

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 17 July 2012

Public Authority: English Heritage
Address: The Engine House
Fire Fly Avenue
Swindon
SN2 2EH

Decision (including any steps ordered)

1. The complainant made a request to English Heritage for all written material in relation to structures affected by the redevelopment of London Bridge Railway Station, namely the South Eastern Railway Offices (SER Offices), the Charles Henry Driver trainshed and the flank wall on St Thomas Street.
2. The Commissioner's decision is that English Heritage was entitled to rely on the exception under regulation 12(4)(b) of the EIR to the extent that the complainant's request was a repeated request for information that has already been disclosed to the complainant. He considers that the public interest in maintaining the exception outweighs the public interest in disclosing the information to the extent that the request amounted to a repeated request for information. To the extent that the scope of the complainant's request goes beyond the information that has been disclosed to the complainant, the Commissioner does not consider that the exception under regulation 12(4)(b) of the EIR is engaged.
3. The Commissioner requires English Heritage to take the following steps to ensure compliance with the legislation:
 - Respond to the complainant's request of 25 February 2012 either providing any information within the scope of the request that has not previously been provided to the complainant or issuing a valid refusal notice under regulation 14 of the EIR citing an exception other than regulation 12(4)(b) of the EIR.

4. The public authority must take these steps 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

5. On 25 February 2012 the complainant made the following request for information to English Heritage:

"I have now had time to look through the small amount of information you provided on Tuesday. The letter from [named individual] to [named individual] (sent by email on 1 December) refers to a letter 'dated 19th November clarifying some further risks.' Why have you not included a copy of this? Please do so by return.

In view of EH's obstructiveness on this and your determination to frustrate our access to the information you hold by misconstruction of our requests I am no longer inclined to assist you by permitting you to limit disclosure in any way whatsoever. You should therefore register a new and separate request for all written material of any kind whatsoever in relation to the South Eastern Railway Offices. Whilst you are at it you should enter yet another in the same terms in respect of the Driver shed and flank wall. Please confirm compliance."

6. English Heritage responded on 21 March 2012 refusing the request as manifestly unreasonable under regulation 12(4)(b) of the EIR.
7. The complainant requested an internal review on 22 March 2012.
8. Following an internal review English Heritage wrote to the complainant on 4 April 2012. It upheld its original decision.

Scope of the case

9. The complainant contacted the Commissioner to complain about the way his requests for information had been handled. The Commissioner wrote back to the complainant explaining that, whilst he appreciated that the complainant's requests were linked, he handles complaints about each request for information separately. He asked the complainant to provide further documentation in support of his complaints.

10. Following a telephone conversation the complainant agreed to restrict the scope of the complaint to his request of 25 February 2012 which was refused by English Heritage as manifestly unreasonable. The Commissioner has therefore restricted the scope of his investigation to consideration of whether English Heritage was entitled to refuse the complainant's request of 25 February 2012 as manifestly unreasonable. The Commissioner has only taken into account the complainant's previous requests for information to the extent that they are relevant to the context or background of the request of 25 February 2012.
11. In the course of his investigation the Commissioner has considered all of the arguments made by the complainant and English Heritage, including those not specifically referenced in this notice.

Background

12. English Heritage has explained that the complainant's request for information relates to proposals that have been put forward by Network Rail for the redevelopment of London Bridge Railway Station. They have stated that the redevelopment will:

"involve the demolition of various structures namely Charles Henry Driver's trainshed – including the flank wall on St Thomas Street - which is Grade II listed, the unlisted former South Eastern Railway Offices at 64 – 84 Tooley Street ("the SER offices") and the partial demolition of the Grade II listed viaduct arches."

13. The Local Planning Authority granted planning permission for the redevelopment of London Bridge Railway Station and the Greater London Authority did not intervene.
14. English Heritage's role in the planning applications, in line with normal practice, was to advise the Local Planning Authority from a heritage perspective. English Heritage has stated that after careful consideration it accepted that the benefits of the redevelopment of London Bridge Railway Station outweighed the harm caused by the loss of the Charles Henry Driver's trainshed.
15. English Heritage also has a separate role in designation cases - in its capacity as specialist advisor to the government - to assess and advise on whether certain buildings should be listed. English Heritage's decision in relation to the SER Offices was that it does not possess sufficient historical/architectural interest to merit listing. However, it considered that the building makes a positive contribution to the Tooley Street Conservation Area and advised the Local Planning Authority that it did not

consider that a case had been made by Network Rail to demonstrate that the demolition of this building was necessary as part of development of London Bridge Railway Station.

16. English Heritage has explained that its role in designation cases and the advice it provides to Local Planning Authorities and others on planning matters are mutually exclusive and handled by discrete departments.
17. The complainant objects to the proposals and the demolition of these structures.

Reasons for decision

Is the request manifestly unreasonable?

18. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose information "to the extent that...the request for information is manifestly unreasonable." The Commissioner considers that public authorities may be able to refuse vexatious or repeated requests as manifestly unreasonable under the EIR. Regulation 12(4)(b) of the EIR is subject to a public interest test. This means that in order to withhold information, in all of the circumstances of the case, the public interest in maintaining the exception must outweigh the public interest in disclosing the information.

English Heritage's Submissions

19. English Heritage has argued that the complainant's request is manifestly unreasonable on the basis that it is vexatious. It has provided evidence to the Commissioner which it considers demonstrates that some of the criteria in the Commissioner's guidance on vexatious requests are met.¹ It also considers that there are wider factors to be taken into account that are relevant to determining whether the request is manifestly unreasonable. English Heritage has not argued that the request is manifestly unreasonable on the basis of costs although it has argued that complying with the request would impose a significant burden on English Heritage.

¹ Information Commissioner's Office, 'When can a request be considered vexatious or repeated?', June 2012, http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx.

20. English Heritage's response to the complainant's request of 21 March 2012 stated that the complainant, or representatives acting on behalf of the same organisation, made five requests for information between 15 December 2011 and 25 February 2012. It stated that these were received by English Heritage on 15 December 2011, 10 January 2012, 18 January 2012, 19 January 2012 and 25 February 2012. English Heritage's response recognised that the complainant had not been satisfied with the way in which the requests had been handled and considered that his requests had been interpreted too narrowly. However, it argued that all of the information within the scope of the requests (as revised) had been disclosed to the complainant.
21. English Heritage has argued that complying with the complainant's request of 25 February 2012 would place a significant burden on English Heritage. It has stated that the information within the scope of the request is not held centrally because both proposals form part of the wider development scheme for London Bridge Railway Station and the Thameslink project. It argues that the complainant was informed of this and so was aware of the burden that his request would place on English Heritage when he made his request.
22. Whilst English Heritage does not consider five requests for information to be an excessive number, it has stated that the complainant has maintained close contact with staff across the organisation and sent numerous emails which raise points and ask questions, to which the complainant demanded "rapid answers". It has stated that the manner of the correspondence and the complainant's unreasonable expectations have placed a significant burden on English Heritage.
23. English Heritage also considers that the tone and language used in the complainant's correspondence is inappropriate. It states that the complainant has, on a number of occasions, questioned the integrity and professionalism of English Heritage staff. It referred to a letter that the Chair of English Heritage felt it necessary to send to the complainant on 15 February 2012 which stated:

"[i]t is extremely important to me...that our staff are treated with dignity and respect for their integrity and professionalism."
24. In addition to this, English Heritage has referred to a number of telephone calls from the complainant that members of English Heritage staff have found challenging and upsetting due to the complainant's tone, which it considers to have been unreasonable.
25. In its submissions to the Commissioner English Heritage expanded upon the position set out in its refusal notice and upheld at internal review. It

included arguments balancing against refusing the request as manifestly unreasonable and provided further evidence to support its position.

26. English Heritage has stated that it does not consider that the complainant's request is in any way trivial. It considers that there is a serious purposes and value to the request as it would contribute to the transparency of the administration of the development proposals. However, it also considers that this has to be balanced against the factors in support of the request being refused as manifestly unreasonable. It has stated that it is important that requests for information do not:

"jeopardise sound and effective administration within public institutions or unjustly harass staff."

27. English Heritage considers that this has been the overall effect of the complainant's request and his contact with English Heritage. English Heritage has stated that it is relying on three of the criteria included in the Commissioner's 'Vexatious and repeated requests' guidance in this case; that the request imposed a significant burden on the public authority, that the request was designed to cause disruption or annoyance and that the request has the effect of harassing the public authority or its staff. In addition to this English Heritage has stated that the wider effect on the administration of its affairs should be taken into account.

The request imposed a significant burden on the public authority

28. In addition to the arguments included in English Heritage's refusal notice it has stated that the request of 25 February 2012 was made before it had responded to a previous request for information that would have provided some of the information within the scope of the new request of 25 February 2012. It considers that this was unreasonable as the request overlapped with the previous request which it had told the complainant would be answered by the revised deadline of 28 February 2012.
29. At the time of the request of 25 February 2012, English Heritage had extended the time for responding to the previous request under regulation 7 of the EIR because it considered that the volume and complexity of the information within the scope of the request meant that it was impracticable to comply within 20 working days. The revised deadline was set at 28 February 2012 and this was confirmed to the complainant in a telephone call on 24 February 2012. English Heritage has stated that it complied with the previous request by the revised deadline of 28 February 2012.

30. English Heritage also disputes the complainant's contention that his earlier requests were not handled appropriately and that they were interpreted too narrowly. Therefore, it considers that it was unreasonable for the complainant to submit a further request based on what it considers to be the unfounded belief that his earlier requests for information had been interpreted too narrowly or reduced in scope without his agreement.

Is the request designed to cause disruption or annoyance?

31. English Heritage has again referred to the fact that the request was submitted three days before the revised deadline for it to respond to the complainant's previous request. It has also stated that the reason that English Heritage considers that the request was designed to cause disruption or annoyance was that the complainant no longer trusted English Heritage and considered that he had encountered a policy of obstructiveness, evasiveness and secrecy. It also referred to the fact that the complainant accused English Heritage of adopting an "ostrich policy" in his letter to the Chair. It considers that the complainant's belief that English Heritage has not fulfilled its statutory role, which it considers to be unfounded, has led to him losing sight of the impact of his correspondence.

The request has the effect of harassing the public authority or its staff

32. English Heritage has stated that the complainant has sent correspondence to a number of staff across the organisation including local office staff, the Access to Information Team, the Chair and the Chief Executive. It considers that the tone and language used in the correspondence is unacceptable. It has provided specific examples, such as the complainant using the phrase "and whilst you're at it" in his request of 25 February 2012, which it considers exemplifies his frustration based on his accusations about English Heritage which it considers to be unfounded.
33. English Heritage has also provided further examples where it considers that the complainant has questioned the integrity and professionalism of a number of English Heritage staff. It has stated that the complainant referred to staff as "obstructive" and made a number of suggestions that senior staff at English Heritage exerted pressure on more junior staff not to disclose information. This was refuted in a letter sent to the complainant by the Chair of English Heritage to which the complainant responded "Well, you would say that wouldn't you."
34. English Heritage has also referred to correspondence that the complainant has circulated more widely that criticises English Heritage

staff members and has argued that the Information Tribunal has accepted that this magnifies the effect of the correspondence.² In particular it refers to the complainant's letter to the Department for Culture, Media and Sport (DCMS) asking for a review of the DCMS's decision not to list the former SER Offices which followed English Heritage's 'Do Not List' recommendation. It states that this letter questions the professionalism of the English Heritage Advisor, who was named in the letter, by stating that the assessment was incomplete and that it:

"was clear that her [the case Advisor's] practical experience was too limited for her to appreciate the significance of this detail...it seems to me a reappraisal of the SER Offices by someone of greater experience is called for."

35. This letter was copied to English Heritage and two other external organisations.

The Complainant's Submissions

36. The complainant is strongly of the view that he has attempted to be helpful in his approach to requesting information from English Heritage. He does not consider that his request of 25 February 2012 was manifestly unreasonable and is of the opinion that English Heritage did not handle his previous requests for information fairly, which meant it was necessary to submit a further request.
37. The complainant has argued that his request for information has a serious purpose and value as it concerns the objectivity of English Heritage's advice to planning authorities in respect of the proposed demolition of structures for the redevelopment of London Bridge Railway Station. He has explained that he made a further, wider request as a result of being exasperated with the way in which his previous requests had been dealt with by English Heritage. He also stated that his earlier requests had been more focused and narrower in scope in an attempt to reduce the burden on English Heritage. The complainant has argued that it would not have been necessary to make a further request for information if his previous requests had been dealt with appropriately but he considers that English Heritage frustrated his previous requests by incorrectly limiting their scope. When the complainant made his request of 25 February 2012, he was of the opinion that English Heritage had been obstructive in handling his previous requests.

² Carpenter v Information Commissioner EA/2008/0046

38. In his request for internal review the complainant argued that English Heritage's position is circular. He states that English Heritage has criticised him for questioning its integrity and independence whilst at the same time refusing to disclose information which would demonstrate that it has acted properly in relation to this issue. He also argues that the upset caused to English Heritage staff was as a result of concerns about being put in "an impossible position with her [the member of staff's] superiors." He considers that his request for information put English Heritage staff in a difficult position because more senior staff did not want the information he had requested to be disclosed.
39. Finally, the complainant argues that there is a strong public interest in disclosure of the information.

The Commissioner's Conclusions

40. Having considered all of the information provided by English Heritage and the complainant it is clear that there is a fundamental disagreement between the parties. The complainant considers that English Heritage has acted improperly in relation to the overall issue and has been obstructive in not complying with his previous requests for information. English Heritage consider the complainant's position to be unjustified because it considers that it acted in line with its statutory responsibilities in relation to the issue at hand, it considers that it has complied with the complainant's previous requests for information and that it has not been obstructive in handling the complainant's requests.
41. The Commissioner has no doubt that the complainant has strong feelings about this issue and that there is a serious purpose and value behind his request. The complainant considers that the structures that are to be demolished for the purposes of the redevelopment of London Bridge Railway Station are of significant historical value and that the decision to allow these structures to be demolished was incorrect. The complainant also considers that the decision not to list the SER Offices and to allow Charles Henry Driver's trainshed – including the flank wall on St Thomas Street – to be demolished was based largely on English Heritage's advice. The complainant has provided evidence of detailed submissions that he has made on both of the substantive issues to which his request relates which are clearly based on extensive knowledge and experience in this area.
42. It is not for the Commissioner to comment upon or determine planning matters. The information outlined above is only intended to demonstrate that the complainant has strong views and that there is a serious purpose and value behind his request which weighs against English Heritage refusing the request as manifestly unreasonable. English Heritage has recognised this. The question for the Commissioner is

whether English Heritage has demonstrated that the factors in favour of refusing the request as manifestly unreasonable outweigh the serious purpose and value behind the request and the presumption in favour of disclosure under regulation 2(2) of the EIR.

43. The Commissioner has considered English Heritage's arguments under each of the headings outlined above as well as its wider arguments as to why the request was manifestly unreasonable.

The request imposed a significant burden on the public authority

44. English Heritage has not argued that the complainant's request is manifestly unreasonable on the basis of costs but has referred to the fact that the information within the scope of the request is held in a number of different files and locations. It has argued that the requester has been informed of this prior to making his request and so was aware of the burden that it would place on English Heritage.
45. The Commissioner does not consider that this factor can be attributed any weight when determining whether the complainant's request is manifestly unreasonable. If English Heritage considered the complainant's request to be manifestly unreasonable on the basis of costs it was open to it to argue this in its refusal notice, its internal review decision or its submissions to the Commissioner. If it considered the request to be formulated in too general a manner it would be under an obligation to provide advice and assistance under regulation 9 of the EIR – there is no indication it did so. If the information within the scope of the request is voluminous and complex English Heritage could extend the time for compliance under regulation 7 of the EIR as it had done for a previous request. It is not unreasonable for a requester to make a request for information that is contained within a number of files or locations which contain more information than that which is within the scope of the request. This is the case whether the requester is aware of how the information is held or not.
46. English Heritage has also argued that although five requests is not an excessive number this must be seen in the context of the complainant's close contact with staff across the organisation and numerous emails which raise points and ask questions, to which the complainant demanded "rapid answers". The Commissioner considers that English Heritage has demonstrated that there was an increase in the amount of correspondence sent by the complainant in the period before the request. However, he notes that this seems to coincide with the complainant being inadvertently copied into an email chain which included an internal English Heritage email referring to the complainant which stated:

"I will keep him at bay for a few days. Do you have an email address for him so I can tell him the Chair isn't going to speak to him!"

47. It seems from the complainant's subsequent emails that he took offence at this and felt that his concerns were not being taken seriously. Whilst the emails the complainant sent following this were robust and in parts accusatory, they were in the main attempting to escalate matters which the complainant felt were not being addressed properly by English Heritage. The emails the complainant sent were also in response to English Heritage's emails to the complainant. From the documentation provided to the Commissioner, it does not appear that the complainant sent overlapping emails without waiting to receive a reply. This is, in part, because English Heritage responded to the complainant in relatively short timescales and this generated further emails because the complainant was unhappy with the responses he received.
48. It is clear from the correspondence English Heritage has provided that it did not consider it appropriate for its Chair to be involved in correspondence, telephone calls or meetings with the complainant on this matter. However, the complainant persevered in insisting on corresponding with, speaking to and/or meeting with the Chair having been told that these were not matters the Chair should be involved with. The Commissioner considers that this distracted the Chair from her normal duties as it is clear that she felt it was necessary to deal with the complainant's correspondence as she felt the tone of the correspondence had become inappropriate. The Commissioner considers that this created a burden and a distraction on English Heritage and that the complainant's request would be a continuation of this. However, he considers that the weight to be attributed to this factor is reduced because the complainant's actions were perhaps more understandable given the way in which he interpreted the internal emails between English Heritage staff which he was inadvertently copied into.

Is the request designed to cause disruption or annoyance?

49. This factor relates to the actual intention of the requester. For the reasons outlined above, the Commissioner does not consider that the requester's intention in making his request was to cause disruption or annoyance. He considers that the requester has strong feelings about what he considers to be the loss of important heritage assets. He has stated that his objective is to save heritage assets at London Bridge Railway Station from demolition and the Commissioner has not been provided with any evidence to suggest that this was not the requester's genuine intention.

The request has the effect of harassing the public authority or its staff

50. The Commissioner considers that the complainant's request demonstrates his exasperation. He uses the phrase:

"In view of EH's obstructiveness on this and your determination to frustrate our access to the information you hold by misconstruction of our requests I am no longer inclined to assist you by permitting you to limit disclosure in any way whatsoever."

51. He also uses the phrase *"and whilst you're at it"* in his request.
52. These phrases can be interpreted as hostile and/or accusatory. English Heritage considers that the tone and language used in the request are unacceptable and it has provided further examples of inappropriate language as outlined above.
53. The Commissioner recognises that the language used by the complainant is robust and accusatory. He considers that the complainant's tone has had the effect of harassing members of English Heritage staff by alleging incompetence. He considers that a reasonable person would consider the language used in the complainant's correspondence, including his request for information, to be hostile, provocative and often personal. He also considers that describing an individual employee as "unfortunate" and suggesting on more than one occasion that English Heritage had "gagged" more junior staff and put up a "smoke screen" would have led to individual members of staff feeling targeted and victimised.
54. The Commissioner also notes that the correspondence sent by the complainant to the DCMS suggested that a particular member of English Heritage staff did not have enough experience to make a listing decision in relation to the SER Offices and that this was disseminated to English Heritage and two other third parties. English Heritage has argued that this showed that the complainant lacked regard for the individuals' feelings or at least showed a lack of care and consideration for the consequences of his actions. The Commissioner considers that it was unfortunate that the complainant shared this correspondence with third parties but notes that DCMS were the correct organisation for the complainant to direct his concerns to as they were the organisation with responsibility for making the final listing decision. The Commissioner considers that professionals acting in their professional capacity should be robust and expect some criticism of the decisions they take. However, in making direct comments about an individual member of staff's competence and experience, rather than focusing on the decision

they had made, in the Commissioner's view the complainant went beyond what a reasonable person would expect as 'fair' criticism.

55. The Commissioner considers that the tone and language used by the complainant became more extreme after he was inadvertently copied into an email exchange between English Heritage staff. The complainant appears to have taken offence at these emails which he considered to dismiss his concerns and discuss how to put an end to communication with him. The Commissioner considers that the wording of English Heritage's internal email, quoted above, was unfortunate and could be interpreted as dismissive of the complainant's concerns. He considers that this was a contributing factor to the tone and language used by the complainant becoming more extreme.
56. Having taken into account all of the above the Commissioner considers that dealing with the request would have the effect of harassing the public authority and its staff. However, the Commissioner considers that the weight to be attributed to this factor is reduced because the complainant's actions were more understandable given the way in which he interpreted the internal emails between English Heritage staff which he was inadvertently copied into.

Balance of the factors against and in favour of the request being manifestly unreasonable

57. As outlined above, the Commissioner considers that the factors in favour of the maintaining the exception under regulation 12(4)(b) of the EIR are that complying with the request would create a significant burden and that the request would have the effect of harassing English Heritage and its staff. The Commissioner considers that the weight to be attributed to these factors is to some extent reduced as the complainant's conduct was perhaps more understandable given the way in which he interpreted the internal emails between English Heritage staff.
58. The Commissioner considers that the factors weighing against the request being manifestly unreasonable are the presumption in favour of disclosure under regulation 2(2) of the EIR and the serious purpose and value underlying the request, which he considers to be particularly strong in this case.
59. In this case, the Commissioner's view is that the main dispute between the complainant and English Heritage has arisen due to disagreements about the discussions and communications in relation to the scope of previous requests. English Heritage considers that it has fully responded to the complainant's previous requests and that any limitation of the scope of those requests was agreed with the complainant or

representatives acting on behalf of the same organisation. The complainant considers that it was clear that he would not have narrowed his previous requests in the way that English Heritage has suggested and that it is being obstructive.

60. The main issue concerns the complainant's belief that internal correspondence should have been included within the scope of his initial request, and subsequent requests, relating to the SER Offices and to the Charles Henry Driver trainshed and the flank wall on St Thomas Street. There have clearly been a number of references to internal correspondence but English Heritage considers that the relevant requests have been narrowed or clarified so as not to include internal correspondence within their scope. The clarification provided by the complainant and/or his representative was largely provided in telephone calls but was later confirmed in writing by English Heritage.
61. The Commissioner has considered the situation at the time of the request. He notes that the complainant considers that English Heritage had incorrectly interpreted the scope of his previous requests or narrowed the scope without his agreement, which English Heritage disputes. Regardless of whether English Heritage correctly interpreted the scope of the complainant's previous requests, at the time of his request of 25 February 2012, the only way in which the complainant may have been able to obtain the further information he believed he had previously requested would either have been to challenge the scope of the request as interpreted by English Heritage or to make a new request. In all of the circumstances, the Commissioner does not consider that the complainant's decision to make a new request was an unreasonable course of action. However, as outlined below he considers that to a limited extent the request that the complainant made was manifestly unreasonable.
62. A public authority can only rely on the exception under regulation 12(4)(b) of the EIR "to the extent that" a request for information is manifestly unreasonable. The Commissioner considers that, in all of the circumstances of the case, the request was only manifestly unreasonable "to the extent that" it included within its scope information which English Heritage had already provided to the complainant or was due to provide to the complainant by the revised deadline of 28 February 2012 in response to a previous request. This is because, for the reasons outlined above, the Commissioner considers that to the extent that this information was included within the scope of the complainant's request of 25 February 2012, this was made out of the complainant's exasperation and his perception that English Heritage were being obstructive. The Commissioner considers that requesting information which English Heritage had previously disclosed and information it had informed the complainant would be disclosed by 28

February 2012, was manifestly unreasonable. Therefore, to this extent the Commissioner considers that the exception under regulation 12(4)(b) of the EIR is engaged and he will go on to consider the public interest test below.

63. However, to the extent that the scope of the request goes beyond the information that had already been disclosed to the complainant by the time for compliance with his request of 25 February 2012, the Commissioner does not consider that the request was manifestly unreasonable. The Commissioner considers that in all of the circumstances of the case the complainant's request had a serious purpose and value, which together with the presumption in favour of disclosure, outweighs the factors in favour of the request being manifestly unreasonable to the extent that the request is for information that has not already been disclosed to the complainant. As the exception under regulation 12(4)(b) of the EIR is not engaged it is not necessary to go on to consider the public interest test in relation to this element of the request.
64. English Heritage is required to comply with the request to the extent that it includes within its scope information that has not already been disclosed to the complainant. It should either provide the requested information or issue a valid refusal notice under regulation 14 of the EIR citing an exception other than regulation 12(4)(b) of the EIR.

Public Interest Test

65. As outlined above, the Commissioner considers that regulation 12(4)(b) of the EIR is engaged to the extent that the scope of the request covers information that has already been disclosed to the requester. He has therefore gone on to consider the public interest test.
66. English Heritage has argued that its responses to the complainant's previous requests demonstrate that it considers that there is an undoubtedly strong public interest in the transparency of the administration of the development proposals for London Bridge Railway Station. However, it considers that taking into account its context and history, complying with the request would jeopardise the sound and effective administration of its affairs and unjustly harass its staff. It considers that these are strong public interest factors weighing in favour of maintaining the exception.
67. The complainant has argued that there is a strong public interest in the information being disclosed because of the importance of understanding why English Heritage took the position it did in relation to the redevelopment of London Bridge Railway Station.

68. The Commissioner considers that there is a strong public interest in the transparency of the administration of the development proposals in relation to London Bridge Railway Station. However, he considers that to the extent that the request includes within its scope information which has already been disclosed to the complainant this public interest has been satisfied. He does not consider that repeating the disclosure would further transparency in relation to the administration of the development proposals for London Bridge Railway Station. It would, however, create a further administrative burden on English Heritage and involve the expenditure of further public resources.
69. Taking into account the public interest factors outlined above, the Commissioner considers that to the extent that the complainant's request includes within its scope information that has already been disclosed to the complainant, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
70. English Heritage is not required to disclose any information that it has previously provided to the complainant as a result of this notice.

Right of appeal

71. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

72. 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.

73. 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

**Pam Clements
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