

FOI number: **HBC_FOI_20200610**
Date FOI Received: **20/10/2020**
Department: **Planning**
Title: **20-0006-TRE actions taken**
Description: **20/0006/TRE planning application**

Request: (As Redacted sent by requestor)

We would like to make a FOI Act 2000 to know how the Council ascertained its approach over the last year or so (since we first raised the complaint) in terms of how the council sought to deal with the illegal activity, including its discussions with the developer. We understand a response should be provided within 20 days and it's important to establish whether or not the Council has acted presumptuously which would be unacceptable under planning law and prejudice the interests of interested parties. The Council has various tools at its disposal, including fines, tree replacement.

It seems to me that the developer undertook illegal work, involving the felling of protected trees, in order to enable its development. To what extent did the revised landscaping scheme (which residents were not consulted on) address the overall breaches which have subsequently occurred? And what extent would this new application address all of the breaches?

Response: (Response as Redacted sent by service)

The Council confirms that it holds the information that you have requested. Since your request refers to the state of land, it has been determined under the provisions of the Environmental Information Regulations 2004 (EIR).

The Council's planning authority has a duty to investigate alleged offences contrary to planning legislation. In doing so, it must make enquiries and gather evidence for the purposes of an investigation. It is important that this evidence remains confidential until the matter may be fully considered as to what further action is to be taken such as a criminal prosecution. In the event that a prosecution is instituted the information will only be made available in accordance with the Criminal Procedure Rules.

The Council refuses to disclose the requested information and relies on the exemption at regulation 12 (5) (b) EIR. This exempts the council from making the disclosure because it would adversely affect the ability of the planning authority to conduct an inquiry of a criminal nature.

The Council maintains that the public interest in upholding its ability to carry out its functions under regulatory and criminal law outweighs the public interest in the publication of the details of its enquiries before it has had the opportunity of making a decision as to whether a prosecution or other lawful disposal of the case is appropriate.

As is standard practice, the Enforcement case officer will continue to provide updates on the investigation as appropriate.

If you are dissatisfied with this response you may make a complaint to the Council at foi@hertsmere.gov.uk within 40 days of this decision and request an internal review.

In addition, if you are dissatisfied with this response you may make a complaint to the information Commissioner or request the Commissioner to check that the council's refusal of your request is lawful. The Information Commissioner oversees the application of the EIR.

You may contact the Information Commissioner at:-

Information Commissioners Office

Wycliffe House, Water Lane

Wilmslow

Cheshire SK9 5AF. Telephone: 0303 123 1113 Website: www.ico.org.uk

If you have any queries about the processing of your request then please do not hesitate to contact me. Further information explaining the Council's process for responding to information requests together with a complaints/appeals procedure is available in our reception or via our website at:

<https://www.hertsmere.gov.uk/Your-Council/Official-Publications--Guides--Policies/Access-to-Information.aspx>

Please include the above reference number on all correspondence related to this request.

Thank you for your request.

Kind regards

Information Services

Hertsmere Borough Council | Civic Offices | Elstree Way | Borehamwood | Herts | WD6 1WA
t: 020 8207 2277