

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

Date: 19 December 2022

Public Authority: London Borough of Haringey
Address: 7th Floor, River Park House
225 High Road
Wood Green
London
N22 8HQ

Decision (including any steps ordered)

1. The complainant has requested copies of meeting minutes.
2. London Borough of Haringey ('the Council') originally refused to provide the requested information, citing regulation 12(5)(f) (interests of the person who provided the information to the public authority) of the EIR. During the course of this investigation, the Council confirmed that it did not hold the requested information and cited regulation 12(4)(a) (information not held).
3. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Council does not hold the requested information.
4. The Commissioner does not require any steps.

Request and response

5. On 20 October 2021 the complainant made the following request for information:

"This is a Freedom of Information request for:

1) Three reports on the proposal to redevelop Cranwood Quality Review Panel meetings on 5 February 2020, 26 August 2020 and 5 December 2020.

2) The notes or minutes of the pre-application meetings on:

11 November 2019

18 June 2020

23 July 2020

5 November 2020

27 May 2021

The requested documents relate to the public consultation for planning application HGY/2021/2727."

6. On 16 November 2021 the Council responded. It disclosed information in response to part 1 of the request. It confirmed that, in relation to part 2 of the request, it only held meeting minutes for 18 June 2020 and 23 July 2020. It refused to disclose these minutes citing regulation 12(5)(f) (Interests of the person who provided the information to the public authority) of the EIR.
7. The complainant requested an internal review on 25 November 2021.
8. On 24 December 2021 the Council provided the outcome to its internal review. It upheld its original response.
9. The Commissioner commenced his investigation into this matter and asked the Council to explain why it held minutes for some pre-application meetings but not others. During the course of this investigation, the Council confirmed that it did not hold any minutes for any of the meetings referred to in the request, including 18 June 2020 and 23 July 2020.

Scope of the case

10. The complainant has submitted arguments in support of disclosure of the withheld information. The complainant has concerns about the redevelopment project in question; they're concerned that as the Council represents the applicant for planning permission, the landowner and the local planning authority, there is a clear conflict of interest. However, the Commissioner cannot consider arguments for disclosure for information that is not held and the Council has now confirmed that no minutes were taken for any of the meetings in question.
11. The Council has explained that 'The pre-application process is a dynamic discussion between two parties and notes are issued at crucial points in the discussion and when time allows. Events can often overtake the preparation of notes so another meeting is held before time has allowed a note to be prepared.'
12. The Commissioner accepts that there is no requirement for the Council to minute all meetings that take place. However, for completeness the Commissioner asked the Council to explain the searches it had undertaken to locate any information that would fall within the scope of this request and to explain why these searches would have been likely to locate all of the information in scope.
13. The Council explained that 'The Development Management Database and email records have been thoroughly checked by the relevant officers and these are the only locations pre-application notes will be held' and 'All remaining staff involved in the pre-application process were asked to review all emails related to this application.'
14. The Council also explained that 'The site name 'Cranwood' was used for all searches and the site has always and only been known by this name so we are satisfied that nothing has been missed.'
15. Where a dispute arises over the recorded information held by a public authority at the time of a request, the Commissioner, following the outcome of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. This means that the Commissioner will determine whether it is likely, or unlikely, that the public authority held information relevant to the complainant's request at the time that the request was received.
16. The Commissioner is not required to prove, for certain, whether the requested information is held. However, with the above in mind, he is satisfied that on the balance of probabilities the requested information is not held and is therefore exempt under regulation 12(4)(a).

Procedural matters

17. When a public authority receives a request for information it needs to do two things: ascertain if the information is held and consider whether an exception or exemption applies. In this case, it has taken the Council over a year to determine whether the requested information is held.

Right of appeal

18. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

19. 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.
20. 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

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