13 November 2019 and 27 April 2021 there were at least 34 requests relating to the pavilion, the refurbishment of the pavilion and the internal and external work at the pavilion.
71. In relation to Request 1, between 4 February 2020 and 21 October 2022 Ms Powell made 11 requests connected to the Playing Fields. On 11 May 2020 Ms Powell made a request for information for internal and external correspondence, notes and minutes of meetings or other discussions relating to meetings concerning the Playing Fields. On 29 April 2021 Ms Powell made a request for copies of the Council's correspondence and notes of discussions relating to a matter involving the Playing Fields. On 20 January 2022 Ms Powell made a request for all the notes and minutes of discussions/meetings with the School and all correspondence to and from the school, in relation to works to the pavilion on the Playing Fields.
72. The Council holds a large volume of information and it takes a substantial amount of time for information to be located and prepared for disclosure which creates a significant burden on resources.
73. The tribunal considered the two Appendices listing the information requests and complaints. Appendix 1 labelled Complaints regarding Stoke Lodge Playing Field includes 121 items. Ms Powell submitted that 30 of these complaints related to restricted access to the Playing Fields or to the dangerous state of the perimeter walkways, 29 complaints related to the refurbishment of the pavilion, 9 requests were from persons acting as an unofficial supporters group for the School, 18 requests (at least) come from the Bristol Tree Forum which is a separate and independent entity, 7 complaints are that previous complaints or requests have not been acknowledged or responded to. Of the remaining 20-30 line items some of these are repeated more than once.
74. Appendix 2 labelled Information Requests (FOIA/EIR) by Helen Powell lists 11 requests made by Ms Powell between 4 February 2020 and 21 October 2022.

75. The Tribunal found there was a connection between the terms and nature of the Requests and multiple other requests and a large number of requests had been submitted within a relatively short space or time and were very similar.
76. Taking into account the volume of requests, the nature and content of the requests and the breadth and volume of the data requested, including the volume of the data requested in the Requests, the Tribunal found that these amounted to an oppressive burden on the Council.
77. The Tribunal accepted that the purpose of the campaign was not to harass the Council or any individual officer, however, when considering the history of requests, the content and nature of the previous requests and the Requests connected to this appeal the Tribunal found that cumulatively there was an oppressive burden to the Council.
78. The Tribunal considered that the sustained period of time over which related requests had been made was a strong indicator that related requests would continue to be made in the future. The Tribunal took into account the anticipated burden of the future requests when assessing the burden.
79. The Tribunal considered the information in the closed bundle and accepted the overwhelming practicalities faced by an officer and the Council in dealing with the Requests, as set out in the Gist of the closed bundle.

The motive of the requester

80. The similarity in wording and content suggested a level of co-ordination indicative of an organised campaign. In relation to the eight requests made between January and August 2021 the nature and format of these requests indicates that they were made as a result of a connection to WLSL.
81. Although the existence of a co-ordinated campaign is not the same as evidence that the requests are manifestly unreasonable, the Tribunal found that the previous

requests and Ms Powell's Requests were connected and taken in that context the Requests were manifestly unreasonable.

82. In reaching its decision the Tribunal took into account the extensive interactions and detailed and lengthy correspondence between Ms Powell, on behalf of WLSL, and the Council.
83. The Tribunal found that the intention of the campaign was not to cause distress or to create sufficient burden and annoyance with a view to getting the Council to intervene on behalf of WLSL to have the fence removed.
84. The Tribunal did not find that the Council considered the campaign itself to be vexatious or that the right of access to information had been restricted because the Council opposed the objectives of the campaign or would like WLSL to give up and go away.
85. Taking into account the merit of the Requests, the limited value of the information sought and that WLSL is a campaigning body (as stated by Ms Powell), the Tribunal found it more likely than not that the Requests were connected to and part of that campaign.
86. The Tribunal found there was a strong link between the previous requests and Ms Powell's Requests.

The value or serious purpose of the Requests

87. The aim of WLSL is the removal of the fence. Request 2 has no direct bearing on the matter of the fence and, therefore, suggests there was limited purpose for the Requests.
88. The Tribunal found that the disclosure of correspondence between the Council and the School is of limited value to the public interest.

89. The Tribunal found that little weight could be attached to the serious purpose of the Requests taking into account the limited value of the information sought.
90. The Tribunal found the information would serve little public interest and would be likely to frustrate the Council's ability to address the enquiries and complaints which were also being raised.
91. The Tribunal found that the issues in the Requests would be of some interest to the local community as related to health and safety and a planning issue and it was reasonable to expect transparency about how such matters are dealt with, but weight should also be given to the circumstances relating to the Requests.
92. The Tribunal found that whatever purpose, merit or serious value there may be in the Requests this is outweighed by the burden and impact on the Council and staff (see below) by the Requests when taken in the context of the large number of other requests.

Any harassment or distress of or to staff

93. The Tribunal found that the cumulative result of the requests, including Ms Powell's Requests, had a detrimental effect and collective burden on the officers of the Council and led to substantial distress.
94. The Tribunal found that the burden and distress caused outweighs the relatively limited value of the information being requested.
95. The Tribunal has considered whether the value and purpose of the Requests justifies the distress, disruption or irritation that would be incurred by complying with them. Would a reasonable person think that the value and purpose of the Requests are enough to justify the impact on the Council? The Tribunal found on the evidence that dealing with the Requests should cause disruption and distress.

96. The Tribunal found that as the spokesperson for WLSL Ms Powell must bear a greater responsibility for the cumulative impact of the campaign.

Public Interest

97. In reaching its decision the Tribunal has borne in mind that in *Montague v Information Commissioner and the Department for International Trade* [2022] UKUT 104 (AAC), a three-judge panel of the Upper Tribunal decided that the public interest balance must be assessed on the basis of how matters stood at the time of the Council's decision on the Requests.
98. The Tribunal found that there would be a degree of public interest in the disclosure of the information requested if the Requests were considered individually and in isolation. However, the aggregate burden of dealing with all the requests had become disproportionate to their value when taken in context. The Tribunal found that the Requests, in context, serve only a limited public interest purpose and that the disclosure of correspondence between the Council and the School is of limited value to the public interest.
99. Taking into account the Tribunal's decision it is not necessary to consider the cost of compliance.
100. In reaching its decision the Tribunal has borne in mind that, under *Dransfield* "all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious."
101. The Tribunal found that the Council was entitled to refuse to disclose the information on the grounds that the Requests were manifestly unreasonable and in all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosure.

102. The Tribunal is satisfied that the Council was entitled to refuse to disclose the information sought in the Requests 1 and 2 but this cannot be taken to apply to any future requests which must be decided on their own merits and the Tribunal's decision cannot be taken as an indication that all future request relating to the Playing Fields would be manifestly unreasonable.
103. The Tribunal identified an incorrect exercise of the Commissioner's discretion in the DN and accordingly, the appeal is allowed.

Signed: Judge J Findlay

Date: 26 August 2024