

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 10 August 2017

Public Authority: Royal Borough of Greenwich
Address: Town Hall
Wellington Street
Woolwich
London
SE18 6PW

Decision (including any steps ordered)

1. The complainant has requested information from the Royal Borough of Greenwich ("the Council") regarding the ownership of a boundary at a particular location.
2. The Commissioner's decision is that the Council has provided the complainant with all of the information it holds falling within the scope of the request.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 22 January 2016, the complainant made a request for information in the following terms:

"1) Who owns the boundary structure (wall and fence) sited on the dividing line between [redacted address] and the subject site?

2) What land use category does the subject site have?

3) Please provide a copy of the license agreement between RBG and [redacted address]."

5. The Council's handling of this request was the subject of ICO decision notice reference FER0631625, which required the Council subsequently to issue a fresh response to point 1) only.
6. The Council's fresh response to point 1) was issued to the complainant on 14 March 2017. The Council stated in that response that it did not hold any recorded information regarding this request.
7. Following an internal review the Council wrote to the complainant on 11 April 2017. It upheld its position.

Scope of the case

8. The complainant contacted the Commissioner on 6 May 2017 to complain about the way his request for information had been handled.
9. The Commissioner considers that the scope of the case is to investigate whether the Council has provided the complainant with the recorded information it may hold which falls within the scope of point 1) of the request; that is, regarding who owns the boundary structure in question.
10. During the investigation, the Council has provided the complainant with copies of documents which it located in its offices.

Reasons for decision

Regulation 5(1) – duty to make environmental information available on request

11. Regulation 5(1) of the EIR says that a public authority which holds environmental information must make it available on request.
12. The Commissioner has sought to determine whether the Council holds any information falling within the scope of the request and, if so, whether it has provided it to the complainant.
13. In making this determination, the Commissioner applies the civil test of the balance of probabilities. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has been provided) in cases which it has considered in the past.

14. To investigate this complaint, the Commissioner has asked the complainant why he believes information would be held, and has asked the Council a number of questions about the searches it has made to locate any information it might hold falling within the scope of the request.

The complainant's view

15. The complainant has explained that part of the boundary between [redacted address] and a piece of Council-owned land adjacent to his home was demolished. It is his belief that the Council would be likely to have established ownership of the boundary, either prior to or after the demolition.
16. Specifically, he has argued *"it is unconscionable that the Council would not have been aware of ownership (at least) before electing to turn a blind eye to unauthorised and notifiable demolition works commencing."*
17. He has argued that the Council either must have considered whether to grant planning permission for the demolition of the boundary structure, which would have triggered consultation with any affected neighbours, or, if unaware of the demolition until subsequently, it must have considered whether to grant retrospective permission or alternatively to require reinstatement of the boundary structure. Accordingly, he believes that the Council must be aware of whether the boundary is owned by itself or by a third party, and would be likely to hold information to this effect.

The Council's view

18. The Council has stated that it does not hold information relating to the ownership of the boundary, and that if information was held, it would be held at the Land Registry.
19. The Council has explained that both [redacted address] and the Council-owned land are registered titles. It has also explained that it does not routinely store title deeds at its offices when its land has been registered at the Land Registry.
20. Notwithstanding the above, the Council has carried out searches at its offices for information falling within the scope of the request, and, during the course of the investigation, it provided the complainant with copies of the documents which it located. These comprised copies of relevant registers of title and Transfer deeds, which are also publicly available at the Land Registry. It is the Council's opinion that, while these may not shed light on the ownership of the boundary, they may be of general assistance to the complainant.

21. The Council has, furthermore, explained that it was not involved in any decision to demolish any boundary structure at the site in question.
22. The Council has explained to the complainant that he would be able to obtain legal advice in the event of a boundary dispute.

The Commissioner's decision

23. The Commissioner notes that, during the course of the investigation, the Council has carried out searches at its offices and has provided the complainant with some information.
24. In view of the fact that the Council land has been registered since at least 1985, the Commissioner considers it reasonable that the only information retrieved by the Council in its searches which may fall within the scope of the request comprises copies of Land Registry documents.
25. The Commissioner also notes that the complainant's arguments, as to why he considers information would be held, focus on his belief that the Council would be likely to have consulted such information in order to agree or disagree to the demolition of a boundary structure, or would at least have had an awareness of the ownership of the boundary. However, it would appear from the Council's responses to the Commissioner that it may not have consulted any information for this purpose.
26. The Commissioner considers that, on the balance of probabilities and in the absence of clear evidence to the contrary, the Council holds no further recorded information which falls within the scope of the request.
27. She does not require the Council to take any steps.

Right of appeal

28. 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@hmcts.gsi.gov.uk

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

29. 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.
30. 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

Alun Johnson
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