

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

Decision Notice

Date: 28 March 2011

Public Authority: London Borough of Camden
Address: Camden Town Hall
Judd Street
London
WC1 9JE

Summary

The complainant made a series of requests to London Borough of Camden (the 'Council') for various information relating to a proposed residential development. The Council refused the requests and applied sections 12 and 14 of the Freedom of Information Act 2000 (the 'FOI Act'). However, in the Commissioner's view the requests relate to environmental information and therefore fall for consideration under the Environmental Information Regulations 2004 (the 'EIR'). The Commissioner's decision is that the requests are manifestly unreasonable and the Council was entitled to refuse them under regulation 12(4)(b) of the EIR. However, the Commissioner finds that the Council breached regulation 14 of the EIR in its handling the request.

The Commissioner's Role

1. The Environmental Information Regulations (EIR) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the 'FOI Act') are imported into the EIR.

Background

2. The Council approved planning permission for a development of 55 flats on Dalby Street, Camden. The development has involved stopping up orders being made on highways providing access to Talacre Sports Centre. The development has not been completed, but preparatory construction work took place on the site in December 2008.
3. The complainant has explained that the proposals have been contentious for several years. He and a number of other local residents have campaigned against the development and believe that it will adversely affect the future of Talacre Sports Centre and Talacre Gardens, both of which are situated on the boundary of the development. The complainant has campaigned against the development under the titles 'Save Talacre' and 'Talacre Under Threat'. The complainant also maintains a campaign website with information about the development and residents' objections at www.savetalacre.co.uk.
4. A public inquiry into the proposed development and the proposed stopping up of highways was held from 15-18 January 2008 and was conducted by an independent representative of The Planning Inspectorate. The complainant was one of the objectors who attended the inquiry and made representations against the proposed development. The Council and developers responded to each of the objectors' points during the inquiry. The inquiry concluded with an inspector's report recommending that the stopping up orders should be made following minor amendments.
5. The complainant has been in correspondence with the Council about the development since 2008. This correspondence has included a large number of requests for information which were handled by the Council under the Freedom of Information Act 2000 between September 2008 and September 2009.

The Request

6. Between 26 November and 8 December 2009 the complainant submitted 20 requests for information to the Council regarding the Dalby Street development. The requests were handled under seven separate request references created by the Council. The complainant's requests are listed in full in Annex A of this Notice.

7. The Council responded to the complainant on 25 January 2010 and applied sections 12 and 14 of the FOI Act to all of the requests received between 26 November and 8 December 2009. The Council believed that the aggregated cost of compliance with the requests would exceed the 'appropriate limit' and also that the requests were vexatious. The Council therefore refused to comply with all of the requests. The Council also advised the complainant that he should direct any appeal against its decision to the Commissioner rather than request an internal review.

The Investigation

Scope of the case

8. On 27 February 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
 - The Council's decision to refuse to comply with the requests under sections 12 and 14; and
 - The Council's failure to issue a refusal notice within 20 working days.
9. During the course of his investigation, the Commissioner decided that the EIR applied and has therefore gone on to consider whether the requests are manifestly unreasonable under regulation 12(4)(b). He has first considered whether the Council was entitled to refuse the requests as manifestly unreasonable on the basis that they meet the criteria used to determine where a request is vexatious.

Chronology

10. On 5 May 2010 the Commissioner wrote to the Council to request an explanation and arguments in support of its decision to refuse the requests.
11. The Council responded on 11 June 2010 and explained why it believed complying with the requests would require it to exceed the 'appropriate limit' and also why they were vexatious.
12. On 25 August 2010 the Commissioner wrote to the Council and noted that the complainant appeared to be requesting environmental information, which should be considered under the EIR. The

Commissioner noted the similarity of section 14 of the FOI Act and regulation 12(4)(b) of the EIR and also requested further clarification of Council's reasons for refusing the requests. The Commissioner also referred to his published Guidance and particularly the five factors he considers relevant when deciding whether a request is vexatious or manifestly unreasonable.

13. The Council responded to the Commissioner on 23 September 2010 and provided further information in support of its refusal of the requests.
14. Following a request for copies of correspondence exchanged between the Commissioner and the Council regarding his complaint, the complainant made a detailed submission to the Commissioner on 18 January 2011. Where relevant, the Commissioner has taken the content of this submission into account when considering the case.

Analysis

Substantive Procedural Matters

Environmental Information Regulations 2004

Regulation 2

15. The EIR define what constitutes environmental information in regulation 2(1). The Commissioner has considered the nature of the requested information and considers that all of the requests relate to information which would fall within the definition given at regulation 2(1)(c): "Information on... 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 designed to protect those elements."
16. All of the requests in this case relate to a planned development of residential flats. More specifically, they relate to drawings and plans, details of amendments to plans, information about planning applications and agreements, land ownership, and details of the proposed arrangements for the use and operation of land in relation to the proposed development. The Commissioner considers that all of the requests relate to information on measures affecting the elements and factors of the environment listed in 2(1)(a) and (b), and therefore fall for consideration under the EIR.

Regulation 12(4)(b) – manifestly unreasonable

17. Regulation 12(4)(b) states that a public authority may refuse to disclose information if the request for information is manifestly unreasonable. There is no single test to define what would make a request manifestly unreasonable. However, in the case of *Carpenter v Stevenage Borough Council (EA/2009/0046)* the Information Tribunal decided that the principles applied when considering section 14 of the Freedom of Information Act 2000 can also be applied to requests involving regulation 12(4)(b). Therefore, it is the Commissioner's view that regulation 12(4)(b) will apply where it is demonstrated that a request is vexatious or that compliance would incur unreasonable costs or an unreasonable diversion of resources for a public authority.
18. The Commissioner has first considered whether the Council was entitled to refuse the requests under regulation 12(4)(b) with reference to the considerations he makes when determining whether a request is vexatious under the FOI Act.
19. The Commissioner has outlined the following five factors as being useful to consider when determining whether a request for information is vexatious:
 - Would complying with the request create a significant burden in terms of expense and distraction?
 - Is the request designed to cause disruption or annoyance?
 - Does the request have the effect of harassing the public authority or distressing its staff?
 - Can the request fairly be seen to be obsessive or manifestly unreasonable?
 - Does the request lack any serious purpose or value?
20. It is not necessary for all of the above criteria to apply. However, it is the Commissioner's view that at least one of the above criteria must apply for a request to be considered vexatious and, in general terms, the more criteria that do apply the stronger the case. He accepts that many of the arguments submitted by the Council in support of this exception can also apply to more than one of the above criteria.
21. When determining whether a request should be deemed vexatious and whether one or more of the above criteria applies, the Commissioner can consider the wider context and history of the request. In certain cases, a request may not be vexatious in isolation but when considered in context it may form part of a wider pattern of behaviour that makes it vexatious. Nevertheless, the Commissioner recognises that it is the

request and not the requester that must be vexatious in order for the exception to apply.

Would complying with the request create a significant burden in terms of expense and distraction?

22. The Council believes that the requests would create a significant burden in terms of expense and distraction because complying with them would require it to divert a disproportionate amount of its time and resources. The Council received 20 requests from the complainant between 26 November and 8 December 2009, a period of eight working days. Although the Council has acknowledged that responding to some of the individual requests may be a relatively straightforward task, it has argued that the cumulative effect of this number of requests being received in such a short period represented a significant workload for its staff.
23. The Commissioner has considered whether the refused requests meet the criteria he applies to determine whether requests are vexatious under the FOI Act. The Commissioner has not investigated or considered the Council's view that the aggregated cost of complying with the requests would also engage the exception regulation 12(4)(b). However, when considering whether the requests would create a significant burden on the Council's resources the Commissioner nonetheless considers it relevant to take into account the Council's estimate of the work which would have been required to comply with the refused requests. On the basis of the estimate provided, the Council clearly believes that the aggregated cost of complying with the requests it has refused would create a significant burden:

Request reference	Estimated time for compliance
5704274	5 hours
5704978	2.5 hours
5720510	2.5 hours
5720546	5 hours
5730839	4 hours
5730864	2 hours
5744882	4 hours
Total:	25 hours

24. The Council has also highlighted the frequency and volume of requests for information submitted by the complainant prior to the refused requests. Between September 2008 and September 2009 the Council responded to 50 requests for information from the complainant about

the Dalby Street development. When taken into account alongside the requests refused by the Council in this case, this amounts to a total of 70 requests for information from the complainant within 14 months.

25. The Council responded to each of the previous 50 requests and in many cases provided the requested information. However, it argues that this pattern of requests was onerous for the Council to deal with and created a significant burden on the Council's resources because of the time it took its officers to handle the requests, many of which required more than one department to be involved when collating responses. Indeed, the Council has stated that it had already worked for a total of 30 hours to respond to the two most recent sets of requests, which contained 34 requests, in October and November 2009. The Council believes that this lends further weight to its view that the requests would impose a significant burden on the Council's resources when considered in view of their context and history.
26. The Council has also argued that continuing to respond to the complainant's requests for information about the Dalby Street development would lead to further requests and correspondence. The Council believes that the pattern of the complainant's previous requests answered by the Council illustrates that he would be likely to continue to make further requests and therefore further increase the burden on the Council.
27. The Commissioner notes the high volume and frequency of requests the complainant has submitted to the Council regarding the Dalby Street development. When viewed in isolation, he considers that the receipt of 20 requests within a period of eight working days would itself have required a significant amount of work and diverted the Council's officers from other business.
28. Furthermore, the Commissioner accepts that the context and history of a request may be taken into account when determining whether a request is vexatious. The complainant had previously submitted 50 requests for information to the Council within 14 months, and the Commissioner notes that the Council appears to have cooperated with those requests by responding to each of them and disclosing a large amount of information. It is therefore clear that the Council had previously undertaken a large amount of work to respond to the complainant's requests for information in relation to concerns about the Dalby Street development.
29. In view of the previous pattern of requests, the Commissioner also accepts the Council's view that complying with the requests would have been likely to lead to further requests for information. The

Commissioner considers that the purpose of the EIR and FOI Act is not to require public authorities to comply with unreasonable numbers of requests from individuals to the point that its staff are diverted from their usual work. He therefore believes that there is a point at which the volume of requests submitted by individuals becomes unreasonable. In this case the high volume of requests from the complainant, both in previous submissions and those most recently refused by the Council, strongly demonstrate that the requests would have created a significant burden on the Council's resources. Indeed, the Commissioner believes that significant weight should be attributed to this factor.

Is the request designed to cause disruption or annoyance?

30. The Commissioner recognises that this factor involves a judgment of the complainant's intentions when making a request, and is therefore difficult for a public authority to prove. The Council has argued that the high volume of requests submitted by the complainant within a short period of time had the effect of bombarding the Council's staff and disrupting its business.
31. The complainant has explained that his requests for information about the development have not been designed to cause disruption or annoyance but to address what he regards as anomalies and contradictions surrounding the proposals. He also argues that his campaign and requests for information are designed to benefit the public by seeking changes to details of the development.
32. The Commissioner does not consider there is any evidence demonstrating that the complainant had the intention of causing disruption or annoyance when making the requests. While it is clear the complainant has objected and campaigned against the Council's position in relation to the Dalby Street development, the Commissioner considers that the nature of the requests suggest the complainant has legitimate concerns about the development and his requests were only designed to access information about the development and the decision-making processes involved.
33. Nevertheless, the Commissioner accepts that the high volume and frequency of requests from the complainant would have had the effect of causing disruption to the Council, albeit that he does not believe this was the complainant's intention.

Does the request have the effect of harassing the public authority or distressing its staff?

34. In view of the considerations outlined above, the Commissioner accepts that some weight should be attributed to this factor in this case. The Council has argued that the complainant has continued to make requests for information despite having been provided with a large amount of information about the Dalby Street development as a result of previous requests for information handled by its staff. The Council believes that the complainant has continued his campaign by raising issues with each of the Council's responses and making further requests for information, which had the cumulative effect of harassing the public authority and its staff.
35. When considering whether a request would have the effect of harassing the authority or distressing its staff, one of the factors the Commissioner takes into account is whether there is an unwarranted level of correspondence from an applicant. As described previously in this Notice, the Commissioner believes that the high volume and frequency of requests from the complainant would present a significant burden on the Council's resources. By extension, he believes that the burden of continuing to respond to high volumes of requests would have been likely to have the effect of making the Council's staff feel distressed or harassed. In particular, the Commissioner notes that this Notice relates to a series of 20 requests contained within seven submissions to the Council in just eight working days. While the complainant may not have had the intention of harassing or distressing the Council, the Commissioner considers it reasonable to conclude that the receipt of such a high volume of requests in a short period and the resultant burden of work would have this effect on the Council's staff.

Can the request fairly be seen to be obsessive or manifestly unreasonable?

36. The Council has argued that the requests can be characterised as obsessive because of the volume and frequency of the complainant's contact with the Council through requests for information and also other correspondence.
37. In addition to the 70 requests submitted between September 2008 and December 2009 already referred to in this Notice, the Council has explained that prior to beginning the series of requests the complainant had been in correspondence with the Council regarding a wide range of questions about the development. These questions were not handled as formal requests for information under the FOI Act or EIR, but were dealt with in a detailed response of 8 October 2008 from the Acting

- Assistant Director of Planning. The letter addressed a total of 31 questions raised by the complainant in a number of submissions. The Council has stated that, despite being provided with a large amount of information about the development by the Council, the complainant continued to make further requests for information and it appeared that each response from the Council resulted in further requests and questions being submitted. The Council has also stated that it believes many of the complainant's subsequent requests covered points which had already been answered by the Council in other correspondence.
38. The Council has also explained that there was a public inquiry regarding the Dalby Street development in January 2008, and that the complainant made a personal representation at that inquiry. During the four-day inquiry the Council and the developers responded to points raised by all objectors, including seven points raised by the complainant. Following the public inquiry, the independent inspector's report recommended that the development should go ahead with some minor changes in light of matters which had arisen. The Council states that, despite the development having been the subject of an independent public inquiry at which the concerns of objectors were raised and debated, the complainant continued to pursue his concerns about the development. This resulted in the series of correspondence and requests for information already referred to, which the Council believes have now reached a point which can be fairly seen as obsessive.
39. The complainant has disputed that the public inquiry should have a bearing on whether his requests are viewed as obsessive in this case. He has argued that the independent inspector was appointed by and reported to the Council, and that he interpreted his role in the inquiry as being to agree or otherwise whether the access arrangements for the development were manageable. He has also explained that a number of amendments were made to the planning application following the inquiry. Therefore, the complainant believes that questions remained about the development after the inquiry had taken place. He therefore maintains that his requests have been motivated by a legitimate need for further clarification and transparency about the development.
40. The Commissioner appreciates that building developments can often give rise to genuine and valid concerns on behalf of local residents. It is natural that there are often a range of concerns about the impact on surrounding areas and the Commissioner recognises that individuals have a legitimate right to raise objections and seek to access information to inform or support their case. The Commissioner also accepts that there can be a fine line between obsession and

persistence, but considers that an obsessive request can be most easily identified where a complainant continues to use requests for information to keep open or reopen matters despite being in possession of independent advice on the same issue. For the purposes of determining whether a request is vexatious, the Commissioner must consider whether the requests have reached a point at which persistence becomes obsession.

41. In the circumstances of this case, the Commissioner believes that the complainant's volume of requests and other correspondence about a broad range of matters relating to the Dalby Street development indicate a pattern of behaviour that goes beyond the reasonable pursuit of information about the development. While taking into account the complainant's reservations about the significance of his involvement in the public inquiry when determining whether or not this factor is met, the Commissioner believes that it does lend further weight to the argument that the requests can be characterised as obsessive. However, even without placing any great emphasis on the fact that an independent public inquiry has already considered the development, the Commissioner considers that the history of the high volume of requests from the complainant indicates a certain level of obsession with matters surrounding the Dalby Street development. On balance and in the circumstances of the case, the Commissioner believes that the requests can fairly be seen as obsessive or manifestly unreasonable.

Does the request lack any serious purpose or value?

42. The Commissioner notes that the burden of proof is particularly high for a public authority to demonstrate that a request has no serious purpose or value at all. As outlined in paragraph 40, the Commissioner recognises that it is perfectly valid for residents to have concerns about a new development in their area and to take steps to raise objections and seek further information. In this case, the Commissioner considers that the complainant has sought to use requests for information to gain access information as part of a legitimate campaign about the development. The Commissioner does not consider that the Council has provided evidence to demonstrate that the complainant's requests had no serious purpose or value.

Conclusion

43. In view of the considerations outlined above in relation to the five factors considered, the Commissioner believes that the Council was entitled to refuse the requests on the grounds that they were manifestly unreasonable. The Commissioner believes that the volume

and frequency of the complainant's requests and pattern of previous requests indicate that his long-standing and ongoing objection to the Dalby Street development can fairly be characterised as obsessive. The Commissioner also considers that the complainant's requests about the development have created a significant burden on the Council's resources and had the effect of causing distress to its staff. In the circumstances of the case the Commissioner considers that regulation 12(4)(b) is engaged.

Public interest test

44. Regulation 12(1)(b) requires that a public interest test is carried out where regulation 12(4)(b) is engaged. The test is whether the public interest in maintaining the exception outweighs the public interest in disclosure. The Commissioner also notes regulation 12(2) which states that a public authority shall apply a presumption in favour of disclosure.

Public interest arguments in favour of disclosing the requested information

45. The Commissioner accepts that disclosure in this case would promote transparency by providing the public with information about a development which has clearly been a matter of concern for a number of people in the immediate locality. The disclosure of information about specific aspects of the development and its impact on the area may serve to allay some of the concerns of members of the community who have raised objections or shed light on what they regard as contradictions and anomalies in the planning process.
46. However, the Commissioner considers that there is little wider public interest in disclosure in this case beyond the general principles of accountability and the interests of the relatively small number of people who have direct concerns about the Dalby Street development.

Public interest arguments in favour of maintaining the exemption

47. The Commissioner accepts that there are compelling arguments in favour of maintaining the exception in this particular case owing to the public interest in protecting the integrity of the EIR and ensuring that the regulations are used responsibly. Although public authorities are encouraged to act in a transparent and accountable way which benefits the public as a whole, it is not the intention of the EIR to require public authorities to deal with a high volume of requests from individuals who demonstrate an obsession with a particular issue to the extent that it diverts resources from its usual business.

48. The Commissioner considers that requiring a public authority to comply with requests which are manifestly unreasonable or vexatious would undermine the purpose of the EIR. Although he recognises that the complainant's requests are motivated by genuine concerns about the development, in this case he is satisfied that the requests are obsessive, would impose a significant burden on it in terms of time and expense, and would have the effect of disrupting the Council's work and distracting and distressing its staff. Furthermore, he notes that the complainant has already taken the opportunity to have his concerns about the development discussed at a public inquiry and has also obtained a large amount of information from the Council through previous information requests. The Commissioner considers that these factors reduce the public interest in requiring the Council to comply with the requests in this case.
49. In the Tribunal decision of *Mr A Welsh v Information Commissioner (EA/2007/0088)* the Tribunal stated that the legislation should not be brought into disrepute by setting the threshold for a request to be vexatious too high. The Tribunal stated:
- ' ... there is a danger that settling the standard of vexatiousness too high will diminish public respect for the principles of free access to information held by public authorities enshrined in FOIA. There must be a limit to the number of times public authorities can be required to revisit issues that have already been authoritatively determined simply because some piece of as yet undisclosed information can be identified and requested ...'* (paragraph 26).
50. In view of the above, it is the Commissioner's view that, in all the circumstances of this case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. Therefore he considers that the requests are manifestly unreasonable.

Procedural requirements

51. Regulation 14(2) provides that if a public authority refuses to disclose requested environmental information it should let the applicant know as soon as possible and no later than 20 working days after the receipt of the request. The complainant submitted his requests at various points between 26 November and 8 December 2009. The Council did not provide its refusal notice until 25 January 2010 and therefore the Commissioner finds that it breached regulation 14(2).

52. Regulation 14(3) provides that a refusal notice should specify the exception relied upon and the matters the public authority considered in a public interest test. The Commissioner finds that the Council breached regulation 14(3) because it considered the request under the FOI Act instead of the EIR.

The Decision

53. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the EIR:
- The Council was entitled to refuse to comply with the requests because regulation 12(4)(b) applies.
54. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the EIR:
- The Council breached regulation 14(2) because it did not issue a refusal notice within twenty working days; and
 - It breached regulation 14(3) because it considered the request under the FOI Act rather than the EIR.

Steps Required

55. The Commissioner requires no steps to be taken.

Right of Appeal

56. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 28th day of March 2011

Signed

**Andrew White
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex A - requests for information

Request received 26 November 2009

Council request reference: 5704274

"Marshalling period and submission to GLA

Background

The times when marshals have to be on duty (unless changed as a result of clauses allowing change) once the flats are built are clearly defined in the documents that are part of the supplemental s106 of 30.9.09. They are between one hour before the Leisure Centre opens and one hour after it closes. Nowhere is the word "busy" used to define those times. Nor is it found in the evidence to the public inquiry from Camden or the Developer or in the Inspector's report.

However, in the letter sent to the Mayor of London dated 4.12.08, Camden used the word "busy" in innumerable places to as defining the time marshals would be on duty.

Requests

(a) Please inform me whether there is any agreement with the developer with regard to the obligation to provide and pay for marshals other than that which is described in Background above.

(b) Please inform me whether anyone other than Council officers saw, edited, revised and/or commented on Camden's submission to the GLA before it was sent and if so, who they were."

Request received 26 November 2009

Council request reference: 5704978

"Background

(i) According to correspondence in the planning files, Camden was aware at least as early as 8.12.04 that the one way scheme north from Prince of Wales Road to Wilkin Street was not longer an option due to Network Rail having withdrawn its support.

(ii) On 23.12.04, Camden signed a s106 agreement in respect of the one-way scheme ie 2004/2689/P.

Request

Please advise the reason why Camden signed a s106 agreement for a scheme which they knew could not be fulfilled."

Request received 30 November 2009

Council request reference: 5720510

"FOI request re Dalby Street, Talacre

Disabled Parking Bays – Time Limits and Location if 2005/4187/P proceeds

Background

On 22.1.09, the Directorate of Culture and Environment sent me (Nick Harding) an email in which I was told that a meeting with the Developer was to be held in the following week to discuss restricting the use of the three disabled parking bays.

In a response to a FOI request in October 2009, Camden said "We propose to impose a time limit on them to prevent them being occupied all day".

Request

Please inform me as to:

(a) Where in relation to the turning circle and the entrance to the Sports Centre the three disabled bays are situated (they are sometimes shown as to the south of the turning circle and sometimes up against the sports centre building)?

(b) Who owns the land that these bays will be on?

(c) Who will have the authority to impose time limits on them?

(d) What decision was made at the meeting in January 2009

(e) Whether the time limits will apply to

Sports Centre users?

Sports Centre workers?

Visitors to the Doctor's surgery?

Workers at the Doctor's surgery?

(f) What will the time limits be?"

Request received 30 November 2009

Council request reference: 5720546

"FOI request re Dalby Street, Talacre

"Flawed Plans"

Background

On 10.1.06, a Council Officer (Chris Day) wrote to the Legal Department (Louise McLaughlan) saying "However on the point I mentioned to you regarding the scheme currently being worked at a high level by various Council officers to look at the possibility of creating the swimming pool facility at the Sports centre... the architects working on this has suggested that the developer's access plans for the scheme for which planning consent has just been granted ie that which you are working on the s106 currently are possible flawed. The architects comments are currently with planning who may decide further amendments may be necessary to the s106, and if so will advise you accordingly."

Requests

- (i) Please provide me with details of the comments made by the architects referred to
- (ii) Please let me know what changes, if any, were made in the light of those comments"

Request received 1 December 2009

Council request reference: 5730839

"Re Dalby Street, Talacre 2005/4187/P
Re-executed s106 Plan enclosure per clause 2.12

The version of the Re-executed s106 on the Camden Planning Site contains nothing appended that meets the text in that clause ie "2,12 "the Highway Works" works on the public highway that the Council considers necessary to secure the safe operation of the Development as the same are shown on Plan X appended hereto." Please

- (a) provide me with a copy of that Plan
- (b) If it was not in the signed version, please inform me of what arrangements have been made to incorporate the plan into the legal agreement."

Request received 1 December 2009

Council request reference: 5730864

"Re Dalby Street, Talacre 2005/4187/P

Re-executed s106 enclosed a plan this does not appear to have been referenced in the text

The version of the Re-executed s106 dated 30.9.08 that is shown on the Camden Planning Site contains a plan labelled Plan X PWR TA/01

Temporary Access Stages RevB inserted between pages 6 and 7. Please

(a) inform me as to where in the text of the agreement it is referenced

(b) if it is not referenced in the text, please inform me whether it is properly a part of the legal agreement

(c) if it is a part of the legal agreement, please inform me as to why it shows five columns when the relevant planning decisions 2005/4187/P and 2008/3688/P only show and permit four columns.

NB A separate FOI request is being made in respect of a Plan referred to in text as follows "2,12 "the Highway Works" works on the public highway that the Council considers necessary to secure the safe operation of the Development as the same are shown on Plan X appended hereto." Plan X PWR TA/01 Temporary Access Stages RevB has no relevance to the "Highway Works"."

Request received 8 December 2009

Council request reference: 5744882

"Annexed plans in s106 for One Way scheme for Dalby Street, Talacre

Re the First development scheme for Dalby Street, Talacre. The S106 agreement for this application (2004/2689/P) dated 23.12.04 contains a number of references to plans or drawings as being annexed. However, the version on the planning web site does not contain any. Please forward or email me the following:

KTW/LOA1/01 (See clause 1.4 and others)

KTW/LPA/01 (See 2.9)

KTW/PTr/02 (See 2.19 and others)

KTW/STA1/01 (See 2.31)."

Legal Annex

Environmental Information Regulations 2004

Regulation 2 - Interpretation

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely 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 elements of the environment referred to in (b) and (c);

Regulation 12 - Exceptions to the duty to disclose environmental information

Regulation 12(1)

Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if –

(g) an exception to disclosure applies under paragraphs (4) or (5);
and

(h) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Regulation 12(2)

A public authority shall apply a presumption in favour of disclosure.

Regulation 12(4)(b)

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable.

Regulation 14 - Refusal to disclose information

Regulation 14(1)

If a request for environmental information is refused by a public authority under regulations 12(1) or 13(1), the refusal shall be made in writing and comply with the following provisions of this regulation.

Regulation 14(2)

The refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request.

Regulation 14(3)

The refusal shall specify the reasons not to disclose the information requested, including –

- (i) any exception relied on under regulations 12(4), 12(5) or 13; and
- (j) the matters the public authority considered in reaching its decision with respect to the public interest under regulation 12(1)(b) or, where these apply, regulations 13(2)(a)(ii) or 13(3).