

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

### **Decision notice**

**Date:** 25 January 2023

**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 Council ("the Council") relating to planning applications. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council 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 Freedom of Information Act and may be dealt with as a contempt of court.

## Request and response

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5. On 16 November 2022, the complainant made the following request for information to the Council:

"As part of the permission granted for the above planning application, the Council attached Condition 12, which states that 'Prior to the commencement of development a Construction Logistics Plan (CLP) shall be submitted to and approved in writing by the Local Planning Authority'.

An application to discharge Condition 12 (21/01855/DISC) was received and validated by the Council on 12 April 2021. The application included a Construction Logistics Plan dated 8 April 2021.

On 21 November 2021, I wrote to the Council's Head of Development Management [redacted] stating, "Pre-commencement ... conditions 4, 12 and 15 were breached in July 2021 when demolition of the garages began, since which time this development has been unlawful". No response.

I wrote to [redacted] again on 25 November 2021, informing her the groundworks were about to commence. No response.

On 29 November 2021 I wrote to 'Planning Enforcement', asking for the 'planning enforcement case file number and details of the officer dealing'. No response.

On 6 December 2021, I wrote to the Council's Chief Executive Officer [redacted] asking that she ensure that 'officers show residents some respect and that they provide a substantive response to my correspondence as a matter of urgency'. No response ... until, on 21 January 2022, I finally received an acknowledgement letter from Planning Enforcement and a reference number, 22/00032/NCC.

All this, while work was allowed to continue on Site.

I now note that the case officer [redacted] reported the application to a Delegated Business Meeting in the week commencing 7 September 2022. [redacted] comments with regard to Condition 12 were as follows:

"The Construction Logistics Plan is satisfactory to discharge regarding noise and air quality. The applicants have submitted a revised document which has been assessed and addresses previous issues of concern. Overall officers are satisfied that sufficient information has

been presented and do not raise any objection to the discharge of this condition".

On the basis of [redacted] report, it was determined that Condition 12 could be discharged, with the Decision Notice (signed by [redacted]) referring to 'Construction Logistics Plan 30.06.22' with regard to that Condition.

Please provide copies of the following information:

- a) anything that might explain why it took the Council seventeen (17) months to discharge PRE-COMMENCEMENT Condition 12,
- b) why work was allowed to continue on site, throughout that period, and
- c) 'Construction Logistics Plan 30.06.22' and any other relevant information submitted after April 2021, which informed [redacted] recommendation and [redacted] decision."

6. The Council acknowledged the request on 18 November 2022. 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 26 December 2022 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 7 January 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Council has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

### **Reasons for decision**

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11. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

12. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

## **Right of appeal**

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14. 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)

15. 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.
16. 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**