



An Coimisinéir Faisnéise
Information Commissioner

Case RPSI/24/09

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: Meath 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 Regulations 3(2)(d)(i) and (iii) and 3(2)(f) 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 18 September 2024, 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.”

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 16 October 2024, the Council issued its decision, refusing the appellant’s re-use request under Regulations 3(2)(d)(i) and (iii) and 3(2)(f) of the Regulations.
7. Regulation 3(2)(d)(i) provides that the Regulations do not apply to documents to access to which is excluded under the Data Protection Acts 1988 to 2018.
8. Regulation 3(2)(d)(iii) provides that the Regulations do not apply to documents access to which is excluded under the Freedom of Information Act 2014 (other than documents to which section 15(2) of that Act applies).
9. Regulation 3(2)(f) provides that the Regulations do not apply to “documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents”.
10. The Council also referred to Regulation 3(4)(a), which provides that nothing in the Regulations shall be read as “affecting any right or function under the Data Protection Acts 1988 to 2018”
11. The Council stated:
 - “Section 8 (5) of the Derelict Sites Act 1990 and 2020 provides that 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. That is a limited right of access (viewing at the desk only), which does not extend to providing a complete copy of the Register for re-use.
 - The complete derelict site register, as requested, contains personal information i.e. names and address, thereby making these person(s) easily identifiable. Under S.I No 376/2021 – European Union (Open Data and Re-use of Public Sector Information) Regulations 2021, Section 3 (2)(d)(i) & (iii) – the Open Data Regulations do not apply if such documents/information is excluded under the Data Protection Acts 1988 to 2018 and/or the Freedom of Information Act 2014. It is

my view that issuing a complete copy of the derelict sites register, as requested, would be in breach of the Data Protection Acts and the Freedom of Information Act.

- Regulation 3(4) provides that nothing in the Regulations shall be read as affecting any right or function under the Data Protection Acts 1988 to 2018. This is also reinforced by section 52 of the Directive (EU) 2019/10124 of the European Parliament and of the Council 2019 on open data and the re-use of Public Sector information, with particular reference to Article 5 and 6 of the Regulation (EU) 2016/679. I am of the opinion that your request does not meet principle of article 5 (1) b and therefore is not permissible.
- With reference to S.I No 376/2021 – European Union (Open Data and Re-use of Public Sector Information) Regulations 2021, Section 3 (2)(f), “documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents I am of the opinion that you have not “proven” the “particular interest” criterion in order to justify the release of the register in the format you are seeking.
- Under Section 13 of the Directive (EU) 2019/10124 of the European Parliament and of the Council 2019 on open data and the re-use of Public Sector information, it is extremely unlikely that Meath Council’s Derelict Sites Register could be considered relevant to the requester for “commercial purposes” or can be considered in the terms of Broad, cross-border geographical coverage will also be essential in that context. Increased possibilities of re-using such information is expected, inter alia, to allow all Union businesses, including microenterprises and SMEs, as well as civil society, to exploit its potential and contribute to economic development and high-quality job creation and protection, especially for the benefit of local communities”

12. The Council confirmed that the derelict sites register is available for viewing and also provided the appellant with an abridged version in excel format. There is also a version available on its [website](#).
13. Also on 16 October 2024, the appellant submitted an appeal of the Council’s decision to this Office.
14. During the course of this review, the Council was invited to provide submissions in support of its decision. In response, the Council referred to the detail in its decision.
15. 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

16. 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.

17. 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.
18. 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.
19. In its decision, the Council indicated that it was refusing the appellant's re-use request under Regulation 3(2)(d)(i) and (iii) and 3(2)(f). I consider that its reference to Regulation 3(4) supports its finding under those provisions. 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) and (iii) and 3(2)(f) 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.
20. 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 (iii) and 3(2)(f) of the Regulations.

Analysis and Findings

Regulation 3(2)

21. 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.”
22. The Council is refusing the appellant's re-use request in respect of the full register under Regulations 3(2)(d)(i) and (iii) and 3(2)(f) of the Regulations.
23. Regulation 3(2)(d)(iii) of the Regulations provides:

“These Regulations shall not apply to the following ... documents access to which is excluded under ... the [Freedom of Information Act 2014](#) (other than documents to which section 15(2) of that Act applies)
24. It is important to note, that sections 15(2) and (3) of the FOI Act state:

(2) Subject to subsection (3), a head may refuse to grant—

(a) a record that is available for inspection by members of the public whether upon payment or free of charge, or

(b) a record a copy of which is available for purchase or removal free of charge by members of the public,

whether by virtue of an enactment (other than this Act) or otherwise.

(3) A record shall not be within subsection (2) by reason only of the fact that it contains information constituting personal data to which the Data Protection Acts 1988 and 2003 apply.

25. 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”

26. Regulation 3(2)(f) of the Regulations provides:

“These Regulations shall not apply to the following ... documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents.”

27. The Council also referred to Regulation 3(4)(a) which provides that nothing in the Regulations shall be read as “affecting any right or function under the Data Protection Acts 1988 to 2018.”

28. The Council stated:

- “Section 8 (5) of the Derelict Sites Act 1990 and 2020 provides that 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. That is a limited right of access (viewing at the desk only), which does not extend to providing a complete copy of the Register for re-use.
- The complete derelict site register, as requested, contains personal information i.e. names and address, thereby making these person(s) easily identifiable. Under S.I No 376/2021 – European Union (Open Data and Re-use of Public Sector Information) Regulations 2021, Section 3 (2)(d)(i) & (iii) – the Open Data Regulations do not apply if such documents/information is excluded under the Data Protection Acts 1988 to 2018 and/or the Freedom of Information Act 2014. It is my view that issuing a complete copy of the derelict sites register, as requested, would be in breach of the Data Protection Acts and the Freedom of Information Act.
- Regulation 3(4) provides that nothing in the Regulations shall be read as affecting any right or function under the Data Protection Acts 1988 to 2018. This is also reinforced by section 52 of the Directive (EU) 2019/1024 of the European Parliament and of the Council 2019 on open data and the re-use of Public Sector information, with particular reference to Article 5 and 6 of the Regulation (EU) 2016/679. I am of the opinion that your request does not meet principle of article 5 (1) b and therefore is not permissible.
- With reference to S.I No 376/2021 – European Union (Open Data and Re-use of Public Sector Information) Regulations 2021, Section 3 (2)(f), “documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents I am of the opinion that you have not “proven” the “particular interest” criterion in order to justify the release of the register in the format you are seeking.

- Under Section 13 of the Directive (EU) 2019/1024 of the European Parliament and of the Council 2019 on open data and the re-use of Public Sector information, it is extremely unlikely that Meath Council's Derelict Sites Register could be considered relevant to the requester for "commercial purposes" or can be considered in the terms of Broad, cross-border geographical coverage will also be essential in that context. Increased possibilities of re-using such information is expected, inter alia, to allow all Union businesses, including microenterprises and SMEs, as well as civil society, to exploit its potential and contribute to economic development and high-quality job creation and protection, especially for the benefit of local communities"

29. The general thrust of the Council's position is that it has obligations under the Data Protection Act 1988 to 2018 / 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).

30. I have considered the Council's submissions 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.

31. 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."*

32. 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.

33. 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.

34. 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

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

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.

35. 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.
36. 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.
37. 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.
38. As I am satisfied that the Data Protection Acts 1988 to 2018/the GDPR allow for the release of the full register for re-use, it is not necessary for me to consider the application of the Freedom of Information Act to the request.
39. 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)(d)(i) and (iii) or 3(2)(f) of the Open Data Regulations. I find, therefore, that the Council’s decision is not justified.

Decision

40. In accordance with Regulation 17(2) of the Regulations, I have reviewed the Council’s decision under Regulations 3(2)(d)(i) and (iii) and 3(2)(f) 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

41. 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
5 December 2025