

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

Date: 20 February 2023

Public Authority: Brent Council
Address: Engineers Way
Wembley
London HA9 0FJ

Decision

1. The Commissioner's decision is that Brent Council has correctly applied regulation 12(4)(b) of the EIR to the complainant's request for information about the Stonebridge Park Complex, as the request is manifestly unreasonable.

Request and response

2. A background to the request is available in a decision, dated 5 August 2022, that the Commissioner made in a separate but related case. That decision concerned a request the complainant had submitted to Brent Council ('the Council') on 16 February 2020: [IC-40998-V0Z0](#).
3. The complainant made the following information request to the Council on 8 December 2021:

"I made this request through the ICO on 24 June 2021 ICO Complaint Ref: IC-40998-V0Z0 (Brent Council) . I still have not got a response.

The Mayor of Brent asserts that Brent Council is the sole and beneficial owner of the property known as the Bridge Park Complex and the council is seeking an Order in the High Court to that effect. However, On the 16th of November 2021 I learned that the HPCC a defendant in the Chancery action Brent v Stonebridge PT 2018

000426, and had somehow acquired the governing documents. On the 5th of December 2021 I attended a update meeting of the HPCC, where I learned from [redacted], that the council does hold the property in a custodial trust.

Since Brent Council failed to consult with the community and failed to give the Afro-Caribbean beneficiaries of the trust the opportunity to form a constituted local community group. Certain types of disposal are exempt from these arrangements but this is not an exempt disposals between trustees or companies in a group. I am concerned that Brent failed to carry out any necessary consultation with those affected by the sale. It is very important that the Freedom of Information Act 2000 (and the Environmental Information Regulations 2004) continues to provide a right of access to the public to recorded information held by a public authority. Brent Council has not denied that it seeks to take the disputed community property, against the will of the community beneficiaries, without a proper consultation and intends to sell the land to a private offshore hotel developer and build a development disregarding the land use specifically laid out in the land title and covenant. There is no doubt that Brent Council failed to discharge its public obligations existing by common law, custom or statute. The Land use was not removed from the Land Registry Title. The land registry records were restricted and the forms 'The DS2/DS1 application to cancel entries relating to a registered charge, are not available. Since I have made a request for the forms that released the charge as the Council alleged. The CLSA runs contrary to the interests of the local community beneficiaries. I can only guess at the details for transfer of ownership in the original governing documents, because they have not been disclosed.

FOR THE REASONS GIVEN ABOVE I AM SPECIFICALLY REQUESTING

1. Counterpart Document DS1 for Form DS2 dated 29 November 2912 (if any)
2. The Counterpart Document DS2 for Form DS1 dated 12 December 2912 (if any)
3. A copy of Executive 17th June 2013 Report From Brent Council Director of Regeneration and Major Project/ Bridge Park Development Proposal)
4. Planning permission for 1998 hotel development plan of the Unisys Site

Link to any other planning permission given/obtained in regard to the entire Stonebridge Park site

5. A copy of the original governing documents of the The Bus Garage Steering Group Company.
6. Copies of all Chief Executive to Policy and Resources Committee Reports that reference or pertain to the Stonebridge Project or Stonebridge Park Complex
7. A copy of the alleged land survey by Royal institution of Chartered Surveyors (RICS) and valuation of the 3.4 acre disputed Bridge Park site.
8. Copies any other Executive Report From Brent Council Director of Regeneration and Major Project referencing the Bridge Park Development Proposal
9. Copy of 17th April 1985 report of of the Chief Executive to the Policy and Resources Committee outlining the scheme for the Stonebridge Project.
8. Any other report with regard to possession or re-possession of Technology House or the Business Units.
9. Copies of any Chief Executive to the Policy and Resources Committee referencing the referencing the Bridge Park Complex, Stonebridge Project or GMH Development Proposal
10. Copy of the CPO and compensation given for the Wembley Car Breakers at Stonebridge Park, NW10.
11. Copies of any business rate rebates within the past 5 years for Technology House or the Business Units.
12. With regard to the CLSA with GMH. I would like to view the parts of the CLSA with GMH referencing:
 - a. Guarantor Substitution Covenant Adequacy and Enhancement
 - b. Purchase Contract
 - c. Penalties for non performance
 - d. Land Release and Vacant possession agreements
 - e. Acquisition of out of phase properties
 - f. repurchase and overage provisions
 - g. Secure tenancy rights
 - h. Social Housing and Community Infrastructure Levy (CIL)
 - i. Adverse rights Deeds.
 - j. Schedule of Planning Obligations and Planning conditions
 - k. Any other relevant caveat or contingency including specific performance. kick back, cash back, and or partnership arrangement with

In closing, although this may be more empty rhetoric on the part of the council, but I want to end my request with a quote by Brent Council from the Kilburn Times Newspaper.

“Whatever the outcome of the court case, our door remains open to discuss the future of Bridge Park with the local community.”

Source: <https://www.kilburntimes.co.uk/news/brid...>

Disclosure of the requested documents above would be very helpful in allowing the community to understand the present situation and discuss the future of the Bridge Park development. Many thanks, and I wait in anticipation of your response in this matter.”

4. The Council asked the complainant to clarify parts 1 and 2 of the request. It released information within scope of parts 3, 7, 9, directed the complainant to published information within scope of part 4 and addressed part 10. The Council advised it does not hold the information requested in part 5. It applied regulation 12(4)(b) of the EIR to parts 6 and 8 and applied regulation 12(5)(e) to part 7. The Council advised that it did not hold the information requested in 11 at that time. Finally, the Council said that it had previously addressed part 12, indicating that information had been redacted under regulation 12(5)(e).
5. At internal review, the Council appeared to refuse the request for a review under regulation 12(4)(b) and confirmed it maintained its reliance on regulation 12(5)(e) regarding parts of the request.
6. In a submission to the Commissioner, the Council clarified that its view at internal review, “...was that in addition to Regulation 12(5)(e) the request (and in turn Internal Review request) is manifestly unreasonable on the ground of vexatiousness.”
7. The Commissioner understands from this that the Council’s final position is that the complainant’s entire request is manifestly unreasonable under regulation 12(4)(b).

Reasons for decision

8. This reasoning considers whether the Council is entitled to rely on regulation 12(4)(b) to refuse the complainant’s request.
9. Under regulation 12(4)(b) a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable. A request may be manifestly unreasonable because it is vexatious or because the burden of complying with the request is disproportionate to the request’s value. The Council has confirmed that

it considers the request is vexatious, but the Commissioner considers disproportionate burden also has a bearing.

10. Taking part 6 of the request, one of the two parts to which the Council originally applied this exception, the complainant requested copies of "all Chief Executive to Policy and Resources Committee Reports that reference or pertain to the Stonebridge Project or Stonebridge Park Complex". In part 8, to which the Council also applied regulation 12(4)(b) they requested copies of "any other Executive Report From Brent Council Director of Regeneration and Major Project referencing the Bridge Park Development Proposal".
11. In its response of 11 February 2022 to the complainant's request, the Council advised that it had interpreted part 6 as being for **any** report "that references or pertains" to the development in question. It considered such a request to be manifestly unreasonable. The Council noted that part 8 of the request was for "any other" report referencing the development which again, it considered to be manifestly unreasonable.
12. In their request for a review, while the complainant was dissatisfied with the Council's refusal, they did not dispute its interpretation of these two parts.
13. In its response, the Council went on to advise that providing the information in the two parts would involve identifying what information it holds, locating the information and determining whether it is relevant to the requests, retrieving the information and extracting the information. The Council considered that this would need a disproportionate use of resources. It explained:
 - a) the public scrutiny and, in turn, published documents surrounding the Stonebridge Park Complex (SPC) redevelopment has been extensive, and is readily available on the internet and Council page (<https://www.brent.gov.uk/bridgepark>)
 - b) substantial information associated with, referencing or pertaining to, but not necessarily directly related to SPC will be within scope of the requests; and
 - c) given the length of time the development has been ongoing there will be volumes of reports connected to SPC.
14. The Council also noted that the Commissioner's published guidance on regulation 12(4)(b) advises that the context and history of a request will often be a key factor in determining whether a request is manifestly unreasonable. The Council said that its records showed that since February 2020, it had received 12 requests for information [from the

complainant]. Each request included a number of representations from the complainant and sought a variety of information and documentation.

15. The Council advised that the volume and frequency of the complainant's communications were very challenging, and officers felt deluged with the volume. The Council noted that the complainant's interactions vary between statements and/or a persistent disbelief in the response it provided. Consequently, the Council said, it has reached a level where at that point the request could be fairly characterised as vexatious, for the reason above.
16. The Council accepted that the complainant may have a genuine conviction that their requests are reasonable, have a serious purpose and be for the benefit of the wider community. It considered, however, that the value of responding, in some instances, is limited. This was because the complainant not only sought very historic information, but also sought information about decisions the Council had not made or which the Council is lawfully entitled to make, and which have undergone (and continue to undergo) both public engagement and scrutiny.
17. The Council advised that there comes a point when the action being taken, and the associated burden being imposed on it is disproportionate to whatever objective the complainant is attempting to achieve. It confirmed that was particularly the case with the current request.
18. In IC-40998-V0Z0 the Council had applied regulation 12(4)(b) to an earlier multi-part request the complainant had submitted for "all information" about SPC. The Commissioner had found this exception was engaged in that case.
19. The two parts of the request discussed above concern **reports** about SPC (ie they are more focussed than "all information about SPC"), but the complainant did not dispute the Council's interpretation of the requests as being for **all** reports that **reference** SPC. The complainant had not, for example, requested reports within a specific time period.
20. The Commissioner finds part 6 and 8 of the request engage regulation 12(4)(b) for the same reasons as in the earlier request. Principally, this is because discussions about SPC have been ongoing for more than 40 years with reports going to various committees from as early as 1982/83.
21. The Commissioner is satisfied that responding to what are again broad requests would impose a significant burden on the Council. He has taken account of the wording of the request, the Council's response to the request in this case and his decision in the earlier case and has decided that this burden would be a manifestly unreasonable one. Consequently,

the Commissioner is satisfied that regulation 12(4)(b) is engaged in respect to part 6 and 8 of the complainant's request.

22. As had been noted in the earlier case, there is no specific provision under the EIR for aggregating substantially similar requests. However, there may be occasions where 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 line with the Commissioner's 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.
23. The Commissioner has found that parts 6 and 8 of this request are manifestly unreasonable by virtue of cost. It follows that the remaining 10 parts of the request – submitted on the same day and about the same matter – when aggregated, are also manifestly unreasonable on that basis.
24. However, the Commissioner considers that the Council has also made a satisfactory case that the entire request can be considered to be manifestly unreasonable because it is vexatious. This is because: the complainant submitted 12 requests on the same matter from February 2020; the requests are, the Commissioner understands, complex and multi-part; the requests overlap in subject matter (he notes that aspects of the current request overlap the request considered in IC-40998-V0Z0); a response to one request generates another request and the complainant remains dissatisfied.
25. In addition, the Commissioner notes that in their request for an internal review, the complainant made unsubstantiated allegations of "cronyism," "racism" and "discrimination" against the Council. They also said that the Council was, "encouraging fraud, theft and abuse of influence in the courts." The Commissioner considers therefore, that there are sufficient factors to enable the request to be categorised as vexatious and to be manifestly unreasonable on that basis also.
26. To summarise, the Commissioner is satisfied that the Council is entitled to rely on regulation 12(4)(b) of the EIR in respect of the complainant's entire request because it is manifestly unreasonable.
27. Regarding the public interest, in its response to the request the Council acknowledged the general public interest in transparency and accountability, and the EIR's presumption in favour of disclosure. It said it is also committed to providing greater public awareness and understanding of environmental matters and decision-making process.
28. The Council said it considered it had been very transparent about the Stonebridge development; it had established an internet community

page providing both historic and current details and documents on the development.

29. It indicated that it had taken into account that it had responded to other requests on the same subject and noted that the complainant's previous information requests overlapped significantly with this request.
30. The Council said that the public interest in maintaining this exception lies in protecting public authorities from exposure to disproportionate burden or to an unjustified level of distress, disruption or irritation in handling information requests. On balance it was the Council's view that the public interest in maintaining the regulation 12(4)(b) exception outweighed the public interest in disclosure.
31. The Commissioner is again satisfied the public interest favours maintaining the regulation 12(4)(b) exception in this case. The public interest had been discussed in IC-40998-V0Z0 in relation to the burden associated with complying with the request. That same discussion is relevant to this case, but he does not intend to repeat it in this notice. It is sufficient to say that the Commissioner is satisfied that the balance of the public interest again favours maintaining the regulation 12(4)(b) exception for the same reasons. The Commissioner is also satisfied that the public interest favours protecting public authority resources by not complying with a request which he has also found to be manifestly unreasonable because it is vexatious.
32. Finally, the Commissioner is required to consider the EIR's presumption in favour of disclosure. Whilst he has considered and been informed by the presumption in favour of disclosure, he does not consider that the public interest is evenly balanced and therefore this does not alter his decision.

Right of appeal

33. 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

34. 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.
35. 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
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