Mr Ismail Abulhai Bhamjee

Whatdotheyknow

Date: 4 January 2016

Environmental Information Regulations 2004 – 1685978

Thank you for your request for a review received on 21 December 2015. I am sorry that you are dissatisfied with our attempts to handle your request under the Environmental Information Regulations 2004 (EIR).

I am the review officer appointed to undertake the internal review and I am writing to provide a response. I had no involvement in the original EIR decision.

Background
On 1 December 2015, you wrote to the Department for Communities and Local Government (DCLG) requesting:

1. Please provide the details of Costs that had been paid in the Kasturi Kalira Versus The Secretary of State for the Environment and Waltham Forest Council.
2. Can you confirm that the Officers in the Treasury Solicitors does have the Power to revoke the General Permitted Development Order signed by the Minister of the Crown.
3. I understand that Off-Street Functions have been transferred to the Secretary of State for Communities and Local Government - Since Drive Ways and Pavement, Whilst there is the General Permitted Development Order 1995 No 418 which has been continued under the 2015 No 596. When shall you issue Exemption Certificate for persons who are on Low Income when Section 86 of the Traffic Management Act 2004 does allow 20 Minutes if you are going to increase the period, and ceasing of the Motor Vehicles.

On 4 December, my colleague Timothy Hayward wrote to you seeking clarification regarding what recorded information you were requesting in point 3 above. Your reply to this is included as Annex 1 to this letter.

Mr Hayward remained unclear as to what information was being requested, and responded querying whether it was an explanation of S.86 of the Traffic Management Act 2004. Your response is included as Annex 2 to this letter.

On 21 December, Mr Hayward wrote to you confirming that some of the information requested was held by DCLG. Mr Hayward confirmed that, in response to Q2, only Ministers may amend the General Permitted Development Order. In response to Q1, Mr Hayward stated that DCLG did not hold the information requested, and suggested alternate sources for the information. In response to Q3, Mr Hayward explained that
he had been unable to clarify your request, but provided contact details for the Department of Transport since responsibility for the legislation referred to lies with that Department.

Request for review
On 21 December you requested an internal review of the handling of your request, the full text of which is included in Annex 3 to this letter. I have not been able to identify a specific issue raised, and so have limited the scope of my review to the provision or otherwise of information, rather than the legislation applied or the timeliness of response.

Appeal Officer's response
In relation to Q2, I have determined that Mr Hayward provided you with the information you requested. Secondary legislation, of which the General Permitted Development Order referred to is one example, may only be amended by a Minister, and not by Officials.

In relation to Q1, neither DCLG nor the Government Legal Department (GLD) have a record of a case file under the name *Kasturi Kalira Versus The Secretary of State for the Environment and Waltham Forest Council*. I have determined therefore that Mr Hayward was correct in his assertion that the information you requested was not held by the Department. Under Regulation 12(4)(a) of the EIR, a public authority may refuse to disclose information to the extent that it does not hold the information when an applicant’s request is received. This Regulation was not referred to in Mr Hayward’s original response; please accept my apologies for this omission.

In the course of searching the Department’s records for the information requested, the case *Kalra v Secretary of State for the Environment* was identified as possibly being that to which you refer. This case was heard in 1995 and GLD have confirmed that if the Treasury Solicitor’s Department (as it was known at the time) were involved in the case, any files would have been retained for 3 years once the case was closed, in line with GLD/TSol's retention policy. I can therefore confirm that, in the event that this is the case to which you refer, DCLG does not hold the information requested and Regulation 12(4)(a) of the EIR applies.

In relation to Q3, I have determined that Mr Hayward took all reasonable steps to clarify what information was requested and, unable to obtain that clarification, provided contact details for the Department he considered most likely to hold the information you required, given the legislation referred to.

Finally, I note in your request for an internal review that you request the following:

*When Erick Pickles MP was the Secretary of State for Communities and Local Government, He had mentioned that the Local Authorities were operating as Day Light Robbery- Since this has been reported in the Press Newspaper, I request that you should provide me with a copy of the Minutes.*

In order to locate any such minutes, I would require further detail such as the timeframe in question and the context in which you believe these to have been
created. If you can provide this detail, I will consider this as a new request for information and process it accordingly.

**Conclusion**
Having reviewed this case, I have concluded that the Department provided you with all the information to which you were entitled under the EIR. As above, Regulation 12(4)(a) should have been stated in response to Q1 as the information was not held, and I apologise for this omission. Finally, the Department took all reasonable steps to provide advice and assistance in respect of Q3, and therefore met its obligations under Regulation 9(1) of the EIR. If you are able to clarify precisely what information you seek in Q3, DCLG will consider this as a new request and respond accordingly.

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

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Annex 1
1. There was the General Permitted Development Order 1995 No 418, which does allow temporary and Emergency use between the Period of 1995. as this does apply for Events and Incidents say in the Year 2014.
2. In the Year 2015, there was the General Permitted Development Order 2015 No 596, which does revoke many other Statutory Instruments, whilst there is a Saving for Development which had occurred in 1999.
3. There is a new Section 74A of the TCPA 1990 which has been inserted.
4. I and My Wife Sahera I. Bhamjee we normally earn our living by Cleaning Services of Carpets, Upholstery and Valeting of Cars at the Owners Premises- Since when Taking and Loading the Machines, this does take time If we have to clean the Whole House, Under Section 86 of the Traffic Management Act 2004, There is a Period allowed for 20 Minutes.

Annex 2
1. By Law you are required to furnish the requested information within a Period of 20 Days, whilst the Treasury Solicitors are Government Legal Department, who does normally Act on behalf of Many Government Ministers and Departments.
2. Prohibition of Parking at Dropped Footways Etc. You are aware of Section 86 (5) (c) The Vehicle is so parked for no Longer than is necessary and for not more than 20 Minutes.
3. You do have the Statutory Instrument 2009 No 56 The Transfer of Tribunal Function and Revenue and Custom Appeals Order 2009 which came into force on the 1st April 2009

Annex 3
1. I, Ismail Abdulhai Bhamjee request for a Review of your decision, since under the Town and Country Planning Act 1990 (As amended)-Section 78, 174, 195, 288, 289 an Appeal has to be made to the Planning Appeals, and than to the High Court of Justice against the Secretary of State for Communities and Local Government, as the Appeal is not made to the Secretary of State for the Environment. The Treasury Solicitors (Government Legal Department) they do hold the Information on behalf of the Secretary of State for Communities and Local Government.
2. Section 11 of the Human Rights Act 1998, The European Communities Act 1972 Section 2 (1), 3 (1), This had been argued on the 25th October 2000 at the Directions hearing before than Mr Justice Scot Baker- When John Prescot was the Deputy Prime Minister, and there has been changes to the Departments, this is binding on the Secretary of State for Communities and Local Government, and the Secretary of State for Transport.
3. When Erick Pickles MP was the Secretary of State for Communities and Local Government, He had mentioned that the Local Authorities were operating as Day Light Robbery- Since this has been reported in the Press Newspaper, I request that you should provide me with a copy of the Minutes.
4. I believe that there has been some changes as with regards to Off-Street-This has been transferred to the Secretary of State for Communities and Local Government, as it is not for the Secretary of State for Transport.
5. There is the Town and Country Planning Act 1971- Since this Act was repealed some years ago, whilst there has been the Planning and Compensation Act 1991, The Localism Act 2011-It does appear that Section 73A of the TCPA 1990 (As
inserted by the Planning and Compensation Act 1991) This section has been a replacement of Section 32 of the Town and Country Planning Act 1971.

6. There is Section 15 of the Greater London (General Powers) Act 1974 Two Wheels on Pavement, and Section 86 (5) (c) of the Traffic Management Act 2004 Two Wheels on Pavement-It is for the Secretary of State for the Communities and Local Government to issue the Statutory Instrument on Drive Ways which are on Off-Street As when Planning Permission has been given for a Drive Way- than any Person is entitled to go to that place when He/She has been requested by the Landowner.

The Point I am making is for 7 Frinton Mews in Ilford, which is not an adopted Road by the Redbridge Borough Council.