



An Coimisinéir Faisnéise  
Information Commissioner

**Case RPSI/23/07**

Decision of the Information Commissioner in his capacity as Appeal Commissioner on an appeal made under Regulation 15 of the European Union (Open Data and Re-use of Public Sector Information) Regulations 2021 (the Regulations)

**Date of decision:** 5 December 2025

**Appellant:** Mr X

**Public Sector Body:** Dublin City Council (the Council)

**Issue:** Whether the Council's decision to refuse the appellant's request for re-use of the derelict sites register under Regulation 3(2)(d)(i) and 7(3) was in compliance with the Regulations.

**Decision:** The Commissioner annulled the Council's decision. He directed the Council to release the full register in excel/machine readable format.

**Right of Appeal:** A party to this appeal or any other person affected by this decision may appeal this decision to the High Court on a point of law from the decision, as set out in Regulation 20 of the Regulations. Such an appeal must be initiated not later than eight weeks after notice of this decision was given to the person bringing the appeal.

## **Background**

1. On 5 July 2023, the appellant made a re-use request to the Council under the Regulations in respect of the derelict sites register:

“I am seeking a complete copy of your Council’s Derelict Sites register, preferably in an open and machine-readable format, such as CSV or Excel. This should include the owner details of the sites in question.”

2. The appellant referred to Section 8 of the Derelict Sites Act 1990. Section 8(1) contains a list of items that must be entered on to the register, including at subsection (b): “the name and address of each owner and occupier, where these can be ascertained by reasonable enquiry”.
3. Section 8(5) provides that the register must be kept at the offices of the local authority and be available for inspection during office hours.
4. I am satisfied that the “complete copy” referred to by the appellant is of the derelict site register containing the relevant items listed in Section 8(1) of the Derelict Sites Act 1990 (i.e. the full register)
5. This provision was described by the Government of the day as a “commitment to open government” when the Act was being debated in the Oireachtas (see [here](#)).
6. On 1 August 2023, the Council issued its decision, refusing the appellant’s re-use request under Regulations 3(2) and 7(3)(a) and (b) of the Regulations.
7. Regarding Regulation 3(2) of the Regulations, the Council stated “the Regulations do not apply where other legislative obligations arise. In this case, the re-use of the owner details – which are not published on the website - may not be re-used as they are subject to the protection of the Data Protection Acts 1988-2018.” It appears to me that the Council was referring to Regulation 3(2)(d)(i) of the Regulations which provides that the Regulations do not apply to documents access to which is excluded under the Data Protection Acts 1988 to 2018.
8. Regulation 7(3)(a) and (b) of the Regulations provides that nothing in the Regulations shall be construed as requiring a public sector body “to (a) create or adapt any document, (b) provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation...” The Council stated:

“The provision of the records you seek would involve deconstructing the hard covered Register which has in excess of 100 paper records which are in a non-standard size larger than A3 format and reconstructing same in a re-usable format. It would not be feasible for this section to perform such a task.”
9. The Council noted that the creation of the derelict sites register is pursuant to Section 8 of the Derelict Sites Act and stated “[t]he Derelict Sites Register is a public record and is available to view upon request. If you wish to avail of this option please contact [derelictsites@dublincity.ie](mailto:derelictsites@dublincity.ie) to arrange an appointment where a member of staff will be happy to assist you.”
10. In addition to the hardcopy version of the register available for inspection at the Council’s offices, there is an extract of the register available at <https://www.dublincity.ie/planning-and-land-use/active-land-management/derelict-sites-register>

11. On 2 August 2023, the appellant submitted an appeal of the Council's decision to this Office.
12. I have now completed my review under the Regulations. In so doing, I have regard to the correspondence between the Council and the appellant as outlined above and to correspondence between my Office and both the Council and the appellant on the matter. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

### **Scope of Review**

13. Regulation 15(1) of the Regulations provides that a requester can appeal to the Appeal Commissioner where a public sector body decides:
  - (a) to refuse to allow a requester to re-use a document
  - (b) to refuse to grant an exclusive right to a requester to re-use a document
  - (c) to allow the re-use of a document but subject to a proposed charge being paid which the requester believes does not accord with the requirements of the Regulations in setting the amount of the proposed charge
  - (d) to allow the re-use of a document subject to imposing conditions.
14. Regulation 17(2) provides that the Appeal Commissioner (a) shall review in accordance with the Regulations a decision to which the Regulations apply, and (b) following the review, may, as the Appeal Commissioner considers appropriate, decide (i) to affirm or vary the decision, or (ii) to annul the decision and, if appropriate, make such decision in relation to the matter concerned as he or she considers proper, in accordance with the Regulations.
15. Regulation 6(5)(a) provides that where a request under the Regulations is refused by a public sector body, it shall communicate the grounds for refusal to the requester, in particular and where appropriate by reference to the matters contained in Regulation 3(2)(a) to (h) or Regulation 5. Regulation 5(1) provides that a document to which the Regulations apply shall be made available for re-use in accordance with the conditions provided for in Regulations 7 to 13.
16. In its decision, the Council indicated that it was refusing the appellant's re-use request under Regulation 3(2) and Regulation 7(3)(a) and (b) of the Regulations. It appears to me that the Council was referring to Regulation 3(2)(d)(i) of the Regulations which provides that the Regulations do not apply to documents access to which is excluded under the Data Protection Acts 1988 to 2018. As noted, Regulation 15(1) sets out the types of decisions of public sector bodies that are open to appeal to the Appeal Commissioner. I am satisfied that a public sector body's decision to refuse re-use under Regulation 3(2)(d)(i) on the basis that the Regulations do not apply to documents access to which is excluded under the Data Protection Acts 1988 to 2018 is within my jurisdiction to review as it falls under paragraph (a) of Regulation 15(1), which simply pertains to the refusal of a re-use request.
17. This review concerns whether the Council was justified in refusing the appellant's request for re-use of the whole document requested, the full derelict sites register, under Regulations 3(2)(d)(i) and 7(3)(a) and (b) of the Regulations

## **Analysis and Findings**

### **Regulation 3(2)**

18. Regulation 3(1)(a) of the Regulations states that they apply to existing documents held by public sector bodies. It is not in dispute that this condition is met – I understand that the Council has a complete copy of the register containing the relevant items set out at Section 8(1) of the Derelict Sites Act, including owner details i.e. item (b) “the name and address of each owner and occupier.”

19. The Council referred to Regulation 3(2) in its decision, stating “the Regulations do not apply where other legislative obligations arise. In this case, the re-use of the owner details – which are not published on the website – may not be re-used as they are subject to the protection of the Data Protection Acts 1988-2018.” Accordingly, I am satisfied that the Council is refusing the appellant’s re-use request in respect of the full register under Regulation 3(2)(d)(i) of the Regulations. Regulation 3(2)(d)(i) of the Regulations provides:

“These Regulations shall not apply to the following ... documents access to which is excluded under... the Data Protection Acts 1988 to 2018”

20. In its submissions to this Office, the Council included the following comments:

- The re-use of the owner details, which are not published on the website, may not be re-used as they are subject to the protection of the Data Protection Acts 1988 to 2018.
- The Council processes the personal data in relation to the register in line with the Derelict Sites Act 1990. Section 8(1) contains a list of items that must be entered on to the register, including at subsection (b): “the name and address of each owner and occupier, where these can be ascertained by reasonable enquiry”. Section 8(5) provides that the register must be kept at the offices of the local authority and be available for inspection during office hours.
- There is no requirement to publish personal details of registered owners under the statute. “Our understanding of the obligations under the General Data Protection Regulation, as per the view of the Data Protection Commission, is that unnecessary publication of personal data would be in contravention of the Regulations.”
- Consideration can be given to the production of an on-line register subject to available staff and resources. In the interim the Council can provide the appellant with an electronic extract to include the derelict site reference, address of the derelict site, and amount of levy applied. However, as already outlined, the details of the owners will not be included.

21. The general thrust of the Council’s position is that it has obligations under the Data Protection Acts 1988-2018 and the GDPR that prevent it from providing the appellant with an electronic copy of the full register. Having regard to the wording of Section 8(5) of the Derelict Sites Act 1990, I am satisfied that all of the items at Section 8(1) of the Derelict Sites Act 1990, are required to be contained on the register available for inspection at the Council’s Offices in accordance with Section 8(5).

22. I have considered this in the context of the scheme and purpose of the Derelict Sites Act 1990. As noted above, section 8 of the Act was described during the Oireachtas debates around the Act as a “commitment to open government”. The original purpose of the legislation was to deal with the problem of dereliction which was, at the time, a growing problem in many towns and cities in Ireland. Dereliction remains a problem across Ireland and remains an issue of significant public interest in the

context of an acute housing crisis. A recent report by GeoDirectory<sup>1</sup> found there are just under 20,000 derelict residential addressees in Ireland.

23. In relation to the register, the Minister of State at the time commented in the Seanad that, *“This public register of derelict sites will serve a number of purposes. In the case of urban land, liability for the derelict sites levy will automatically follow from entry in the derelict sites register. The register will also inform prospective new property owners that land is formally classified as a derelict site, with all of the liabilities and obligations which this will entail. Most importantly, the derelict sites register will stand as a public indication and reminder of the extent of the dereliction in a local authority area. If any interested member of the public, any representative or any member of a local authority wishes to make representations that the register does not adequately list all the derelict sites, then it will be fully open to them to do this.”*
24. I am satisfied that the purpose of this provision was to ensure wide access to information contained on the derelict sites register by the public and that the purpose for which such information was collected was to create and maintain a register which would be – and is in fact – available in the public domain.
25. I consider that the means of access prescribed in the Act, namely inspection at the office of the relevant local authority, is simply a feature of the time the Act was enacted, when local authorities would not have been able to place this information on the internet, and inspection of documents at the offices of a local authority was a standard procedure. I note that some Councils, e.g. South Dublin County Council, have placed the full register on its website. I do not accept that the requirement that the register is made available for inspection in the office of the local authority was intended as a restriction on the availability of access to this information.
26. Indeed, inspection of information online – whether on a website or on receipt of the information by email - is now the only way in which some members of our society are able to access information in practice. This may be because their working or family arrangements prevent them from attending local authority buildings during office hours or because a disability prevents them from attending at all. Inspecting a hard copy document may not be practical or possible at all for someone with a disability. Restricting access to in-person inspection during office hours is entirely contrary, therefore, to the aim of enabling the public to access the information on the register, which was the original purpose for which the personal data was collected.
27. The personal data that is contained on the register is not of an inherently sensitive nature. As I have explained above, it is already in the public domain for reasons in the public interest. Some of the information, specifically information on ownership of land, is also in the public domain through Tailte Eireann. Where the information is in the public domain in this manner, any person could already access and decide to re-use that information, but it would involve a greater effort and a greater risk of inaccuracy due to human error. As a result, any interference as a result of re-use with rights in respect of personal data or privacy is minimal.
28. I note that Article 5(1)(b) of the GDPR provides that personal data shall be “collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes...”, which is known as the “purpose limitation” principle. Article 5(1)(c) of the GDPR requires that personal data shall be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed”, which is known as the data minimisation principle.

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<sup>1</sup> GeoDirectory was established in 1999 by An Post and Tailte Eireann.

29. Having considered all of the above, I am not satisfied that the principle of data minimisation or any other obligation under the Data Protection Acts or GDPR prohibits the Council from providing the appellant with full access to the document sought in electronic form, including the personal data contained therein. I am satisfied that the provision of the document to the appellant is not incompatible with the purposes and aims of section 8 of the Derelict Sites Act 1990 and therefore is compatible with the “purpose limitation” principle, as contained in paragraph 5(1)(b) of the GDPR. Accordingly, I cannot find that document which the applicant wishes to reuse is excluded from the scope of the Open Data Regulations by the Data Protection Acts 1988 to 2018/the GDPR.
30. Accordingly, I am not satisfied that the full register, including the ownership details, is excluded from the Open Data regime by virtue of regulation 3(2)(d)(i) of the Open Data Regulations. I find, therefore, that the Council’s decision is not justified.

### **Regulation 7(3)(a) and 7(3)(b)**

31. Regulation 7(1) of the Regulations provides that where a public sector body makes a document available for re-use it shall make the document available in any pre-existing format or language, by electronic means where possible and appropriate, in a format that is open, machine-readable, accessible, findable and re-usable, together with its metadata, and the format and metadata shall, where possible, comply with formal open standards.
32. Regulation 7(2) of the Regulations provides that where possible and appropriate, public bodies, shall produce and make available documents to which the Regulations apply in accordance with the principle of “open by design and by default”.
33. Regulation 7(3)(a) and (b) of the Regulations provide that nothing in the Regulations shall be construed as requiring a public sector body “to (a) create or adapt any document, (b) provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.”
34. As noted, the appellant’s re-use request is for a complete copy of the Council’s Derelict Site Register in an open and machine readable format (e.g. CSV or Excel). I am satisfied that the “complete copy” referred to by the appellant is of the derelict site register containing the relevant items listed in Section 8(1) of the Derelict Sites Act 1990. I have already found that the Council’s reliance on Regulation 3(2) of the Regulations is not justified. The remaining question at issue is whether the Council’s decision to refuse the appellant’s re-use request of the “complete copy” of the derelict sites register by way of Excel/CSV under Regulation 7(3)(a) and (b) was justified.
35. In its original decision the Council referred to Regulation 7(3)(a) and (b), stating:

“The provision of the records you seek would involve deconstructing the hard covered Register which has in excess of 100 paper records which are in a non-standard size larger than A3 format and reconstructing same in a re-usable format. It would not be feasible for this section to perform such a task.”
36. In his statement of appeal to this Office, the appellant stated “...while the decision letter implies that the full derelict sites register exists in hard copy format only (that is, the register with the owner names), I find this completely incredible because the Council must use a version of this register to collect the derelict sites levy. It makes no sense that there is not a soft copy version of this register. I have asked the decision-maker for clarification on this point.”

37. In its submissions to this Office, the Council included the following comments:

- The register is maintained in hardcopy format with handwritten entries. These entries are duplicated into an access database from which a spreadsheet is prepared for the purpose of applying levies.
- The hardcopy register is kept up to date by manually adding and completing a new entry by way of handwritten notes and details and attaching a site location map.
- The hardcopy register can be viewed by members of the public by way of contacting the derelict sites section “who will make an interview room available to peruse the Register”.
- The hardcopy register is the publicly accessible version of the register. An extract of the register extracted from the database is prepared and uploaded to the website.
- The online version is an extract of the information and only provides a derelict site reference number and the location/address of the site. The owner details are not published as they are subject to the Data Protection Acts.
- Steps that would be required to adapt the online version/extract of the register to the appellant’s request:
  - i. Legal Clarifications – the Council’s Law Agent to confirm correct information appear on a digital version in line with relevant Data Protection Regulations.
  - ii. IT assistance – to extract the information required from the Register currently in an unsupported Access Database into a suitable format.
  - iii. Proofing and Editing – check all entries are correct and up to date. An estimated timeframe of 4 to 6 weeks depending on resources available.
- There are no licensing terms which apply to the requested information.
- To provide the information required would involve a disproportionate effort whereby the register would need to be deconstructed, resulting in possible damage to the original pages of the register. The non-standard size pages would require copying/scanning resources not currently available to administration staff.

38. I accept that there is a hardcopy register which the Council maintains in compliance with Section 8 of the Derelict Sites Act. However, I also note that the handwritten entries on the hardcopy register are “duplicated into an access database”. I understand that it is from this database that “a spreadsheet is prepared for the purpose of applying levies” and “an extract of the Register, extracted from the database is prepared and uploaded to the website.”

39. In circumstances where there is an access database that duplicates the entries on the hardcopy register and from which spreadsheets and extracts can be extrapolated, I do not accept the Council’s contention that to provide the “complete copy” of the register in excel format would require the deconstruction of the hardcopy register.

40. Furthermore, while I note the steps identified by the Council at (i) to (iii) above, given the Council’s comments that the access database duplicates the entries on the hardcopy register, which can be viewed by the public at the Council’s offices, I do not consider that the Council has adequately explained why legal clarifications or proofing and editing would be required. Finally, while the Council

stated that the access database is “unsupported and IT assistance would be required to extract the information into a suitable format”, it also indicated that both spreadsheets and extracts can currently be extracted.

41. Having regard to all of the above, given that there is an access database that duplicates the entries on the hardcopy register and from which spreadsheets and extracts can currently be extrapolated, I do not consider that the work and effort that would be required to provide a “complete copy” of the derelict sites register in excel format would require creating/adapting a document to the extent envisaged by Regulation 7(3)(a) or the disproportionate effort envisaged by Regulation 7(3)(b). Instead, it would require the extraction of data from an existing database. I find, therefore, that the Council’s decision under Regulation 7(3)(a) and (b) of the Regulations is not justified.

### **Decision**

42. In accordance with Regulation 17(2) of the Regulations, I have reviewed the Council’s decision under Regulations 3(2)(d)(i) and 7(3) and I annul it under Regulation 17(2)(b)(ii). I direct the Council to provide the appellant with the full register in excel/machine readable format.

### **Right of Appeal**

43. A party to this appeal or any other person affected by this decision may appeal this decision to the High Court on a point of law from the decision, as set out in Regulation 20 of the Regulations. Such an appeal must be initiated not later than eight weeks after notice of this decision was given to the person bringing the appeal.

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Senior Investigator  
5 December 2025