



An Coimisinéir Faisnéise
Information Commissioner

Case RPSI/23/12

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 Open Data Regulations)

Date of decision: 3 December 2025

Appellant: Mr X

Public Sector Body: Mayo County Council

Issue: Whether Mayo County Council's decision to refuse the appellant's request for re-use of the derelict sites register was in compliance with the Open Data Regulations.

Decision: The Commissioner annulled the Council's decision to refuse the appellant's request and directed it 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 Open Data 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 6 September 2023, the appellant made a request under the Open Data Regulations for the re-use of a complete electronic copy of the Council's 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. [Section 8](#) of the Derelict Sites Act 1990 puts an obligation on each local authority to establish and maintain a derelict sites register. Section 8(1) contains a list of items that must be included in the register, including at subsection (b):

"the name and address of each owner and occupier, where these can be ascertained by reasonable enquiry"

3. According to section 8(5), 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 4 October 2023, the Council issued its decision. The Council referred the appellant to a copy of the register on its [website](#). That copy of the register is an excel spreadsheet but does not contain the name and address of each owner/occupier. According to the website, a more complete version of the register, is available for inspection. In a submission to this Office, the Council explained that it published an anonymised version of the register for online publication having regard to the principle of data minimisation under the General Data Protection Regulation (GDPR). It also confirmed that the register that is open for inspection is a printed copy of the full register, containing the names and addresses of the owners/occupiers. It also holds the full register in excel format.
7. On 20 October 2023, the appellant submitted an appeal of the Council's decision to this Office.
8. During the course of this review, the Council provided submissions to this Office in support of its decision.
9. 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.

Preliminary matter

Submissions regarding jurisdiction

10. The Council submits that I do not have jurisdiction to decide this appeal as it does not fall into one of the appeal categories in Regulation 15(1) of the Open Data Regulations:

*"15. (1) 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 these Regulations in setting the amount of the proposed charge, or
(d) to allow the re-use of a document subject to imposing conditions,
then, the requester may appeal against the refusal, the amount of the proposed charge or any condition so imposed, as the case may be.”

11. I do not accept this submission. Regulation 15(1) of the Open Data Regulations transposes Article 4(4) of Directive (EU) 2019/1024 on open data and the re-use of public sector information (the Open Data Directive). Article 4(4) provides:

*“Any **decision on re-use** shall contain a reference to the means of redress where the applicant wishes to challenge the decision. The means of redress shall include the possibility of review by an impartial review body with the appropriate expertise ... ”* (emphasis added).

12. Recital 42 of the Open Data Directive gives further insight into the purpose of this ‘redress’ provision, where it states: *“The means of redress should include the possibility of review of negative decisions but also of decisions which, although permitting re-use, could still affect applicants on other grounds, in particular by the charging rules applied.”*

13. Where possible, regulation 15 must be interpreted consistently with the provision of the Directive that it is intended to transpose. In this case, the Council has clearly made a “decision on re-use”, so the Directive requires that an appeal is available in accordance with the Directive. Read in this light regulation 15(1) must be interpreted as including a decision which permits re-use but affects the requester on other grounds, in this case by refusing re-use of the full register in electronic format.

Submissions regarding ‘refusal’

14. The Council’s position is that it has not refused the request for re-use of the document. It states that it allowed access to a version of the document and facilitated the request as far as possible. In response to the request, the Council has, in effect, provided an extract from the document using a simple operation (see regulation 7(3)(b) of the Regulations) instead of the whole document. However, the version on the website is abridged and this constitutes a refusal in relation to the whole document, as opposed to the extract of it. The Council may only refuse a request based on one of the exclusions to the regime. My decision below addresses those exclusions. Given the Council’s comments regarding the GDPR, I am satisfied that the Council’s refusal of the full register was effectively under Regulation 3(2)(h) of the Open Data Regulations on the basis the Regulations do not apply to documents covered by that provision. I consider that it is within my jurisdiction to review decisions under Regulation 3(2)(h) as they fall under paragraph (a) of Regulation 15(1).

Submissions regarding ‘access’

15. The Council submits that the Open Data Regulations do not give a right of access but merely set out the conditions on re-use. In this case, I am satisfied that section 8 of the Derelict Sites Act 1990 provides a right of access to the information that the appellant wishes to re-use. As noted above, this provision was described in the Oireachtas as a “commitment to open government” and I am therefore satisfied that the information in question is publicly accessible and already in the public domain. Furthermore, the Council has informed this Office that “the version of the Derelict Sites Register available at the public counter is a printed hard copy of the most up to date Excel spreadsheet Register, and the online version is in the format of an abridged Excel spreadsheet.” The question that

arises in this appeal is therefore whether the appellant is entitled to re-use the whole document. As I have set out in above, I am satisfied that I have jurisdiction to deal with this question.

Scope of the Review

16. The scope of my review is therefore whether the Council was justified in refusing the applicant's request for reuse of the whole document requested, the full derelict sites register, under Regulation 3(2)(h) of the Open Data Regulations.

Analysis and Findings

17. Regulation 3(1)(a) of the Open Data Regulations states that they apply to existing documents held by public sector bodies. It is not in dispute that this condition is met as the Council holds a complete copy of the register in excel format which I understand contains the relevant items set out at Section 8(1) of the Derelict Sites Act, including item (b), the names and addresses of the owners or occupiers of the land.
18. The Council's central submission is that it has obligations under the GDPR that prevent it from providing the applicant with an electronic copy of the full register, while noting that the applicant could at all times inspect the full register in the Council's office. The Council has pointed to 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.
19. The open data regime does not apply to certain categories of document. Those exclusions are set out in Article 1(2) and (3) of the Directive. In this case, the relevant exclusion is as follows:

"2. This Directive does not apply to

...

(h) documents, access to which is excluded or restricted by virtue of the access regimes on grounds of protection of personal data, and parts of documents accessible by virtue of those regimes which contain personal data the re-use of which has been defined by law as being 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, in particular in accordance with Union or national law regarding the protection of personal data; ..."

20. The exclusions to the regime have been transposed into Irish law by regulation 3(2) of the Open Data Regulations. In respect of personal data, the specific exclusion is in regulation 3(2)(h) as follows:

"(2) 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; ..."

21. 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).

22. The Council in this case has justified its effective refusal to release the document in full for re-use on the basis that the documents are excluded from the Open Data Regulations under regulation 3(2)(h), namely due to the Data Protection Acts and associated GDPR principles. Accordingly, in this case I must consider two questions in order to decide whether the exclusion applies:

- a. Is access to the documents excluded or restricted by virtue of the enactments referred to in paragraph 21 above, or by virtue of any other enactment?
- b. To the extent that parts of the documents would be accessible by virtue of the enactments referred to in paragraph 21 above, do they contain personal data the re-use of which would be incompatible with the law protecting personal data or the privacy and integrity of the individual?

23. In relation to the first question, the main thrust of the Council’s argument against complying with this request is that it would be incompatible with 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”*.

24. I have considered this submission 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. Mayo has the highest number of this, 14% of the total. I would emphasise that this does not necessarily mean that Mayo in fact has the highest rate of dereliction, but may simply indicate that Mayo County Council has been the most active in recording derelict sites on its register.

25. 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.”*

26. I am satisfied that the purpose of this provision was to ensure wide access to information on 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.

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

27. 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. While the Council in this case has placed an extract from the register on its website, 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.
28. 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.
29. 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.
30. Having considered the above, I am not satisfied that the principle of data minimisation prohibits the Council from providing the appellant with full access to the document sought in electronic form. 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/GDPR.
31. This conclusion equally applies to the second question above, and 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.
32. 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)(h) of the Open Data Regulations. I find, therefore, that the Council’s decision is not justified.

Decision

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

Right of Appeal

34. 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.

Ger Deering
Information Commissioner
3 December 2025