



An Coimisinéir Faisnéise
Information Commissioner

Case RPSI/23/08

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: 4 December 2025

Appellant: Mr X

Public Sector Body: Clare County 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)(h)(i) and (ii) was in compliance with the Open Data 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. 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](#)).
5. 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).
6. On 1 August 2023, the Council issued its decision. It stated that it was refusing the appellant’s request under Regulation 3(2)(h) and (ii).
7. Regulation 3(2)(h)(i) provides that the Regulations do not apply to “documents access to which is excluded or restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment on the grounds of protection of personal data.”
8. Regulation 3(2)(h)(ii) provides that the Regulations do not apply to “parts of documents that are accessible under the enactments referred to in subparagraph (d) or any other enactment and contain personal data, the re-use of which would be incompatible with the law concerning the protection of individuals with regard to the processing of personal data or as undermining the protection of privacy and the integrity of the individual.”
9. The Council stated:

“I have decided that the derelict sites register is restricted by virtue of the enactment of the Derelict Sites Act, 1990, at section 8(5) which says; “(5) The register shall be kept at the offices of the local authority and shall be available for inspection at the offices of the local authority during office hours “. It is accepted that the derelict sites register is inspectable, however, the access is restricted to being inspectable during office hours.

The derelict sites register contains personal data (for example names and addresses of owners or reputed owners), the reuse of which would be incompatible with the law concerning the protection of individuals with regard to the processing of personal data or as undermining the protection of privacy of the individual.

"Processing" of personal data covers providing personal data via a re-use request, such as you have submitted. Processing is defined in the Data Protection Act, 2018 as including the disclosure of the data by their "transmission, dissemination or otherwise making the data available". In

circumstances where the processing of the personal data attaching to the derelict sites register is to comply with the Derelict Sites Act, 1990, it is not considered that transmitting the register to you for your re-use is compatible with the lawful, fair and transparent and purpose limitation principles of data protection, enshrined at article 5(a) which holds that personal data must be processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency'); and collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation').

It is noted that a bill is before the Oireachtas, namely the Dereliction and Building Regeneration Bill 2022 which proposes (among other things) to amend the Derelict Sites Act 1990 such that the derelict sites register would be published online on the local authority websites. Were this to be enacted, the decision on your request would be different."

10. I note the Council's [website](#) states that a full copy of the Register is available for viewing at its Offices, although in submissions provided to this Office, the Council confirmed that the names and addresses of the owners/occupiers of the relevant sites are not made available for inspection, despite the provisions of the 1990 Act.
11. On 2 August 2023, the appellant submitted an appeal of the Council's decision to this Office.
12. During the course of this review, the Council made submissions to this Office in support of its decision. Among other things, its submissions included the following comments:
 - The format in which the Council maintains the inspectable derelict sites register is that it is an Excel spreadsheet. An extract from it is publicly inspectable that has nine column headings: a derelict sites reference number, a description of the derelict site, location address line 1, location address line 2, the town or village, the Eircode if available, the municipal district of the Council in which the property is situated, the stage of the derelict sites process and finally, the date the site was added to the register. The names and addresses of the owners/occupiers or reputed owners/occupiers is not given on the extract, though this additional data is maintained on the spreadsheet. By way of context, the current register contains sixty two (62) entries, that is 62 sets of personal information that the Council is processing for a statutory purpose.
 - The legal basis for maintaining the register is clear, as is the fact that the register is personal data as defined by data protection law, and personal data is defined in article 4(1) as: 'personal data means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.'
 - Arguably, the publicly inspectable extract from the register is all personal information, with each site linking back to a natural person, whether directly or indirectly. Additional to the spreadsheet register maintained by the Council, an individual hardcopy file is maintained on each individual derelict site entered in the register.
 - The Council's register can be accessed by members of the public during the hours of 9am to 5pm. The register is not available on the Council's website. A member of the public can be sent the publicly inspectable extract of the register, on request.

- The format in which the publicly inspectable extract from the register is held is an Excel spreadsheet.
- The names and addresses of the owners/occupiers or reputed owners/occupiers are not in the publicly inspectable extract from the register because the Council does not consider that making the names and addresses of owners/occupiers/reputed owners/occupiers is necessary and the Council is exercising its responsibilities under the minimization principle enshrined at article 5 (1)(c) of the GDPR – “personal data shall be .. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (data minimization).”
- The appellant’s request was “Under these regulations, 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”. It is not a significant project to include names and addresses, though the Council’s view is that is not provided for by law, or by the re-use regulations.
- The Council understands that licensing in the context of the re-use regulations relates to licensing work, statistical information and such like, which can be shared publicly. The Council considers that the information here is not “information” but is personal information. Privacy is a fundamental right and the Council considers that licensing the re-use of personal information that belongs to those individuals and is held by the public body for a statutory purpose could not arise. The Council considers that there is no legal basis provided by the Re-Use Regulations to licence the re-use of personal information that is held in trust for a statutory purpose and that there is specific exemption in the Reuse Regulations to support this. The Council notes that in accordance with GDPR article 5(1)(f), personal data “shall be ..processed in a manner than ensures appropriate security of the personal data, **including protection against unauthorised or unlawful processing** and against accidental loss, destruction or damage, using appropriate technical or organisational measures (integrity and confidentiality)”. (emphasis added).
- The Council’s position is that the Derelict Sites Act sets out the limits of the processing of the personal data and the limit set is that the register shall be inspectable during office hours. It is the re-use regulation 3(2)(h) (i) and (ii) that applies.
- The Council is of the view that to supply the entire register to the journalist for his journalistic purpose (“a current journalistic project for RTE News and Current Affairs”) would be a breach of the privacy rights of the owners/occupiers or reputed owners/occupiers and involve the Council in unlawful processing. It would represent a breach of obligations on purpose limitation, enshrined in article 5(1)(b) of the GDPR, by virtue of the fact that the Council would be transmitting the personal information to the journalist for a purpose incompatible with the purpose for which the personal data is held by the Council.
- The Council considers that the names and addresses of the owners/occupiers or reputed owners/occupiers is the personal information that is restricted for re-use, and this indeed is the information that the journalist specifically sought for his re-use for his purposes. The appellant’s request was: “Under these regulations, 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**”(emphasis added).
- The names and addresses of the owners/occupiers or reputed owners/occupiers are not available in the publicly accessible extract of the register at the Council’s offices.

- The Council maintains the register on the legal basis as provided by article 6(1)(c) of the GDPR, namely that the processing is necessary to comply with a legal obligation to which the Council, as data controller, is subject – in this case the Derelict Sites Act, 1990 as amended. The Council is of the view that it is precluded from providing the complete register to a journalist for what he identified himself as ‘a journalistic project’ as that would be further processing by the local authority beyond what the Act dictates and for an entirely different purpose, contrary to the legal obligations under the GDPR on the Council as data controller.
- “Processing” of personal data is defined in article 4 of the GDPR as *“as any operation or set of operations which is performed on personal data ..whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use , **disclosure by transmission**, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction”* (emphasis added).
- Processing is defined therefore as including the disclosure of the data by their transmission, dissemination or otherwise making the data available. In circumstances where the processing of the personal data attaching to the derelict sites register is to comply with the Derelict Sites Act, 1990, it is not considered that transmitting the register to the appellant for his re-use for ‘a journalistic project’ as he specified himself, is compatible with the principles of lawful, fair and transparent processing, nor with the purpose limitation principle of data protection, enshrined at article 5(1)(a) and (b) of the GDPR.
 - Article 5(1) (a) of the GDPR holds that personal data *“shall be.. processed **lawfully**, fairly and in a transparent manner in relation to the data subject (‘lawfulness, fairness and transparency’);* and
 - Article 5(1) (b) of the GDPR holds 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** .. (‘purpose limitation’).”* (emphasis added).
- The purpose limitation article 5(1)(b) goes on to specify that *“further processing for archiving purpose in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1) not be considered to be incompatible with the initial purposes”*. Notably, journalistic projects in the public interest – which is the appellant’s stated purpose in his original request to the Council - is not covered in the second part of article 5(1)(b), therefore processing this personal data (by transmitting it) for his journalistic project (the case here) is incompatible with the purpose limitation principle by definition. Again, the local authority holds the data to comply with the Derelict Sites Act.
- The Council is of the view that the re-use regulations do not provide a legal basis for the Council to provide personal information obtained under a statutory provision for a statutory purpose to a journalist for his re-use, in particular because of section 3(2)(h)(ii) of the re-use regulations.
- The legal basis for the processing of personal data in connection with the register maintained under the Derelict Sites Act, 1990 is provided by article 6(1)(c), namely, the processing is necessary to comply with a legal obligation to which the Council is subject – namely, the Derelict Sites Act, 1990.
- The Council is of the view that section 43 of the Data Protection Act, 2018 is not relevant to this appeal at all. The Council is of the view that section 43 applies to the processing of personal data *by journalistic interests*, not the processing of personal data by a public body entrusted with it by transmitting it to a journalist for his purposes. The Council finds that Section 43 provides no legal basis for a public body to process personal information by transmitting it to a journalist...Clare County Council is not holding the personal information on the Derelict Sites register for the purpose

of exercising the right to freedom of expression and information or for journalistic purposes. Section 43 is considered to have no applicability to this case at all. If section 43 were to have applicability as a legal basis for a journalist to obtain personal information from a public body (or any body), the fundamental privacy rights of data subjects would be finished. Section 43 does not provide a legal basis for a public body to provide personal data to journalists. The Council finds that there is no argument provided by section 43 of the Act in relation to the Council's decision not to transmit the sought data to the journalist for him to use for his purposes. Were the Council as data controller to *provide* the personal data, including names and addresses of owners or reputed owners, to the journalist for his journalistic purposes, the Council would be responsible for *that* processing, and the Council believes such processing would be contrary to its obligations under data protection law. The re-use regulations provide support for this position, where they say, at item (4) "Nothing in these regulations shall be read as – (a) affecting any right or function under the Data Protection Acts 1988 to 2018, (b) permitting the release of information by a public sector body in a manner that is prohibited by law, in particular the General Data Protection regulation ...It would have to be acknowledged that in a society where demand for housing is greater than the supply of housing, the owners or reputed owners of derelict properties, were their personal information to become widely known, could be subjected to the kinds of hostility for example via social media 'trolling' and other forms of unwelcome attention. The Council brings this up only to allude to the fact that the Council's refusal of the appellant's request for the names and addresses on the derelict sites register is important, and not just for reasons of data protection theory.

- The 2021 regulations (SI 376 of 2021) at section 3 describe some limits on the application of the regulations and at section 3(2)(h), the following is stated:
 - i) *“Documents **access to which is excluded or restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment on the grounds of protection of personal data, and***
 - ii) ***Parts of documents that are accessible under the enactments referred to in subparagraph (d) or any other enactment and contain personal data, the re-use of which would be incompatible with the law concerning the protection of individuals with regard to the processing of personal data or as undermining the protection of privacy and the integrity of the individual”**; (emphasis added).*
- The Derelict Sites Act, 1990, at section 8(5) which says; *“(5) The register shall be kept at the offices of the local authority and shall be available for inspection at the offices of the local authority during office hours”*. It is accepted that the derelict sites register is inspectable per the 1990 Act, though in the case of Clare, it is an extract from the register excluding the names and addresses of owners/occupier or reputed owners/occupiers that is made available, and this is in the interests of the data minimisation principle and considerations of necessity and proportionality, which are requirements of GDPR. Even where a member of the public is particularly interested in a particular entry on the register, the name of the owner is not disclosed, except the name of that site owner is available in any event via a public land ownership portal but this is seldom the case.

13. 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

14. 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.
15. 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.
16. 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.
17. In its decision, the Council indicated that it was refusing the appellant's re-use request under Regulation 3(2)(h)(i) and (ii). 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)(h) on the basis that the Regulations do not apply to the information 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.
18. 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 Regulation 3(2)(h)(i) and (ii) and 7(3) of the Regulations.

Regulation 3(2)

19. 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."
20. The Council is refusing the appellant's re-use request in respect of the full register under Regulation 3(2)(h)(i) and (ii) of the Regulations.
21. Regulation 3(2)(h)(i) and (ii) of the Regulations provides:

"These Regulations shall not apply to the following:

...

(h) (i) documents access to which is excluded or restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment on the grounds of protection of personal data, and

(ii) parts of documents that are accessible under the enactments referred to in subparagraph (d) or any other enactment and contain personal data, the re-use of which would be incompatible with the law concerning the protection of individuals with regard to the processing of personal data or as undermining the protection of privacy and the integrity of the individual; ...

22. The relevant enactments referred to in subparagraph (d) are:

- the Data Protection Acts 1988 to 2018,
- the European Communities (Access to Information on the Environment) Regulations 2007 to 2018,
- the Freedom of Information Act 2014 (other than documents to which section 15(2) of that Act applies),
- the European Communities (Establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) Regulations 2010 (S.I. No. 382 of 2010).

23. I have set detail of the Council's decision and submissions to this Office above. 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 for re-use.

24. 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 in fact required to be contained on the register available for inspection at the Council's Offices in accordance with Section 8(5). I can see no basis for the Council to restrict access to the names and addresses of owners/occupiers of the relevant sites. This is notwithstanding the Council's comments that "The names and addresses of the owners/occupiers or reputed owners/occupiers are not available in the publicly accessible extract of the register at the Council's offices". Whether the information is made available for inspection is outside the scope of this appeal, but the Council may wish to reconsider this policy in light of this decision.

25. I consider that it is also relevant to address the principle of data minimisation contained in Article 5(1)(c) of the GDPR, which requires that personal data shall be "*adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed*", a principle known as the data minimisation principle.

26. 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 GeoDirectory¹ found there are just under 20,000 derelict residential addressees in Ireland. At the time submissions were provided by the Council in this case, it stated that there are 62 sites on the register in relation to County Clare.

27. 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*

¹ GeoDirectory was established in 1999 by An Post and Tailte Eireann.

representations that the register does not adequately list all the derelict sites, then it will be fully open to them to do this.”

28. 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.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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.
34. This conclusion equally applies to the question of whether 3(2)(h)(ii) applies in this appeal, and for the reasons I have set out above, I am satisfied that access to the parts of the documents containing

personal data would not be incompatible with the law protecting personal data or the privacy and integrity of the individual.

35. Accordingly, I am not satisfied that the full register, including the ownership details, is excluded from the Open Data regime by virtue of regulations 3(2)(h)(i) and (ii) of the Open Data Regulations. I find, therefore, that the Council's decision is not justified.

Decision

36. In accordance with Regulation 17(2) of the Regulations, I have reviewed the Council's decision under Regulation 3(2)(h)(i) and (ii) 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

37. 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.

Julie O'Leary
Senior Investigator
4 December 2025