

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 July 2015

Public Authority: The Planning Inspectorate
Address: 4/08 Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Decision (including any steps ordered)

1. The complainant has requested information contained in the Town and Country Planning Act 1990 and the Town and Country Planning (Use Classes) Order 1987 (as amended).
2. The Commissioner finds that the requested information is reasonably accessible to the public as it is contained in published legislation. The Commissioner has therefore decided that the Planning Inspectorate is entitled to rely on section 21 of the FOIA to refuse to provide the information to the complainant.
3. The Commissioner does not require the Planning Inspectorate to take any further action in respect of this complaint.

Request and response

4. On 30 November 2014, the complainant wrote to the Planning Inspectorate concerning her application for a Certificate of Lawful Use or Development in respect of her refurbished flat. The complainant's application appears to have been refused by Blackpool Council in May 2012, on the grounds that she had failed to provide evidence that the use of the basement, as a single self-contained flat (C3), began more than four years before the date of her application.

5. In her letter, the complainant asked for paper copies of Sections 191 and 192 of the Town and Country Planning Act 1990 and for the definitions of C1 and C3 properties.

6. On 4 December 2014 the Planning Inspectorate wrote to the complainant and informed her that –

"the information which you have requested, including that relating to use classes is readily available in the public domain. I have attached links to sources of legislation below:

<http://www.planningportal.gov.uk/planning/planningpolicyandlegislation/currentlegislation/acts>

<http://www.legislation.gov.uk>

7. On 7 January 2015, the complainant wrote to the Planning Inspectorate and again asked for:

"a) The definitions of C1 and C3 properties, and

b) only section 191".

8. On 18 January 2015, the Planning Inspectorate responded to the complainant's request by advising her that –

"From my reading you are essentially asking us to undertake work and research to support your grounds for appeal; I am afraid this is not part of our remit. It could call into question our role as an impartial arbiter of planning disputes and prejudice the consideration of future appeals.

If there are accepted definitions in law for Use Classes C1, C3, properties and Section 191, they will be in the public domain. We are not required or expected to seek out and provide information that does not belong to us (we have no authority to devise such definitions)."

9. On 15 June 2015, the complainant wrote to the Planning Inspectorate to request an internal review of its handling of her request for recorded information.

10. Having completed its internal review, the Planning Inspectorate wrote to the complainant on 21 May to advise her of its outcome.

11. The Planning Inspectorate acknowledged that it holds the information which the complainant seeks. It informed the complainant that the information is subject to the exemption to disclosure under section 21 of the FOIA. This is because it is information which comprises published

legislation and therefore it is in the public domain and reasonably accessible to her.

Scope of the case

12. The complainant contacted the Commissioner on 24 February 2015 to complain about the way her request for information had been handled. Referring to her letter to the Planning Inspectorate of 7 January, the complainant stated;

"I wrote further to ask for information, my having received the letter of the 4th of December last year, suggesting that I intended to subvert the independence of HM Inspectorate, because I was asking for information which is rightly in the public domain, and is referred to in the appeal form.

I need this information so that I can complete the appeal form supplied to me by HM Inspectorate."

13. The focus of the Commissioner's consideration of the complainant's complaint is whether the Planning Inspectorate is entitled to rely on the exemption provided by section 21 of the FOIA. This notice is the Commissioner's decision.

Reasons for decision

Section 21 – Information accessible to the applicant by other means

14. Section 21 of the FOIA allows a public authority to refuse to disclose recorded information if it is already reasonably accessible to the applicant by other means.
15. Having considered the Planning Inspectorate's internal review and the correspondence which has passed between it and the complainant, it is quite clear to the Commissioner that all the information the complainant has requested is already publicly available.
16. The Commissioner is satisfied that, from the information provided by the complainant, she could have accessed the requested information in hard copy format from public libraries or in electronic format from a variety of websites. Such websites include those the complainant was directed to by the Planning Inspectorate.
17. The Commissioner has noted that Blackpool Council has already provided the complainant with the same information which she seeks

from the Planning Inspectorate. This information was provided by the as attachments to its email of 19 February 2015. In the Commissioner's opinion the provision of this information by the Council substantiates the position of the Planning Inspectorate that the information is reasonable available to the complainant from other sources.

18. In the Commissioner's opinion the information is without doubt reasonably accessible to the complainant.
19. The Commissioner's decision is that the section 21 exemption is properly engaged and that the Planning Inspectorate is entitled to rely on that provision.
20. The Commissioner has considered whether the Planning Inspectorate has fulfilled its obligations under section 16 of the FOIA, to provide advice and assistance to the complainant.
21. He finds that the Planning Inspectorate's provision of the addresses of website where the requested information can be searched for and found, adequately satisfies the requirements of section 16 of the FOIA.

Right of appeal

22. 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@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. 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.
24. 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

Andrew White
Group Manager
Information Commissioner's Office
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SK9 5AF