

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

### **Decision notice**

**Date:** 4 February 2021

**Public Authority:** London Borough of Southwark  
**Address:** PO Box 64529  
London  
SE1P 5LX

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

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1. The complainant requested information from the London Borough of Southwark (the London Borough) about planning matters at a specified property. By the date of this notice the London Borough had not issued a substantive response to this request.
2. The Commissioner's decision is that the London Borough has breached regulation 5(2) of the EIR in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the London Borough to take the following step to ensure compliance with the legislation.
  - The London Borough must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The London Borough must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 18 August 2020, the complainant wrote to the London Borough and requested information in the following terms:
- 1. A copy of the Council's Delegated Report on the application for Premises Licence [information redacted].*
  - 2. Details of the representation made by the Council officer acting as "the Responsible Authority for Licensing" (i.e. the Council's Licencing Unit) on the application for the Premises Licence (previously requested).*
  - 3. Details of the response by the [information redacted] to the representation by the Council officer acting as "the Responsible Authority for Licensing" on the application for the Premises Licence.*
  - 4. Confirmation whether an officer from the Council's Licencing Unit inspected [information redacted] to access its suitability for use as a drinking establishment together with any conclusion.*
  - 5. A copy of planning permission dated [information redacted] for the change of use of the upper floors of [information redacted] from a warehouse to residential flats.*
  - 6. A copy of the Council's letter dated 11th September 1986 discharging Condition 5 (sound proofing) of planning permission [information redacted] together with details of the approved works.*
  - 7. As previously requested (and instructed by the Council's Noise Nuisance Team), a copy of the Noise Abatement Notice that came into effect on 11th November 2019 or confirmation where the Abatement Notice can be viewed in "searchable format".*
6. The London Borough acknowledged the request on 18 August 2020. To date, a substantive response to the request has not been issued.

## Scope of the case

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7. The complainant contacted the Commissioner on 8 December 2020 to complain about the London Borough's failure to respond to their request.
8. The Commissioner has considered whether the London Borough has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

## Reasons for decision

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9. Regulation 2(1) of the EIR defines environmental information as being information 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)...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);*

10. The Commissioner has not seen the requested information but has considered the wording of the request and notes that it is for information on planning information and a noise abatement notice at a specified property. She believes that this is likely to be information about policies, legislation, plans, programmes, environmental agreements and activities likely to affect the elements and factors referred to in Regulation 2(1)(a) and Regulation 2(1)(b). For procedural reasons, she has therefore assessed this case under the EIR.
11. Regulation 5(1) states that: *“a public authority that holds environmental information shall make it available on request.”*

12. Regulation 5(2) of the EIR states that:

*"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."*

13. On 5 January 2021 the Commissioner wrote to the London Borough, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

14. Despite this intervention the London Borough has failed to respond to the complainant.

15. From the evidence provided to the Commissioner in this case, it is clear that the London Borough did not deal with the request for information in accordance with the EIR. The Commissioner finds that the London Borough has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

### **Other matters**

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16. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the EIR.

## Right of appeal

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17. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

18. 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.
19. 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** .....

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**