

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 13 December 2022

**Public Authority:** London Borough of Croydon  
**Address:** Bernard Weatherhill House  
8 Mint Walk  
Croydon  
CR0 1EA

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the London Borough of Croydon ("the Borough") in relation to Kenley Intensification Zone Transport Study. By the date of this notice the Borough had failed to provide a substantive response to this request.
  2. The Commissioner's decision is that the Borough failed to respond to the complainant's request within 20 working days of receipt and has therefore breached regulation 5(2) of the EIR.
  3. The Commissioner requires the Borough to take the following steps to ensure compliance with the legislation.
    - Respond to the complainant's request in accordance with the EIR.
  4. The Borough must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.
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## **Request and response**

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5. On 12 October 2022, the complainant wrote to the Borough and requested information in the following terms:

"Kenley Intensification Zone Transport Study (Final Report) February 2020 – COSTINGS

Table 8-1 (p.67) of the above Study lists the proposed '...transport infrastructure or improvements' thought to be required to '...sustainably accommodate the anticipated growth taking place in the 'Kenley Area of Focused Intensification' or 'Focused Intensification Zone'. No costs are provided.

Please provide copies of any information regarding the subsequent COSTING of the individual proposals listed and of any reports etc that provide an update as to their implementation, including how they are funded."

6. To date, a substantive response to the request has not been issued.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 16 November 2022 to complain about the Borough's failure to respond to their request.
8. The Commissioner has considered whether the Borough has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

## **Reasons for decision**

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9. Regulation 2(1) of the EIR defines environmental information as being information on:
- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
  - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other

releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;
  - (d) reports on the implementation of environmental legislation;
  - (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
  - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
10. The Commissioner has not seen the requested information but has considered the wording of the request and notes that it is information in relation to a transport study. Therefore he believes that it is likely to be information about (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities. For procedural reasons, he has therefore assessed this case under the EIR.
  11. Regulation 5(1) states that: "a public authority that holds environmental information shall make it available on request."
  12. Regulation 5(2) states that such information shall be made available "as soon as possible and no later than 20 working days after the date of receipt of the request."
  13. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
  14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Borough has breached regulation 5(2) of the EIR and it is now required to respond to the request in accordance with the EIR.

## Right of appeal

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15. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**