

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

### **Decision notice**

**Date:** 4 January 2022

**Public Authority:** London Borough of Croydon

**Address:** Bernard Weatherill House  
8 Mint Walk  
Croydon  
CR0 1EA

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

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1. The complainant requested information from London Borough of Croydon ['LBC'] relating to planning applications.
2. The Commissioner's decision is that LBC 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 LBC 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. LBC 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 26 October 2021, the complainant wrote to LBC and requested information in the following terms:

*"Dear Croydon Borough Council,*

*I have been waiting for a response to the FOI request below for over 8 months. You have failed to respond. The FOI request is below which I am submitting again. You must now respond within 20 days.*

*[redacted]*

*Please provide the following:*

- 1. What is the exact TOTAL height of the development?*
- 2. What is the difference in height between the highest point of the development and the ground level of my home. This is not the same as the above - as you are fully aware the developer presented an inaccurate representation of the land gradient and relationship to my home but you continue to use misleading images*
- 3. A full explanation as to why Development Management has regarded minimum distances required. As the entrances have been moved to the elevation facing my home the distance must equal the height of the development. The distance from the ground floor balconies to the actual edge of my home is 7 metres (potentially less). Even if the entrances were on Brownlow Road - which they are not - the minimum distance would be 18 metres. The entire development must be moved back by the height of the development.*
- 4. A full explanation as to why the Council has failed to apply mandatory policy 3.1.1 of the London Plan.*

*You have already been given notice that I will be building a wall along my land. No entrances to the building will be visible from the street.*

*You have withheld every piece of information I have requested under FOI and data protection acts since November frustrating both your own complaints process and litigation.*

*If you are unable to meet the statutory deadlines for this request you must let me know and provide a full explanation as to why and the date that this will be received. If you are unable to provide any*

*of the information requested above you must provide an explanation as to why."*

## **Scope of the case**

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6. The complainant contacted the Commissioner on 29 November 2021 to complain about LBC's failure to respond to his request.
7. The Commissioner contacted LBC on 8 December 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
8. The Commissioner also contacted the complainant on 8 December 2021 to explain that LBC had been given 10 working days from 8 December 2021 within which to provide a response to their request.
9. The scope of this notice and the following analysis is to consider whether LBC has complied with regulation 5(2) of the EIR.

## **Reasons for decision**

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

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

11. 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."*

12. LBC did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that LBC has breached regulation 5(2) of the EIR.

## Right of appeal

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13. 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)

14. 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.
15. 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**