

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 18 January 2023

Public Authority: Bath & North East Somerset Council
Address: Guildhall
High Street
Bath, BA1 5AW

Decision (including any steps ordered)

1. The complainant requested building regulation information relating to specific properties. Bath & North East Somerset Council (the "council") disclosed some information and refused to provide other information, citing regulation 13 (personal information) of the EIR.
2. The Commissioner's decision is that the council is entitled to withhold information on the basis of regulation 13(1) of the EIR.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 11 May 2022, the complainant wrote to Bath & North East Somerset Council (the "council") and requested the following information:

"All application forms and documents in respect of submissions for [redacted] and retained land with ALL plans and documents made since 2016 to present date relating to Building Regulations and Building Act 1984. This would also need to include all Drawings".
5. The council disclosed some information but withheld the majority of the information because it considered that it constituted the personal data of third parties and was, therefore, subject to the exception in regulation 13(1) of the EIR. At the time of the Commissioner's investigation this remained the council's position.

Reasons for decision

6. This section sets out the Commissioner's conclusions in relation to the council's application of the exception in regulation 13(1) in this case.

Regulation 13 - personal data

7. Regulation 13(1) provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in regulation 13(2A), 13(2B) or 13(3A) is satisfied.
8. The council has stated that the complainant is not the applicant for the building regulation application to which the request refers. It has stated that the complainant originally owned the land on which the three new dwellings relevant to the building regulation application are located. The council has confirmed that the 3 new dwellings in question are private residential dwellings owned by other private third parties.
9. The council has additionally stated that the complainant and their surveyor have repeatedly contacted its Building Control and Planning departments alleging dangerous structures, land slippage and other building regulation contraventions. The council has stated that these matters have all been investigated under the appropriate legislation.
10. Whilst all cases must be considered on their own merits, the Commissioner is mindful that he has previously considered complaints which relate to comparable requests for building regulations information. He has found that, whereas information relating to planning applications

is routinely published, the same is not true of information relating to building regulations.

11. The Commissioner has considered a previously issued decision notice which relates to a request for building regulations information¹. The Commissioner found that individuals submitting applications under building regulations had a reasonable expectation that information associated with this would not be made public, being as it related to their private lives, including work carried out on their personal property.
12. In the same decision notice the Commissioner recognised that the complainant had a legitimate interest in accessing the information as they had concerns about the impact of building regulations decisions on their own property. The Commissioner then went on to balance these interests against the interests of the individuals submitting building regulations applications.
13. In this case, the complainant has raised concerns about the impact of work carried out under building regulations on their own land and has provided the Commissioner with submissions relating to this. Whilst these have some relevant to public interest considerations, it is important to emphasise that it is not the Commissioner's role to determine whether the council has complied with its obligations under building regulations.
14. The Commissioner understands why the complainant has a personal interest in obtaining the information, however, his role under the EIR is to consider the broader public interest. In relation to this, he considers that there are other remedies for progressing concerns about decisions taken in relation to planning and building regulations which do not require the disclosure of third party personal data to the world.
15. Having considered the facts of this case the Commissioner does not consider that the complainant's private interests outweigh the broader public interest in protecting unwarranted intrusion into other individuals' private lives through disclosure of information relating to their home life.
16. The Commissioner considers that those submitting applications under building regulations would have a reasonable expectation that information about their properties would not be placed in the public domain. Disclosing the information, in addition to causing unwarranted

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2619414/ic-61183-h2f1.pdf>

intrusion to these individuals' lives, would also damage public confidence in the building regulations process.

17. In reaching his decision in this case, the Commissioner considers that the conclusions reached in the previous decision notice referred to in paragraph 11 above are transposable here.
18. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the fundamental rights and freedoms of the individuals to which the application information relates. The Commissioner therefore considers that disclosing the information in question would contravene a data protection principle as it would not be lawful. Therefore, he has decided that the information is exempt under regulation 13(1) by virtue of 13(2A)(a).
19. It follows that the council is entitled to withhold this information

Right of appeal

20. 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

21. 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.
22. 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

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