

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 9 April 2024

**Public Authority:** Newark and Sherwood District Council  
**Address:** Castle House  
Great North Road  
Newark  
NG24 1BY

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

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1. The complainant requested a list of empty abandoned properties. Newark and Sherwood District Council (the Council) withheld the information requested under section 31(1)(a) of the FOIA (law enforcement and the prevention or detection of crime). The Commissioner's decision is that the Council appropriately applied the exemption contained in section 31(1)(a) to withhold the information. The Commissioner does not require any steps to be taken.

#### **Request and response**

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2. On 21 July 2023, the complainant wrote to Council and requested information in the following terms:  
  
"Under Freedom of Information Act 2000/Environmental Information Regulations 2004, I would like to request the following information:  
  1. Full list of empty, abandoned property/buildings within the NSDC area, including (if possible) pictures, maps and addresses".
3. The Council issued a refusal notice on 17 August 2023 stating that the information requested was exempt under section 31(1)(1)(a) of the

FOIA. The Council upheld this position in its internal review response dated 8 November 2023.

## Reasons for decision

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4. The following analysis sets out why the Commissioner has concluded that the Council was entitled to rely on section 31(1)(a) of the FOIA in this particular case.

### Section 31(1)(a) – the prevention or detection of crime

5. Section 31(1)(a) of the FOIA says that:

“Information .... is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

(a) the prevention or detection of crime,”

6. The exemption in section 31(1)(a) covers all aspects of the prevention and detection of crime. It could apply to information on general policies and methods adopted by law enforcement agencies.
7. The exemption also covers information held by public authorities without any specific law enforcement responsibilities. It could be used by a public authority to withhold copies of information it had provided to a law enforcement agency as part of an investigation. It could also be used to withhold information that would make anyone, including the public authority itself, more vulnerable to crime for example, by disclosing its own security procedures, such as alarm codes.
8. Whilst in some instances information held for the purposes of preventing or detecting crime will be exempt, it does not have to be held for such purposes for its disclosure to be prejudicial.
9. In this case, the Council has argued that disclosing details of empty properties could potentially put the properties at risk of squatting, vandalism and/or theft.
10. In their internal review request the complainant indicated that they were interested in the information as they wished to locate an abandoned house with an adjacent piece of land in order that they could restore the property to a liveable condition. They assured the Council that they would only be using the information for this purpose and not for any illegal purpose.
11. In its internal review response the Council accepted the complainant's reasons for wanting access to the information. However, the Council

explained that if the information was disclosed under the FOIA, it would no longer have any control over who had access to it. As such, disclosure could result in the properties in question being put at greater risk of vandalism, theft or squatting.

12. Whilst the Commissioner notes the reasons why the complainant has stated they want the information, he would emphasize that the FOIA is a public disclosure regime. The consideration in terms of FOIA requests is whether the information is suitable for disclosure into the public domain, even if the information does not subsequently enter the public domain. As such, the identity of the requestor or any reasons why they want the information in this case are essentially irrelevant.
13. In *Yiannis Voyias v Information Commissioner and the London Borough of Camden* (EA/2001/0007 23 January 2013)<sup>1</sup> the First-tier Tribunal (Information Rights) (the "Tribunal") upheld the public authority's decision to withhold the addresses of empty houses under section 31(1)(a). In that instance the information had been collected for council tax purposes and to inform the council's policies aimed at returning empty homes to the housing market and the Tribunal agreed that disclosing the information could facilitate squatting and/or criminal gangs engaged in asset stripping.
14. A number of decision notices issued by the Commissioner have upheld public authorities' use of section 31(1)(a) to withhold information about empty residential homes<sup>2</sup>.
15. Having considered the Council's position, referred to previously issued decision notices and to the Tribunal's conclusions as referenced above, the Commissioner accepts that the potential prejudice described by the Council clearly relates to the interests which the exemption in section 31(1)(a) is designed to protect.
16. The Commissioner is also satisfied that the prejudice being claimed in this case is "real, actual or of substance", and that there is a causal link between disclosure and the prejudice claimed. It is clearly logical to argue that the disclosure of a list of empty properties would provide those intent on committing crimes associated with such properties an

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<sup>1</sup> [https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i942/EA-2011-0007\\_2013-01-22.pdf](https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i942/EA-2011-0007_2013-01-22.pdf)

<sup>2</sup> See, for example: <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4026315/ic-246723-j1h8.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4023319/ic-196429-s2x5.pdf>; <https://ico.org.uk/media/action-weve-taken/decision-notices/2019/2615022/fs50786336.pdf>;

easy way to identify them. The Commissioner, therefore, considers that the exemption is engaged.

17. Section 31(1)(a) is a qualified exemption. Therefore the Commissioner must consider whether, in all the circumstances of the case, the public interest in maintaining the exemption at section 31(1)(a) outweighs the public interest in disclosing the information.

### **Public interest in disclosure**

18. The Council has acknowledged that disclosure would promote transparency and accountability of the work of public authorities.
19. The Council also accepts that disclosure could help bring the empty properties back into use, which would be in the financial and commercial interests of the public.

### **Public interest in maintaining the exemption**

20. The Council contends that there is a strong public interest in ensuring the prevention of crime and that empty properties are protected.
21. The Council considers that disclosure could have an adverse effect on public money in relation to any costs associated with squatting that resulted from disclosure, in terms of repairs for damages and eviction costs.
22. The Council is of the view that disclosure could also have an adverse effect on the owners of the properties and the surrounding community due to the negative impact of increased crime that could potentially be committed.

### **Balance of the public interest**

23. In balancing the public interest arguments the Commissioner accepts that disclosure would to some extent help to increase openness and transparency of the Council's function in respect of housing. The Commissioner also acknowledges that the complainant has genuine personal reasons for accessing the information.
24. However, the Commissioner has a duty to consider the broader public interest and he acknowledges that there is a clear public interest in protecting society from the impact of crime. The greater the potential for a disclosure to result in crime, the greater the public interest in maintaining the exemption. The Commissioner considers that the prevention of crime will prevent the criminal acts which adversely impact on the public's wellbeing and on the public purse.

25. In conclusion, the Commissioner considers that the public interest in maintaining the exemption outweighs the public interest in disclosure. Consequently he has determined that the Council appropriately applied section 31(1)(a) to the withheld information.

## Right of appeal

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26. 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)

27. 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.
28. 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 .....**

**Joanne Edwards**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**