

Adult and Community Services
Data Protection & Information Officer

22 March 2016

Our Ref: e18767

Re: Request for information under the Freedom of Information Act 2000

Your request for information which was received on 3 March 2016 has been considered. Please find our response below.

Your request:

As part of modern law under the freedom of information we would like to formally request details of all the 'un-adapted' highways on record in the area Richmond Upon Thames London Borough Council that are subject to a Section 38 Agreement (Highways Act 1980) or have historically been granted technical approval and details of all current/active Section 278 (Highways Act 1980) Agreements on record in your area.

The Dept. of Transport last conducted a survey on un-adapted roads in 1972 and although opinion is that the situation remains unchanged, we are attempting to compile an up to date picture regarding un-adapted roads across England and Wales. A recent BBC Five Live new documentary on un-adapted roads has increased awareness of this issue hence why we are making this request. We have already received this information from around 80% of councils and are currently requesting the information from the remaining councils of which Richmond Upon Thames London Borough Council is one.

We understand that this information may not necessarily be held with your department and will likely require communication with your engineering / highways department. Taking the forenamed into account we would like to clarify the specific detail of our request:

- i. A list of all un-adopted highways in the Richmond Upon Thames London Borough Council constituency with a Section 38 Agreement in place (Highways Act 1980) including the developer and/or landowners named on the agreement.*
- ii. A list of all current/active Section 278 Agreements (Highways Act 1980) in the Richmond Upon Thames London Borough Council constituency including the developer and/or landowners named on the agreement.*
- iii. Any details you may hold regarding the third party surety provider as named on the Section 38 and Section 278 agreements and remaining bond value- if available.*
- v. Contact details of the head/ principal representative in your highway and legal departments who is responsible for highway adoptions.*

Our response:

We do not centrally record the information you are requesting.

Our legal department hold copies of Section 38 and Section 278 agreements. However they do not know whether these roads are formally adopted or not. For example with a

Section 38 agreement a developer proposes to dedicate land as a highway and constructs the road. It is then inspected by the Council and a provisional certificate issued. The road is then made available for public use. Depending on the terms of the Agreement, it may become a highway at this point (albeit not yet adopted).

There is then usually a maintenance period – the length of which is set out in the agreement – in which the road is maintained privately by the developer who repairs any defects etc. At the end of this period, the council inspects the road again. If it meets the Council's standards, a final certificate is issued. At this point the highway becomes 'adopted' and the Council will thereafter be responsible for maintaining it.

In order to provide the information requested our legal department would need to first work out what agreements have been entered into in the borough. Secondly, this would need to be sent to our Highways department to work out which of those have not been adopted. This information is not readily available and may not be complete. Much of the evidence that a road was formally adopted is in the form of internal memos between Council departments stored in different locations. These records would then need to be examined to determine which ones are still un-adopted. This would be a huge task which would take considerable amount of time to complete.

Please see Appendix 1 for the full legal reasoning behind the decision not to respond to your request and your right of appeal.

Kind regards

Data Protection and Information Officer

Appendix 1

Detailed legal reasoning for refusal

Section 12: Exceeds the appropriate limit

To provide the information requested would require us to manually search, review, collate and analyse the requested information. This would take considerable time.

We consider that this would exceed the appropriate limit, as specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004; therefore section 12(1) of the Act applies.

The appropriate limit has been set at £450 and may include working hours of any person acting on our behalf at a rate of £25 per hour. This equates to 18 hours to locate and extract the relevant information.

As explained this task would involve manual searches and cross referencing between Council departments. We estimate that this would be well in excess of 18 hours work. The response therefore would exceed the limit stipulated under FOI legislation.

In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice.

You have the right of appeal against the decision. If you wish to appeal please set out in writing your grounds of appeal and send to:

Corporate Complaints and Access to Information Manager
Community Engagement and Accountability Team
Adult and Community Services
3rd Floor Civic Centre
44 York Street
Twickenham
TW1 3BZ

E-mail: foi@richmond.gov.uk

If you are dissatisfied with the outcome of the internal appeal you may appeal further to the Information Commissioner's Office at:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
fax: 01625 524 510
DX 20819
www.ico.org.uk