

**Freedom of Information Act 2000 (FOIA)  
Environmental Regulations 2003 (EIR)**

**Decision notice**

**Date:** 29 February 2024

**Public Authority:** Royal Borough of Greenwich  
**Address:** The Woolwich Centre  
35 Wellington Street  
Woolwich  
SE18 6HQ

**Decision (including any steps ordered)**

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1. The complainant has requested information about his leasehold property. The Royal Borough of Greenwich relied on regulation 12(4)(b)(manifestly unreasonable) not to provide the complainant with the requested information.
2. The Commissioner's decision is that as the complainant was seeking his own personal data, regulation 5(3) of the EIR provides that the duty to make environmental information available on request does not apply to information that is the personal data of the requester.
3. The Commissioner does not require further steps.

## Request and response

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4. On 12 July 2023, the complainant wrote to the Royal Borough of Greenwich ("the public authority") and requested information in the following terms:

" I write to make a freedom of information request relating to my leasehold property (complainant's address redacted by the Commissioner).

I therefore request all information related to the original listed planning consent, the planning permission given for the conversion of my property and any amendments. In addition, I would like access to all communication between the applicant (Durkan Estates) and the Royal Borough of Greenwich regarding (complainant's location redacted by the Commissioner)."

5. On 21 July 2023, the complainant wrote to the public authority and requested information in the following terms:

"I request all correspondence between Durkan Ltd and Greenwich Borough Council Planning relating to the contravention of listed planning consent that was raised to Durkan in June 2023 from (name withheld by the Commissioner).The recent communication between Durkan and Greenwich council will relate to my leasehold property ("complainant's address redacted by the Commissioner").

6. Up till 1 August 2023, there was an exchange of correspondence between the parties in which the complainant and the public authority sought to clarify or narrow the request of 12 July 2023.
7. The public authority substantively responded on 24 August 2023. It stated that the information requested (as per 12 and 21 July 2023) was exempt from disclosure in accordance with regulation 12(4)(b) of the EIR.
8. Following an internal review the public authority wrote to the complainant on 11 September 2023. It stated that it upheld its position.

## Scope of the case

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9. The complainant contacted the Commissioner on 19 September 2023 to complain about the way his requests for information had been handled.

10. The Commissioner considers that the scope of his investigation is to determine whether the public authority properly dealt with this matter under the EIR.

## **Reasons for decision**

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11. The Commissioner has first considered whether the requested information would constitute environmental information as defined by regulation 2(1) of the EIR. In this case the request relates to planning consents. The Commissioner considers that planning and development of land, is a measure, as set out in regulation 2(1)(c), which is likely to affect the elements of the environment, namely land and landscape and therefore the request falls to be considered under the EIR.
12. Regulation 5(1) states:

Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.
13. Regulation 5(3) of the EIR provides that the duty to make environmental information available on request imposed by regulation 5(1) does not apply to information that is the personal data of the requester.
14. This is because a person can access their own personal data via a Subject Access Request (SAR) under the UK General Data Protection Regulation (UK GDPR) without the public authority having to disclose it to the world at large – as is required for disclosure under EIR.
15. The Commissioner has considered whether any of the requested information is the personal data of the complainant. If it is, the EIR does not require the public authority to disclose this information to the complainant.
16. Section 3(2) of the Data Protection Act 2018 (DPA) defines personal data as: “any information relating to an identified or identifiable living individual”.
17. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
18. In this case, the complainant has requested information relating to a property in which they have a proprietary interest (i.e. leasehold). The Commissioner considers any information which relates to the complainant’s leasehold to be the complainant’s personal data as the

information would relate to and identify the complainant. He therefore considers the requested information to be the complainant's personal data and to fall within the definition of personal data in section 3(2) of the DPA.

19. The Commissioner notes that some of the requested information is also (if held) the intertwined personal data of third parties (i.e. other occupiers of the location in question) and the complainant. As such intertwined personal data cannot be separated, this mixed information, should be considered as if it were the requester's personal data.
20. Taking the above into account, the Commissioner finds that regulation 5(3) is engaged in relation to the requested information. As a result, this information is exempt from disclosure under the EIR, and the Commissioner is not required to consider further whether the public authority correctly applied regulation 12(4)(b).
21. Therefore, the Commissioner's decision is that the public authority should have relied on regulation 5(3) of the EIR to refuse to provide the requested information.

## **Other matters**

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22. Whilst the Commissioner cannot require a public authority to take action under the DPA via a EIR decision notice, in view of his decision that the requested information is the personal data of the complainant, the public authority should consider providing a response to the complainant under the DPA, even if it determines that the requested information is exempt under the DPA.

## Right of appeal

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23. 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)

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Gerrard Tracey**  
**Principal Adviser**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**