

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

**Decision Notice**

**Date: 18 July 2011**

**Public Authority:** Cambridgeshire County Council  
**Address:** Shire Hall  
Castle Hill  
Cambridge  
CB3 0AP

**Summary**

---

The complainant submitted a request to Cambridgeshire County Council ('the council') for information about land in Cambridgeshire. The council initially stated that the information would be made available, but a fee would be charged for some of this information. During the investigation, the council made all of the requested information available free of charge. However, the complainant disputed that the council had disclosed all of the information that it held. The Commissioner has investigated and concluded that the council disclosed all of the information that it holds within the scope of the requests, and consequently complied with regulation 5(1). However, the Commissioner found that the council breached regulation 5(2) by failing to make some of the requested information available within the statutory time for compliance. The Commissioner does not require the council to take any further action.

**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 "Act") are imported into the EIR.

## The Request

---

2. On 16 May 2010, the complainant emailed the council to make the following request for information:

"Would you kindly make arrangements for me to inspect, as soon as practicable, the Land Charges Register and the Definitive Map for the three (3) sites listed below:

### UPRN OF THE THREE SITES

- 1) 010000160854-Land to the South & West of No 49 High Street, PE26 1AB
- 2) 010009225920- Flag Holt Common, Mugglestone Lane, Bury next to Ramsey.
- 3) 010012046145- Mugglestone Lane, Ramsey

### INFORMATION TO BE INSPECTED FOR THE THREE SITES LISTED ABOVE.

#### CON29R

Answers to Questions 3.4 and 3.6 for Site 1 and Site 3 above ...<sup>1</sup>

1) Historic records of "dropped kerbs" or vehicle footway crossovers pre and post Section 184 of the Highways Act 1980 and

2) Records related to access on to "private Carriage Roads" and "public Carriage Roads" under the provisions of the Countryside and Rights of Way Act and the Natural Environment and Rural Communities Act 2006.

I am reliably informed that your Council has done some research and completed a questionnaire for the Highways Records Working Group based in Warwickshire and would be obliged if you would either provide me with a copy of that completed questionnaire or let me inspect your file related to the research on Highways Records for that questionnaire.

#### CON29O

Answers to the Question on Common Land for Site 2 above. Error! Bookmark not defined. The Commons Registration Reference for Flag Holt Common is CL91. I am looking for background information in

---

<sup>1</sup> The relevant CON29 queries are detailed in Annex A

respect of CL91 that was registered on 2 March 1982. In particular I am focused on the status of the private Carriage Road and Driftway set out under the Bury Inclosure Award made on 13 June 1850 under the Bury Inclosure Act of 1844 [7 & 8 Vict.c.19 private]"

The complainant stated that he would prefer to inspect this information at either Ramsey or Huntingdon library.

3. The council responded on 14 June 2010 and stated that:
  - o It did not hold the Local Land Charges Register. It explained that this was held by District Councils and informed the complainant how he could contact these bodies.
  - o The Definitive Map was available for inspection at the council's offices. The council explained how the complainant could make an appointment to view this.
  - o It would provide answers to CON29R queries 3.4 and 3.6 for a fee of £4 and £7 respectively per site.
  - o It would provide answer to the CON290 query on Common Land (question 22) for a fee of £7. However, the council stated that this would only be a yes / no answer and would not provide the level of detail mentioned in the request. However, it advised the complainant that the Commons and Village Greens Register could be inspected at its offices.
  - o A copy of the questionnaire completed for the Highways Records Working Group was attached to the response.
4. On 17 June 2010, the complainant wrote to the council and reiterated his original request. He also made a supplementary request to inspect Files RB/54/44, RB/54/109 and RB/5/4.
5. Following the intervention of the Commissioner, the council provided its internal review outcome to the complainant on 10 November 2010. This reiterated the council's previous response. It also clarified that Huntingdon District Council maintained the Local Land Charges Register relevant to the land specified by the complainant. In response to the supplementary request, the council stated that it would make the files available at Huntingdon Record Office once the complainant advised it of a suitable date. The council also warned the complainant that any future requests about the South and West of Ramsey would be refused on the grounds that they were repeated and manifestly unreasonable.

6. During the course of the investigation, the complainant attended the council's offices on 26 May 2011 to inspect the Definitive Map. On 18 May 2011, the council emailed the complainant answers to the CON29 queries free of charge, and also sent a CD-ROM to the complainant which it holding copies of files RB/54/44, RB/54/109 and RB/5/4 ('the RB files').

## **The Investigation**

---

### **Scope of the case**

7. On 20 January 2011 the complainant submitted a complaint to the Commissioner about the way the council had dealt with his request for information.
8. The Commissioner notes that the council disclosed a copy of the questionnaire it completed for the Highways Records Working Group in its response to the complainant. He has therefore excluded this part of the request from the scope of the investigation; the complainant has made no objection to this.
9. During the course of the investigation the Commissioner advised the complainant that he was unlikely to conclude that the council held the Local Land Charges Register. This was because the relevant legislation, the Local Land Charges Act 1975 sets out the specific types of authority that are be 'registering authorities' and compelled to maintain a register. County Councils such as Cambridgeshire are not among the authorities that maintain such registers. The council indicated to the complainant that Huntingdon District Council maintains the relevant register for the parcels of land that are the subject of the request. The complainant accepted that this was the case and so the Commissioner has excluded this part of the request from the scope of the investigation.
10. In his email to the Commissioner of 15 February 2011, the complainant stated that he still required the following information:
  - o The Definitive Map
  - o Answers to CON29R queries 3.4 and 3.6, and the CON290 query on Common Land
  - o Files RB/54/44, RB/54/109 and RB/5/4

11. The complainant has during the course of the investigation inspected the Definitive Map and received the answers to CON29 queries via email. The council has also sent copies of the RB files to him on a CD-Rom. The complainant originally asked to inspect these files. The council stated that it would make them available for inspection, but in view of the volume of the information, it also offered to provide copies to the complainant via CD-Rom. The complainant confirmed that he was happy to receive the information in this format.
12. During the course of the investigation, the complainant sent the Commissioner a copy of a document regarding Mugglestone Lane produced by the County Surveyor. This appears to be an internal memo detailing the Surveyor's opinion of the status of this land. It is dated 8 April 1975. It is not clear how the complainant obtained a copy of this document. The complainant is dissatisfied that the council did not include a copy of this document on the CD-Rom containing the RB files. He states that

"It would appear that this quality information about Mugglestone Lane and Flag Holt Common is held in Files Reference G480/184 and G440/184 and G306/184 and officer who worked in Highways & Access should have looked in those three files for the information I have sought. The searches were not conducted properly and they failed to provide me with help and assistance to discover this valuable information".

However, the Commissioner notes that the document does not fall within the scope of any part of the complainant's request. He does not accept that there can be any obligation on a public authority to locate and disclose information that an applicant has not requested, and so he has not investigated this part of the complainant's grievance.

13. The complainant also disputed the accuracy of a letter sent to him by the council on 18 September 2005. This letter stated that Mugglestone Lane is an unadopted road, and that the council had not placed a weight limit order on it. The council stated that it had no record of who had erected a weight limit sign on the road, and that as the road was privately owned this sign was not its responsibility. The complainant argues that information subsequently disclosed to him demonstrates that this letter was inaccurate. However, this letter, and the wider dispute around Mugglestone Lane is not a matter that falls within the Commissioner's remit.
14. The Commissioner has reviewed the complainant's ongoing correspondence and has identified the following issues for investigation:

- Whether the council has disclosed all of the information it holds within the scope of the complainant's request. In particular the Commissioner will investigate whether the council has provided full copies of the RB files.
- Whether the council has provided the requested information within the statutory time limits.

## **Chronology**

15. On 24 January 2011 the Commissioner wrote to the complainant to ask that he confirmed whether he wished to pursue his complaint, and if so, which elements of his request he believed to be outstanding. The complainant responded on 15 February 2011 and clarified the scope of his complaint.
16. The Commissioner wrote to the council on 15 February 2011 with some queries about the way it had handled the complainant's request. In particular, the Commissioner explained his view, as set out in previous decision notices, that the council could only levy charges in accordance with the EIR for making information relevant to CON29 queries available. The council responded on 6 April 2011 and confirmed that it would make all of the outstanding information available to the complainant free of charge.
17. After the council had provided the requested information, the Commissioner contacted the complainant to ascertain what elements of his complaint he believed to be unresolved. During May and June 2011, the complainant submitted various arguments about why he believed that not all of the information within the scope of his request had been provided. The Commissioner communicated with the council regarding these matters during May and June 2011.

## **Analysis**

---

### **Substantive Procedural Matters**

#### **Regulation 2**

18. The Commissioner has considered whether the information requested by the complainant is environmental information as defined by the EIR.

19. The Commissioner considers that the complainant's request for the Definitive Map falls within regulation 2(1)(a), because it comprises "...any information...on the state of the elements of the environment". The Commissioner considers that the remainder of the requested information falls under regulation 2(1)(c): "measures (including administrative measure), 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 these elements". This is because the complainant has requested information about existing or proposed charges, designations and uses for areas of land. These constitute "measures" that affects or would be likely to affect the elements of the environment. "Any information on" these measures would also constitute environmental information. Consequently the Commissioner therefore considers the information requested by the complainant to be environmental information.

## **Regulation 5**

### ***Regulation 5(1)***

20. Regulation 5(1) provides that a public authority that holds environmental information will make it available upon request.
21. The Commissioner has first determined whether the council has made all of the information that it holds within the scope of the complainant's requests available. He notes that the council has made the Definitive Map, and answers to the CON29 queries available to the complainant. He therefore considers that the council has complied with regulation 5(1) regarding these parts of the request.

### *The 'RB files'*

22. The 'RB files' contain information regarding Roads and Bridges. The council has explained that these files detail information about weight restriction orders in Mugglestone Lane, Ramsey. These files were scanned onto a CD-Rom and sent to the complainant via recorded delivery on 18 May 2011. This contained over 200 pages of information, and the council has stated that the files were scanned onto this disc in their entirety. However, the complainant disputes that all of the information within the files was provided to him. The complainant provided the Commissioner with a copy of a document he stated he had received from the council in 2006. This appears to be a copy of a legal opinion entitled "Regulation of traffic Mugglestone's Lane and Flag Holt, Ramsey, Hunts", dated 3 January 1967. The second page of the document has a Cambridgeshire Records Office

stamp – the field 'reference' has been filled in by hand with the file number "RB/54/109".

23. This document was not included within the scanned information sent to the complainant via CD-Rom. The Commissioner asked the council to explain why this was the case, as the document was labelled with the reference number of one of the requested files. The council reiterated to the Commissioner that it had scanned the contents of the RB files onto the CD-Rom in their entirety. After further investigation, it explained that this document was "related to" the file, but was not actually held within it. The council explained that the document was a legal opinion. However, given the passage of time since the opinion was provided, and the fact that the complainant had clearly already accessed this information, the council did not consider applying the exception at regulation 12(5)(b). The council stated that although the document was not held within the file, it would disclose it to the complainant for completeness. The council sent a copy of this document as well as a related extract from the London Gazette regarding the Weight Order to the complainant on 10 June 2011.
24. The complainant states that this information should have been included within the information disclosed to him alongside the rest of the RB files. The council maintains that the information was not held within these files although it was related to them. As the council has now in any case disclosed a copy of this document to the complainant, the Commissioner has not pursued the matter of whether it was formed a part of, or was usually held within the RB file.
25. The complainant has also stated that he recalls seeing information in these files at a previous inspection which was not provided on the CD-Rom. The Commissioner understands that the complainant has inspected various files at the council's premises on different occasions, most recently in 2006. The complainant advised the Commissioner that he "vividly recalls having seen" other documents that were not included with the information disclosed to him.
26. In particular, the complainant specified that he recalled seeing the legal opinion detailed above, which has now been disclosed to him. The Council has advised the Commissioner that it is possible that the complainant viewed documents at previous appointments which do not form part of these files, although they might be associated with the wider matters the complainant is concerned with. The council suggests that this is why the complainant recalls seeing other information. However, in the absence of any indication of what further information the complainant believes should be within the files, the Commissioner has not investigated this point any further. On the balance of



probabilities he therefore concludes that the council has provided all of the information that it holds within the scope of this part of the complainant's request.

### ***Regulation 5(2)***

27. Regulation 5(2) provides that information should be made available "...as soon as possible and no later than 20 working days after the date of receipt of the request". The Commissioner has considered whether the council has complied with this regulation.

### *The Definitive Map*

28. The complainant's initial request for information was submitted on 16 May 2010. The council responded on 14 June 2010 and stated that the map was available for inspection at the council's offices. The council invited the complainant to contact it in order to make an appointment to inspect the information. The Commissioner further notes that the council makes clear on its [website](#) that the Map is a public document which is available for inspection by the public during standard office hours.
29. The complainant did not inspect the Map until 26 May 2011. However, the council advised the complainant that he could attend to inspect the file within the statutory time for compliance. The fact that the complainant did not choose to do so cannot be viewed as a failing on the council's part. The Commissioner therefore finds that in respect of this part of the request the council has complied with regulation 5(2).

### *The RB files*

30. The complainant's request for the RB files was submitted on 17 June 2010. The council responded on 10 November 2010, and stated that it would make the files available for inspection. It invited the complainant to telephone to make an appointment to inspect these files, and advised that if it had not heard from him by 17 December 2010 it would return the files to storage. The complainant did not make any appointment to inspect these files. During the course of the investigation, the Council sent the complainant copies of the files on a CD-Rom on 18 May 2011.
31. The Commissioner notes that this information was not made available within the statutory limit for compliance of 20 working days. Consequently the Commissioner finds that the council has breached regulation 5(2) in respect of this part of the request.

*CON29 information*

32. The complainant's request for information relevant to CON29R queries was submitted on 16 May 2010. The council did not provide this information until 18 May 2011. Consequently the Commissioner finds that the council has breached regulation 5(2) in respect of this part of the request.

**The Decision**

---

33. The Commissioner's decision is that:
- The council has disclosed all of the information that it holds within the scope of the complainant's requests and has consequently complied with regulation 5(1).
  - The council breached regulation 5(2) by failing to make the RB files, and information relevant to CO2N9 queries available within the statutory time for compliance.

**Steps Required**

---

34. The Commissioner does not require the council to take any further action.

## Right of Appeal

---

35. 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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://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 18<sup>th</sup> day of July 2011**

**Signed .....**

**Andrew White  
Group manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## Legal Annex

### **Regulation 2 - Interpretation**

#### **Regulation 2(1)** In these Regulations –

“the Act” means the Freedom of Information Act 2000(c);

“applicant”, in relation to a request for environmental information, means the person who made the request;

“appropriate record authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“the Commissioner” means the Information Commissioner;

“the Directive” means Council Directive 2003/4/EC(d) on public access to environmental information and repealing Council Directive 90/313/EEC;

“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;

### **Regulation 5 - Duty to make available environmental information on request**

#### **Regulation 5(1)**

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.

### **Regulation 5(2)**

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.

### **Regulation 5(3)**

To the extent that the information requested includes personal data of which the applicant is the data subject, paragraph (1) shall not apply to those personal data.

### **Regulation 5(4)**

For the purposes of paragraph (1), where the information made available is compiled by or on behalf of the public authority it shall be up to date, accurate and comparable, so far as the public authority reasonably believes.

## **Annex A - CON29 Enquiries**

### CON29R

**3.4** Is the property (or will it be) within 200 metres of any of the following:

- a) the centre line of a new trunk road or special road specified in any order draft order or scheme
- b) the centre line of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway
- c) the outer limits of construction works for a proposed alteration or improvement to an existing road involving (i) construction of a roundabout (other than a mini roundabout) or (ii) widening by construction of one or more additional traffic lanes
- d) the outer limits of (i) construction of a new road to be built by a local authority, (ii) an approved alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (iii) construction of a roundabout (other than a mini roundabout) or widening by construction of one or more additional traffic lanes
- e) the centre line of the proposed route of a new road under proposals published for public consultation
- f) the outer limits of (i) construction of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (ii) construction of a roundabout (other than a mini roundabout) or (iii) widening by construction of one or more additional traffic lanes under proposals published for public consultation.

**3.6** Has a local authority approved but not yet implemented any of the following for the roads, footways and footpaths which abut the boundaries of the property:

- a) permanent stopping up or diversion
- b) waiting or loading restrictions
- c) one way driving
- d) prohibition of driving
- e) pedestrianisation
- f) vehicle width or weight restrictions
- g) traffic calming works including road humps

CON290

- 22.1** Is the property, or any land that abuts the property, registered common land or town or village green under the Commons Registration Act 1965 or the Commons Act 2006?
- 22.2** If there are any entries, how can copies of the matters registered be obtained and where can the register be inspected?