



Freedom of Information Act 2000 (Section 50) Environmental Information Regulations 2004

Decision Notice

Dated 2 June 2006

Name of Public Authority: **Wolverhampton City Council**

Address of Public Authority: **Civic Centre
St Peters Square
Wolverhampton
WV14 8PP**

Summary Decision and Action Required

The Commissioner's decision in this matter is that the Public Authority has dealt with the Complainant's request in accordance with Regulation 5 of the Environmental Information Regulations 2004.

- 1. The Environmental Information Regulations 2004 ('the Regulations') and the Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**
 - 1.1 The Information Commissioner (the 'Commissioner') received an application for a decision whether the complainant's request for information made to the Public Authority has been handled correctly. Given the nature of the information requested the Commissioner has considered whether the request was dealt with in accordance with the requirements of Parts 2 and 3 of the Regulations.
 - 1.2 The enforcement and appeals provisions of the Act apply for the purposes of the Regulations as they apply for the purposes of the Act. For that reason the Commissioner considered the complaint under section 50 of the Act.
 - 1.3 Section 50 of the Act provides that where a complainant has made an application for a decision, unless:
 - a complainant has failed to exhaust a local complaints procedure, or
 - the application is frivolous or vexatious, or
 - the application has been subject to undue delay, or
 - the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

- 1.4 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

2. The Complaint

- 2.1 The Complainant has advised that on 4 January 2005 he requested the following information relating to the front boundary of his property from the Public Authority in accordance with section 1 of the Act:

- (1) When were the front fences erected?
- (2) What criteria (at the time the front fences were erected) did the council use that set the front boundary lines 2 and 35 so that their front boundary lines ran-in line with the end walls of the properties?
- (3) What criteria (at that time – August 1993) did Mr [Redacted Name] use that set the front boundary line between 15 and 11 as a short dog-leg?
- (4) What criteria (at the time – circa September 1998) did the council use that set the front boundary line between 15 and 17 so that it ran in-line with the internal wall of the dividing properties?
- (5) If the criteria used by Mr [Redacted Name] in 3 above, and the criteria used by another in 4 above, when did it change?
- (6) What department/departments would have been responsible for making the decision in 4 above?
- (7) If an open plan estate within the Wolverhampton City limits were to be constructed under the auspices of Wolverhampton Homes “What would be the criteria/principle/standard/condition/deciding factor whereby a boundary line is determined between the properties, at the front of the properties, if no boundary line exists on a map or plan?”
- (7.1) What Act (or Acts) of parliament (or law) would be utilised?

- 2.2 The Commissioner is of the view that the information requested by the complainant is environmental information, as defined in Regulation 2(1)(c) of the Regulations and for that reason the complaint should be considered under the Regulations.

- 2.3 The Public Authority responded to the request on 28 January 2005 as follows:

In response to items 1, 2 and 3 the Public Authority was unable to provide the information due to “the absence of the necessary documentation and the fact that the timescales involved were such that it was uneconomical to retain and store all documentation accumulated during this period”.

In response to items 2, 3, 4 and 5 the Public Authority advised that “no specific criteria are laid down in relation to individual housing property boundaries and the only legal boundary is that encompassing the full parcel of land on which any particular housing development is sited”.

In response to item 6 the Public Authority advised that the amendment was at the request of the respective tenants and at the discretion of the then Housing Department.

In response to item 7 the Public Authority advised that it was unable to provide a meaningful response as there has been no new development of Council housing stock since the late 1970's and there are no plans for new construction in the foreseeable future.

In response to item 7.1 the Public Authority provided details of relevant legislation.

- 2.4 The Complainant was not satisfied with the response he received and felt that the Public Authority had failed to provide him with the information he requested.

3. Relevant Statutory Obligations under the EIR

- 3.1 **Regulation 5(1)** provides that –

“Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

4. Review of the case

- 4.1 On 4 January 2005 the Complainant submitted a request to the Public Authority for information relating to the front boundary of his property.
- 4.2 The Public Authority responded to the request on 28 January 2005.
- 4.3 The Complainant was not satisfied with the response he received and wrote to the Public Authority on 3 February 2005 to express his dissatisfaction.
- 4.4 The Public Authority wrote to the complainant on 1 March 2005 to advise that it was of the view that all avenues available to pursue this long-running complaint had been exhausted and it would not be dealing with any letters received from the complainant in the style in which he chose to correspond. The Complainant was advised that if he was prepared to deal with the Public Authority in the appropriate manner he could contact either the Director of Law or the Chief Executive to discuss the matter further.
- 4.5 The Complainant wrote to the Commissioner for advice on how he could proceed in obtaining the information he was seeking and request a review of the response he had received from the Public Authority.
- 4.6 The Commissioner wrote to the Public Authority to advise that whilst we appreciated they had been dealing with this matter and the Complainant's unconventional style of correspondence for a significant period of time we would still expect that a review be undertaken.

- 4.7 The Public Authority confirmed in a letter to the Commissioner dated 17 July 2005 that it would be undertaking a review as required.
- 4.8 The review was completed in December 2005 with the Public Authority concluding that it was satisfied all information had been communicated to the Complainant.
- 4.9 The Complainant wrote to the Commissioner on 25 December 2005 to express dissatisfaction with the outcome of the review and to request an investigation into the alleged non-provision of information.
- 4.10 The Commissioner wrote to the Public Authority asking for the following:
- a) Confirmation that the information outlined in parts 1, 2 and 3 of the request is no longer held by the Public Authority and an outline of the steps that were taken to reach this conclusion.
 - b) Confirmation that no information exists relating to the criteria used by the Public Authority to determine individual housing boundaries and an outline of the steps taken to reach this conclusion. Clarification of the process involved in making decisions relating to individual property boundaries and details of any guidance or legislation relevant to this process.
 - c) Details of any policies in place relating to how the Public Authority would determine the position of a boundary where no boundary line exists on a map or plan.
- 4.11 The Public Authority provided the Commissioner with the following response:
- a) The Public Authority confirmed that no information is held relating to parts 1, 2 and 3 of the request. The Public Authority explained that the 'property description file' and 'house file' offer no explanation as to the sequence of events which lead to the change in the boundary. In addition, interviews with officers that were employed at the time the work was carried out have provided no answers.
 - b) The Public Authority confirmed that no specific criteria are laid down in relation to the aligning of property boundaries.
 - c) The Public Authority provided an outline of the normal sequence of events than would be undertaken in determining a boundary:
 - A full consultation process with the residents concerned would be conducted, including a presentation by officers taking questions;
 - A reasonable period of time would be allowed for residents views to be considered and assist in the steering of the decision;
 - A report would be prepared taking into account the views of the residents;
 - Residents would then be informed in writing of the decision before any change in the boundary takes place.

4.12 Having considered the information available the Commissioner is satisfied that the Public Authority does not hold information of the nature requested by the Complainant.

5. The Commissioner’s Decision

5.1 The Commissioner’s decision in this matter is that the Public Authority has dealt with the Complainant’s request in accordance with Regulation 5 of the Environmental Information Regulations 2004 (EIR).

6. Action Required

6.1 In view of these matters the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by the Public Authority.

7. Right of Appeal

7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.qsi.gov.uk

7.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 2nd day June of 2006

Signed

**Phil Boyd
Assistant Commissioner
Information Commissioner
Wycliffe House
Water Lane
Wilmslow Cheshire SK9 5AF**