

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

Decision notice

Date: 9 March 2015

Public Authority: The Land Registry
Address: Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. The complainant submitted two requests to the Land Registry concerning a particular piece of land. The Land Registry explained that it did not hold any information falling within the scope of either request. The complainant disputed this position. During the course of the Commissioner's investigation the Land Registry located one document which the Commissioner determined fell within the scope of one of the requests and this was provided to the complainant. The Commissioner is satisfied that on the balance of probabilities the Council does not hold any further information falling within the scope of either request.

Request and response

2. The complainant had been previously been in correspondence with the Land Registry about a property adjoining his which was registered by the Land Registry under the title number HS195602. The complainant sent the Land Registry the following emails on 22 October 2014:

'As stated in my email 20/10/14 14:00 The land registry acknowledged that mistakes have been made and the plan to HS195602 is erroneous. I would have expected the land registry to have corrected any mistakes at that time as the register would contain false information. I purchased a copy of filed plan 1 August 2012 I was amazed to see that

the plan had not been corrected. on 20 October 2014 I phoned customer services to ask for a corrected copy only to be told the property has now been called the long bungalow I requested a copy to replace the copy you supplied me with incorrect information on.

[1] I will ask you what planning number The Bungalow or The Long Bungalow obtained a residential use on the site you have shown edged red on the plan to HS195602. I have contacted the council and they have been unable to supply me with that information. [2] could you tell me who supplied you with the information and when the site became The Bungalow. [Emphasis added to highlight the two requests that are relevant to this complaint]

You are required by law to supply me with the information requested within twenty one working days.'

3. The Land Registry responded to this email on 23 October 2014 at 10:01. Its response stated that:

'My letter dated 20 October 2009 relating to HS195602 contained the following:

"The information on our system was changed as a result in an update of the Ordnance Survey Address Point database. That system is intrinsically linked to our Land Registry Property Gazetteer (LRPG). Address Point incorporates Royal Mail's Postcode Address File. As I mentioned in my letter of 16 October 2009, the relevant local authority is responsible for house names and numbering."

Although the register of HS195602 was updated by us in 2008 we did not update the title plan. It is not our policy to update the title plan in this situation. Title plans are prepared at a particular point in time and are not routinely updated, so there is no mistake in the title plan. I will not therefore be refunding the fee you paid for official copies.

Again, I must re-state that Land Registry will not be drawn into discussing any matters that were addressed within previous correspondence.

On this basis you should not expect replies or acknowledgements to emails or any other type of contact with Land Registry. This includes your email marked for the attention of Ed Lester Chief Executive.'

4. In a later email sent the same day (at 17:25) the Land Registry appeared to refer again to the information requests submitted by the complainant on 22 October 2014. It stated that:

'When you say about providing you with the information you have requested this seems to relate to attempts by you to open up the same issues which we have disengaged on relating to house names. I have nothing to add to what has previously been said on the subject. As you know Land Registry is not responsible for house names, planning or the use that land is put to.'

5. The complainant exchanged a number of further emails with the Land Registry on 23 and 24 October 2014. The Commissioner notes that in an email sent at 11:12 on 23 October 2014 he also requested:

'the year and reference [sic] number of the OS [Ordnance Survey] map you obtained the information as you have shown it in the filed plan'
6. In an email sent at 14:57 on 24 October 2014 the Land Registry provided him with the reference numbers of the OS maps.
7. The complainant emailed the Land Registry on 24 October 2014 to ask for an internal review of its handling of his requests.
8. The Land Registry responded on 5 November 2014 and explained that it believed that it had provided him with the information sought by his email of 23 October, ie the email seeking the year and reference number of the OS map. The internal review response did not appear to refer to the information requests set out in his email of 22 October 2014.

Scope of the case

9. The complainant contacted the Commissioner on 20 November 2014. He explained that he was dissatisfied with the Land Registry's failure to provide him with the information sought in his email of 22 October 2014. That is to say 1) information regarding a planning application number for a residential property on the land registered as HS195602 and 2) information regarding when the land the Land Registry included in HS195602 became 'The Bungalow'.
10. The Land Registry's position is that it does not hold the information that has been sought and therefore this cannot be supplied to the complainant.
11. Given the nature of the requested information, in the Commissioner's view these requests should be considered under the EIR rather than FOIA. This is because the requested information falls within the definition of 'environmental information' as defined by regulation 2(1)(c) of the EIR.

Reasons for decision

Regulation 12(4)(a) – information not held

12. Regulation 12(4) states that a public authority may refuse to disclose information to the extent that:
 - (a) it does not hold information when an applicant's request is received.
13. As noted above, the Land Registry is of the view that it does not hold information falling within the scope of the complainant's requests of 22 October 2014.
14. In cases such as this, where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
15. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request.
16. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches; and/or, other explanations offered as to why the information is not held.

The Land Registry's position

17. The Land Registry explained that it carried out a thorough investigation in order to establish whether it held information falling within the scope of either of the complainant's requests of 22 October. It explained that as part of this it had searched all of the relevant file stores for files held relating to the complainant's property (registered under title number HS222042) and his neighbour's property (registered under title number HS195602) along with documents held on its 'File and Correspondence System'.
18. In relation to the information sought by request 1, the Land Registry explained that planning numbers for residential use, or indeed any aspect of planning, is not an area where it has any involvement or responsibilities. Consequently, it has no need to hold records such as those sought by request 1. The Land Registry explained to the Commissioner that it had informed the complainant in a letter dated 20 October 2009 that it is not responsible for the use that land is put to and thus was unlikely to hold any information on this topic. The Land

Registry explained to the Commissioner that although an inspection of its relevant files revealed that they did contain some documents relating to planning, these all appeared to have been supplied by the complainant himself and were copies of correspondence between him and the Borough of Beverley dating from 1991 to 1995.

19. In relation to the information sought by request 2, the Land Registry explained it does not hold records relating to the names given to properties. This is because the name that is officially given to a property is not part of its functions; rather this is a matter for the relevant section of the Local Authority.
20. Therefore, the Land Registry informed the Commissioner that in its view it did not hold any information as to when the property registered under HS195602 became known as 'The Bungalow' nor if that particular name was a name approved by the Local Authority.
21. However, the Land Registry explained to the Commissioner that during its searches it located a copy of a 'survey requisition sheet' dated 5 March 1991 relating to HS195602. It explained that Requisition 3 in the left hand column headed 'Requisitions' asked the surveyor to confirm the description. The surveyor's replies are set out in the right hand column headed 'Surveyor's Replies' as '3. "The Bungalow"'. The Land Registry suggested that this document explains why the name 'The Bungalow' was used on the register of HS195602. A copy of this survey requisition sheet was provided to the complainant during the course of the Commissioner's investigation. The Land Registry confirmed that this document had previously been misfiled and thus was not available as a source of information when it had originally responded to the complainant's request.

The complainant's position

22. In his initial submissions to the Commissioner the complainant explained that the Land Registry had previously informed him that the relevant Local Authority should hold the information he sought in his requests of 22 October 2014. However, the relevant council had been unable to provide him this information. He explained that the council did not have a record of any residential use on the site, except for the planning application associated with his property which was submitted in 1966 for one dwelling with a road frontage of 120 feet. He explained that the Land Registry had registered his property with a road frontage of 80 feet and he needed to see a planning application for the change of use on the other 40 feet of frontage. Furthermore the complainant explained that the Land Registry informed him that it had got some of its information regarding HS195602 from the Ordnance Survey. However, he argued that the relevant Ordnance Survey map showed the property

known as The Bungalow in a completely different location to that shown on HS195602.

23. With regard to the document that he was provided with during the course of the Commissioner's investigation – ie the survey requisition sheet – the complainant noted that this dated from March 1991 but the Land Registry registered the title HS195602 on 19 November 1990. The complainant argued that this document could not therefore be the original source of the dwelling's name as recorded on the title given that it post-dated the registration of the land.

The Commissioner's position

24. Firstly, the Commissioner wishes to make it clear that in his view the survey requisition sheet located by the Land Registry during his consideration of this complaint does fall within the scope of the request 2. This is on the basis that, given the Land Registry's explanation of the significance of this document, it would it would appear to provide some indication – albeit perhaps not a definitive one - as to where the house name 'The Bungalow' was obtained from.
25. However, having taken into consideration the submissions of both parties carefully, the Commissioner has concluded that on the balance of probabilities the Land Registry does not hold any further information falling within the scope of request 2. Furthermore, the Commissioner is satisfied that on the balance of probabilities the Council does not hold any information falling within the scope of request 1. The Commissioner has reached these findings given that the Land Registry does not have any business need to hold or retain records concerning the names given to properties nor any business need to hold or retain records concerning planning permissions. Furthermore, even if it did hold any relevant information (such as for example the survey requisition sheet) the Commissioner is satisfied that the thorough searches that have been undertaken of the relevant areas of the Land Registry's records and files would have ensured that any such information had been found. The Commissioner does not accept that simply because the Local Authority has been unable to supply the complainant with the information sought by these requests it necessarily follows that, by default, the Land Registry must hold the information.
26. In reaching these findings the Commissioner does not dispute the rationale behind the complainant's point that it is difficult to accept that the survey requisition form is the source of the name 'The Bungalow' given the variances in dates he has pointed to. Nevertheless, given both the thorough nature of the searches undertaken by the Land Registry to locate relevant information, and the fact that ultimately it does not have a business function relating to the naming of properties, the

Commissioner is satisfied that on the balance of probabilities, no further relevant information is likely to be held by the Land Registry.

Right of appeal

27. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.
29. 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

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF