

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

Decision notice

Date: 7 January 2020

Public Authority: Eastleigh Borough Council
Address: Eastleigh House
Upper Market Street
Eastleigh
Hampshire
SO50 9YN

Decision (including any steps ordered)

1. The complainant has requested information from Eastleigh Borough Council which concerns a housing development at Pitmore Road, Eastleigh. The Council refused to comply with the complainant's request on the grounds that it is manifestly unreasonable and in reliance on Regulation 12(4)(b) of the EIR.
2. The Commissioner's decision is that Eastleigh Borough Council has correctly applied Regulation 12(4)(b) to the complainant's request.
3. No further action is required in this matter.

Request and response

4. On 14 May 2019, the complainant submitted a request to Eastleigh Borough Council for information relating to a planning file under reference X/19/84992. The full terms of the complainant's request are appended to this notice at Annex 1.
5. The Council sent its response to the complainant on 10 June 2019. Referring to her related letter dated 29 May 2019 as well as her additional complaint of 31 May 2019, the Council advised the complainant that it was refusing to comply with her request in reliance on Regulation 12(4)(b) of the Environmental Information Regulations 2004 (the EIR).

6. The Council explained that Regulation 12(4)(b) allows public authorities to refuse a request for information which is manifestly unreasonable, where the request is vexatious or when the cost of compliance with the request would be too great. The Council said, "The Council have considered that as your requests relate to the same site and matter they will be considered as one", and "The Council have made attempts to respond to your request however each response raises additional requests and you are never fully satisfied".
7. On 12 June 2019, the complainant wrote to the Council to request for a review of its decision dated of 10 June.
8. On 21 June 2019, the Council wrote to the complainant to advise her of the result of its internal review. The Council's reviewer told the complainant that. "Having reviewed the decision [...] dated 10 June 2019, I am upholding the application of Regulation 12(4)(b) of the EIR".

Scope of the case

9. The complainant contacted the Commissioner on 21 June 2019 to complain about the way her request for information had been handled.
10. The complainant asserted her belief that the Council's decision to apply Regulation 12(4)(b) to her request is a blanket ban on her making any further FOI/EIR's relating to Pitmore Road.
11. The complainant told the Commissioner that her request of 14 May 2019 relates entirely to Planning Application Number X/19/84992 and she believes that information which is missing from this planning file which the Council should have published before the consultation period ended on the 19 March 2019. The complainant says, "The requested information is not confidential and should have been made public without having to request the information under an FOI/EIR request.
12. The complainant also asserted that Eastleigh Borough Council is failing to comply with its Publication Scheme and is failing to disclose written records, together with any background papers, of planning decisions made by delegated officers of the Council. Notwithstanding her request for information under the EIR, the complainant argues that the information she has requested must be disclosed under "The Openness of Local Government Bodies Regulations 2014".
13. The Commissioner informed the complainant that the focus of her investigation would be to determine whether Eastleigh Borough Council is entitled to rely on Regulation 12(4)(b) of the EIR to refuse to comply with her request for information.

Reasons for decision

14. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose environmental information to the extent that the request for information is manifestly unreasonable.
15. There is no definition of 'manifestly unreasonable' under the EIR. The Commissioner considers that 'manifestly' implies that the request should 'obviously' or 'clearly' be unreasonable.
16. A request can be manifestly unreasonable for two reasons: Firstly where it is vexatious, and secondly where the public authority would incur unreasonable costs or where there would be an unreasonable diversion of resources.
17. There is no definition of the term "vexatious" in the Freedom of Information Act, however the issue of vexatious requests has been considered by the Upper Tribunal in the case of *The Information Commissioner and Devon County Council v Mr Alan Dransfield (GIA/3037/2011)*. In the Dransfield case the Tribunal concluded that the term could be defined as "manifestly unjustified, inappropriate or improper use of formal procedure." The Tribunal identified four factors likely to be relevant in vexatious requests:
 - The burden imposed by the request on the public authority and its staff
 - The motive of the requestor
 - Harassment or distress caused to staff
 - The value or serious purpose of the request.
18. The Upper Tribunal's decision established the concepts of "proportionality" and "justification" as being central to any consideration of whether a request for information is vexatious.
19. The key to determining whether a request is vexatious is a consideration of whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. Where this is not clear it is necessary to weigh the impact of the request on the public authority against the purpose and value of the request. To do this a public authority must be permitted to take into account wider factors associated with the request, such as its background and history.

Background information

20. The Council has submitted some background information which it considers is relevant to its application of Regulation 12(4)(b) to the complainant's request of 29 May 2019. To substantiate its submission, the Council has provided the Commissioner with copies of the correspondence between the Council and the complainant and the following three appendices:

Appendix 1 – Schedule of chronology of correspondence

Appendix 2 – Pitmore Road – Planning application history

Appendix 3 – Schedule of time/costs spent answering EIR requests, November 2018 – August 2019

21. On 1 October 2018 the complainant submitted a request for information relating to the development being carried out on the site of 120-128 Pitmore Road, under Planning Applications F/16/79112, DC/18/83338 and X/18/83354.

22. The complainant re-submitted her request to the Council on 10 October 2018. This resulted in a complaint being made to the Commissioner – case FER0800675, which was closed when the Council sent its response to the complainant on 17 December.

23. Having received the Council's response, the complainant asked the Council to carry out an internal review on the grounds that the Council had not provided all of the information she had requested.

24. At internal review the Council determined that not all of the complainant's request had been answered. This resulted in the Council providing the complainant with two lever arch files of documents, which it delivered by hand to her home address on 14 January 2019.

25. Following the Council's disclosure of 14 January, the complainant engaged in further correspondence with the Council with the aim of seeking clarification of the disclosed information or to challenge its veracity by way of making further requests for information. According to the Council much of the complainant's correspondence included complaints and challenges which do not form part of her request.

The Council's approach to the complainant's request of 14 May 2019

26. The Council has explained why it has applied Regulation 12(4)(b) to the complainant's request. In doing so it has referred the Commissioner to

her published guidance on the application of Regulation 12(4)(b)¹ - in particular to paragraph 24 of that guidance, and to her decision in case FS50464000.

27. Paragraph 24 of the Commissioner's guidance on Regulation 12(4)(b) states:

"...there may be occasions when it is permissible to consider a number of EIR requests together when deciding if they are manifestly unreasonable on the grounds of cost. This is in line with the approach to requests considered manifestly unreasonable on the grounds that they are vexatious, where the context in which they are made can be taken into account."

28. The Commissioner's decision notice in case FS50464000 concerns the submission of several requests to a public authority on the same day. Having considered the wording of each request, the Commissioner found that the requests were similar enough to be considered together for the purposes of applying Regulation 12(4)(b).
29. Here, the Council argues that the requests made by the complainant between November 2018 and May 2019 all evolve from a single planning permission for the development of houses at Pitmore Road, namely the related planning appeal and the subsequent discharge of planning conditions.
30. The Council argues that the complainant's requests all relate to her initial request of 1 October 2018, as they either raise questions or challenge the documents provided on 17 December 2018 and 14 January 2019. In the Council's characterisation, the complainant's requests centre on her belief that the documents are inconsistent with those already in her possession or that they are incomplete.
31. On several occasions the complainant makes reference to her initial request and states that she considers these 'follow-up' requests are to be seen as part of her original request.
32. For the foregoing reasons the Council asserts that all of the correspondence amounts to one information request and should be treated as such when considering whether the complainant's request is

¹ <https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>

vexatious or manifestly unreasonable on the grounds of cost and diversion of the authority's resources.

33. The Council considers the complainant's request to be vexatious. In doing so the Council has referred to the Commissioner's guidance on the application of section 14(1) of the FOIA and to the tribunal and Court of Appeal decisions in *Information Commissioner v Devon County Council and Dransfield* [2012] and *Dransfield and Devon County Council v the Information Commissioner* [2015]. In the latter decision, Lady Judge Arden stated:

"...vexatiousness primarily involves making a request which has no reasonable foundation. That is no reasonable foundation for thinking that the information sought would be of value to the requester or to the public...", and, "...the decision maker should consider all the relevant circumstances in order to reach a balanced conclusion as to whether a request is vexatious."

34. In the Commissioner's guidance, a vexatious request is one which is likely to cause a disproportionate or unjustified level of disruption, irritation or distress, which requires a balancing exercise which weighs the impact of the request on the Council against its purpose and value.
35. The Council considers the complainant's request to be manifestly unreasonable because it is vexatious and on the grounds of its cost to the authority. The Council has set out separate grounds for its decision.
36. The Council says, "The complainant and her neighbours objected to the proposed development at Pitmore Road at the planning application stage.
37. The Council refused the planning application for the construction of 2 x 3 bedroom and 6 x 4 bedroom dwellings on the site in December 2016. This decision was appealed, and the Planning Inspectorate allowed that appeal in November 2017".
38. The complainant's requests concern planning issues about the housing development. They all span the period from November 2018 to May 2019.
39. As previously noted, the Council provided the complainant with two lever arch files of information relevant to her requests on 14 January 2019. At that date, the Council also provided the complainant with a letter which answered each of her requests, including those which it considered did not engage either the FOIA or the EIR.
40. According to the Council, dealing with the complainant's requests has involved the Council's FOI Officer, Head of Legal Services, Senior

Solicitor, Deputy Data Protection Officer, Senior Planning Specialist, Environment Officer and its Head of Housing and Development.

41. The Council asserts that it has fulfilled its statutory obligation to provide information in respect of the complainant's queries. It has attempted to address the complainant's questions by treating her requests holistically through its FOI Officer and through the provision of hard copy documents, even where they are available on the Council's Planning Portal. This, in the Council's opinion, has created an expectation of the complainant that each and every question she submits could be considered and answered.
42. The Council says, "Each and every fulsome response provided by the Council's FOI Officer to the EIR requests would prompt an almost immediate challenge of the information provided (sometimes several emails would be sent on the same day), or queries around that information." For this reason, the Council considers that the complainant's requests are of the character identified in the Commissioner's guidance at paragraph 25, i.e. "The requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had the opportunity to address their earlier enquiries."
43. Additionally, the Council considers that the complainant has regularly adopted a belligerent tone in her correspondence, including making critical and derogatory remarks about individual Council officers. That correspondence, in the Council's opinion, suggests it is acting unlawfully, that its officers are not doing their jobs properly and are reluctant to assist her.
44. The Council says it understands the complainant's frustration concerning the development at Pitmore Road and it says it has tried to assist with her queries as far as possible. However, the complainant's persistent correspondence, of which her EIR requests form only a small part, represents an airing of a grievance about the existence of a development rather than a genuine search for information for a specified and reasonable purpose.
45. In an attempt to assist the complainant the Council has invited her to seek legal advice and to consider a legal challenge, rather than pursuing a multi-faceted and apparently never-ending EIR request.
46. Turning its attention to the burden the complainant's requests imposes on the Council, the Council again refers to the Commissioner's guidance where it states:

"Burden on the Authority: The effort required to meet the request will be grossly oppressive in terms of the strain on time and resources that the authority cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requester."

47. The Council accepts that the complainant seeks information to assist her understanding of the planning permission process and to assure her that the correct procedure has been followed by all of the parties concerned. Likewise, her requests concerning planning conditions have been made to ensure that they have been correctly enforced. The Council also accepts that the complainant seeks information in order to understand how planning conditions affect the developer's and building contractors' responsibility and liability for issues which concern the complainant and her neighbours, including the discharge of water from the Pitmore Road site.
48. The Council says that it has balanced the complainant's reasonable requirements for information and clarification against their impact on the Council. Having done this, the Council has concluded that a point has now been reached where the complainant's request is so large, multi-faceted and insatiable, that it is neither proportionate nor justifiable for it to continue to respond.
49. In the Council's opinion, to respond to the complainant's request would elevate the issues she is concerned with above the concerns of others in the Borough, who are less vocal and who might have less time to mount a campaign.
50. In the case of *Craven v. The ICO and the Department of Energy and Climate Change*, the Upper Tribunal confirmed that:

"...a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as 'manifestly unreasonable' purely on the basis that the cost of compliance would be too great..."
51. The Commissioner has interpreted this at paragraph 20 of her guidance on Regulation 12(4)(b) as:

"This will mean taking into account all the circumstances of the case, including the nature of the request and any wider value in the requested information being made publicly available; The importance of any underlying issue to which the request relates, and the extent to which responding to the request would illuminate that issue; the size of the public authority and the resources available to it, including the extent to which the public authority would be distracted from delivering other services; and, The context in which the request is made, which may

include the burden of responding to other requests on the same subject matter from the same requester.”

52. The Commissioner has examined the information which the Council has provided in support of its representations in this matter. This includes all of the correspondence which has passed between the complainant and the Council.
53. The Commissioner is satisfied that dealing with the complainant’s correspondence has resulted in the Council needing to spend a significant amount of time in dealing with the issues the complainant has raised.
54. The Council’s estimate of this time is 65.5 hours, which includes dealing with the Commissioner’s Office in respect of the complaints the complainant has raised.
55. The Commissioner expects a public authority to spend an appropriate time to properly deal with a matter, or matters, raised by a member of the public. Likewise, she also expects public authorities to spend appropriate time in dealing with organisations like the Information Commissioner’s Office in the execution of their duties. That said, the Commissioner cannot ignore the number of hours the complainant’s requests and correspondence has required the Council to spend in dealing with the matters she has raised.
56. The Commissioner’s decision is that the Council has properly applied Regulation 12(4)(b) to the complainant’s aggregated requests. In the Commissioner’s opinion, the level of time and resources spent by the Council in dealing with the complainant’s requests clearly indicates that they have placed a significant burden on the Council.
57. Clearly a point has been reached where the Council cannot continue to respond to requests for information which relate to a now-built housing development and where there is clear evidence that no matter how it responds to the complainant or what information it discloses to her, the complainant is likely to pursue the matters further by way of continued correspondence.
58. Regulation 12(1)(b) of the EIR allows a public authority to refuse to comply with a request for information if, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
59. In this case, the public interest in the disclosure lies in the public being able to scrutinize information which a public authority has used in respect of a planning application and the discharge of planning conditions.

60. Being able to scrutinise publicly held information is important for the promotion of transparency and for ensuring that the Council is accountable for its actions and decisions. In the Commissioner's opinion, that the character of the information requested by the complainant suggests that its disclosure would assist the public in gaining greater awareness of environmental matters and would likely promote greater public participation in decision making through the free exchange of views.
61. Here, the Council's decisions clearly impact all the owners and residents of properties which are adjacent to the housing development or who are affected by it. It is quite possible that some of the information requested by the complainant would assist the public in understanding how and why the Council made its decisions concerning the particular housing development.
62. Weighed against these interests is the need to protect the Council's resources. Those resources have to be used to the benefit of all of the Council's residents and tax payers through its provision of the many services it is responsible for.
63. Clearly the housing development and its impact is of some concern to the complainant and her neighbours. That said, the Commissioner has no evidence that the requested information would be of a similar interest to the wider public.
64. Weighed against the above is the Council's assertion that it has spent more than sixty hours of time in handling the complainant's requests about this development. In the Council's words, "the burden required to answer the lengthy correspondence is oppressive in terms of the strain on time and resources, taking the time of officers (in particular planning officers) away from their work".
65. The Council points out that the housing development affects only a small number of residents.
66. On the grounds that the housing development is now almost complete, the purpose of the complainant's requests, which she herself identified, i.e. to challenge the enforcement conditions on the site, is no longer relevant. This is because the judicial review period in which a challenge can be made about the development has now expired.
67. Notwithstanding the above, the Council is assured that the site is lawful. It says this by virtue of the planning decision having been tested on appeal and granted by a Planning Inspector.
68. Regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the

regulation 12 exceptions. In its decision in *Vesco v Information Commissioner* (SGIA/44/2019), the Upper Tribunal set out a three-part test to ensure that Regulation 12(2) presumption is properly considered. The test is in this case is:

- Is the request manifestly unreasonable? (Regulation 12(1)(a);
- Does the public interest in maintaining the exception outweigh the public interest in disclosing the information, in all the circumstances of the case? (Regulation 12(1)(b);
- Does the presumption in favour of disclosure mean that the information should be disclosed? (Regulation 12(2).

69. The Upper Tribunal added, "If application of the first two stages has not resulted in disclosure, a public authority should go on to consider the presumption in favour of disclosure..." and "...the presumption serves two purposes: (1) to provide the default position in the event that the interests are equally balanced and (2) to inform any decision that may be taken under the regulations" (paragraph 19).
70. Here, the Commissioner has considered the presumption in favour of disclosure provided by Regulation 12(2). That presumption effectively requires the requested information to be disclosed unless the weight of the public interest in favour of withholding it is significantly greater.
71. In this case, the Commissioner is satisfied that the level of resources needed to comply with the complainant's requests is wholly disproportionate to any benefit that could be gained through disclosure.

Other matters

72. The complainant has expressed her belief that the Council's decision to apply Regulation 12(4)(b) to her request is a blanket ban on her making any further FOI/EIR's relating to Pitmore Road.
73. The Commissioner wishes to make clear that she could not support such a ban and that her decision (above) is made solely in respect of the requests she has already made.
74. The Commissioner must make clear to the complainant and the Council that, should the complainant be minded to make new requests concerning Pitmore Road, the Council would need to respond to those requests appropriately. The Council's responses would necessarily be

based on the subjective reading of any new requests and in consideration of the circumstances which prevail at the time they are made.

75. In view of the complainant's reference to the requirements of the Openness of Local Government Bodies Regulations 2014, the Commissioner must also make clear to the complainant that the Commissioner's role in respect of this complaint is solely to decide whether the Council has complied with the provisions of the Environmental Information Regulations. Whether the Council is required to provide information under the Openness of Local Government Bodies Regulations is not a matter which is relevant to her decision in this case.

Right of appeal

76. 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

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

77. 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.

78. 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

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

Annex 1

The complainant's request of 14 May 2019

"FREEDOM OF INFORMATION/EIR REQUEST – Planning Application X/19/84992

I have considered the documents published in the Online Planning File X/19/84992 and noticed that there are several documents missing from the file which should have been published and consulted upon before the consultation period ended on the 19.03.2019. [1]I would be grateful if you could provide copies of the following documents with an explanation to assist in my understanding of how decisions were made in this Planning Application.

JPS LANDSCAPE DESIGN's Drawing Number LANDP001 Revision 9 Dated 01.05.2019.

Published in the online planning file on the 03.05.2019

Drawing Title: Hit and Miss Fence Proposal Elevations. The following details were added to this drawing:

Lockable gate for management company access only

1.5m high post and wire fence on boundary with woodland

There were no drawings or applications for the above two variations to the western boundary with the woodland during the consultation period or at any time before this plan was published on the 03.05.2019.

Please provide all information supporting these amendments, which were never applied for in the Planning Application Form dated 18.02.2019.

AVON PROJECT SERVICES - Building Design & Technology

Drawing Number P621/9108 Revision D – Site Plan Dated 07.05.2019 – Published in the online planning file on the 08.05.2019 – THIS DRAWING WAS NEVER APPROVED IN THE

DECISION NOTICE DATED 13.05.2019

This drawing is a new document which has not been consulted upon or approved. The following details are noted on the drawing:

"Rev. C - PA – Dated 21.2.2019 - NEW 1.8m CLOSE BOARDED FENCE ADDED TO REAR (SOUTHEAST)

OF PLOTS 1-3

Rev. D – PA – Dated 03.05.2019 MANAGEMENT CO. LOCKABLE ACCESS GATES TO PROTECTED

WOODLAND ADDED

Rev. D – PA – 07.05.2019 - REAR BOUNDARY TREATMENT CHANGED TO ACCORD TO JPS

LANDSCAPE DESIGN

[TBC] retaining structures (with close boarded fencing over) to civil engineers details."

An entrance gate into development, making it a gated development, is also added to this drawing.

As this drawing was only uploaded to the above planning file last week and is not approved I still require copies of all documents and communications between Council Officers and the Developers and their Agents/Contractors relating to the above four itemised details on the drawing, including a copy of the Civil Engineer's details for the retaining structure which the drawing states is to be confirmed. I attach an enlarged copy of the drawing showing these notations on the plan for ease of reference.

The OFFICERS REPORT published in the planning file on the 08.05.2019 states:

REASON FOR VARIATION

"In order to construct the wall, a line of piles would need to be driven into the ground with concrete lintels strung between them in order to provide a suitable foundation to construct the wall. This would have required the use of a small piling rig and lifting equipment, including the construction of a temporary haul road in order to provide access for the equipment. Ironically this would likely cause significant damage to the woodland trees, and in turn the SINC, which the boundary wall was intended to protect, through compaction and severance of their roots. As well as requiring the removal of undergrowth. Any possible subsidence would also weaken the wall, potentially leading to collapse and/or the need for repairs which would again necessitate access into the woodland for equipment which could again result in further harm to the woodland."

OTHER MATERIAL CONSIDERATIONS

"It is also now intended to include a pedestrian gate from the communal area of the development into the woodland. This gate will be kept locked at all times and will only to be used by the management company to allow the

woodland side of the fence and planting to be monitored and maintained. These measures are considered to be sufficient to ensure reasonable maintenance of the fence and planting"

No evidence to support the above statements by Gary Osmond has ever been published in the above online planning file. Please provide copies of all communications between the Council's Officers and the Developers, their Agents and Contractors and all drawings and technical documents provided to EBC and its Officers which to supports the above contentions.

The most important information I need to enable me to understand how Gary Osmond reached his decision is the evidence he obtained to authoritatively enable him to state that a small piling rig and lifting equipment and the construction of a temporary haul road to provide access for the equipment was needed to enable the wall to be built.

Please also provide an explanation as to why a 1.8 metre high wall would require all of these measures to be provided on the site when they are not required to enable the houses and roads to be constructed in the development site. Information provided to Gary Osmond about the possibility of the wall subsiding must be provided to me because this implies that the houses and roads built in the site will also be subject to the same vulnerability of structural subsidence. Without this clarification Gary Osmond's comments are incomprehensible given that these houses, their patios and access roads are constructed at a much greater height and are hundreds of tons heavier than the woodland boundary wall approved on Appeal.

THE SITE AND ITS SURROUNDINGS – DESCRIPTION OF APPLICATION

"The application seeks consent for a revised version of the western boundary treatment approved at appeal. The principle change is intended method and type of construction, from the originally approved timber clad brick wall, to a robust hit and miss timber fence."

REPRESENTATIONS RECEIVED

It is alleged that the Council received the following representations, which they did not: *"The proposed construction of the fences would not be sufficiently robust"*

ASSESSMENT OF PROPOSAL - Reasons for Variation

".../However, at the subsequent planning appeal, the Inspector agreed that a robust boundary treatment in the form of a timber clad wall with planting

would be sufficient to overcome this concern. As such, conditions were applied to the appeal consent for the boundary wall to be built in accordance with a drawing/specification agreed at the appeal hearing. These conditions were then carried over to the recently approved version of the scheme (X/18/83354).../”

.../The applicant has requested an amendment in order to be able to substitute an alternative design for this south-western boundary treatment, changing it from a timber clad wall to a robust timber hit and miss fence.../”

Amenity - *“Looking at the amenity of the area and future residents of the development, as discussed above, the substitution of the wall with a robust timber fence will have little impact upon the visual amenity of the area or residential amenity of future and neighbouring occupiers.”*

Condition 5 states *“Prior to first occupation of any of the dwellings hereby approved, a long-term monitoring and management plan for the approved boundary treatment comprising the western boundary as shown on JPS Landscape design reference ‘692 LANDP001 Rev 09’ and ‘692: E005 Rev 05’ shall be submitted to and agreed in writing by the local planning authority and the boundary treatment shall be planted and otherwise implemented in accordance with the approved monitoring and management plan.”*

692-E005-Rev.5 is a plan of the Hit and Miss and Wire Fence. It is **NOT** a management plan.

692 LANDP001 Rev 09 - JPS Landscape Design – is a landscape plan. It is **NOT** a management plan. A Management Plan has not been included in the Decision Notice to permit the Application.

Please provide full details and copy documents which informed Gary Osmond that the Application was for a robust hit and miss panel fence because there is no explanation in any documents submitted with this planning application, irrespective as to whether or not they are approved, which provides evidence other than the document which states the integrity of the proposed fence needed to be inspected every three months in-perpetuity. I would like not only a copy of the long-term management plan required by Condition 5, which has not been approved in this permitted Section 73 Application, but also a clear and unequivocal explanation of the term applied to the timber fence to support the statement of fact that the approved hit and miss fence will be a “robust” structure.

Please ensure you provide me with the above requested information within the time limits set out in the FOI Act and EI Regulations.”