

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

Date: 1 September 2022

Public Authority: National Highways
Bridge House
1 Walnut Tree Close
Guildford
Surrey
GU1 4LZ

Decision

1. The complainant has requested information about road works carried out in the 1970s, and a pedestrian crossing. The Commissioner's decision is that, on the balance of probabilities, National Highways does not hold the requested information and there has been no breach of regulation 12(4)(a) of the EIR.

Request and response

2. The complainant made the following information request to National Highways (NH) on 9 December 2021:

"[1] I would like under the freedom of information act 2000. Details of the road widening scheme you did in the late 1970s . on church rd lymm near the dam . you took 12 ft under compulsory purchase off the properties and rebuilt the wall to accommodate the road widening ...you then constructed a wall along the highway adjacent to the properties you took the land off .I'd like to know what the specifications and load bearing capacities were on this wall . on initial inspections appears to be of sub standard nature . the local council have had a surveyor inspect wall in July .but it appears they don't

want to share their findings ?[Redacted] Warrington council .I have instructed myself 2 totally independent structural engineers reports .and the findings are most distressing .I hold whoever built this wall formally responsible for the collapse .and the remainder some 150 yds is in a perilous state too .you are welcome to view my findings...

[2]... I did want information too about the pedestrian crossing constructed the same year as collapsed wall .12ft"

National Highways' final position was that it does not hold the requested information.

Reasons for decision

3. This reasoning covers whether or not NH holds the requested information and whether regulation 12(4)(a) of the EIR is engaged.
4. Under regulation 12(4)(a) of the EIR a public authority may refuse to disclose environmental information to the extent that it does not hold that information when an applicant's request is received.
5. In its correspondence to the complainant, NH explained that, with regard to part [1] of the request, records of the work no longer exist, in line with its retention policy. It said that records related to road work schemes are retained for 10 years. Regarding part [2] of the request, NH advised that Warrington Borough Council constructed the pedestrian crossing in question in 2020 and that NH therefore does not hold any relevant information. NH advised the complainant to contact Warrington Borough Council for that information.
6. Public authorities are not expected to keep all information indefinitely. The road works that are the focus of part [1] of the request were completed in the late 1970s. In line with what NH says is its retention schedule, any information about those works would have been destroyed in the late 1980s/early 1990s. The Commissioner has not been presented with any evidence to suggest that what NH has advised is not correct. He therefore accepts that NH does not hold this information.
7. Similarly, NH has advised that Warrington Borough Council constructed the pedestrian crossing that is the subject of part [2] of the request. The Commissioner has no reason to doubt that this is not the case and finds that NH therefore does not hold the requested information about that crossing. In respect of both parts of the request, the Commissioner is satisfied that regulation 12(4)(a) of the EIR is engaged.

Right of appeal

8. 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

9. 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.
10. 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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF