

Kent tithe maps EIR appeal

I, the appellant, conduct rights of way research in relation to Kent on a voluntary basis on behalf of the British Horse Society. Such research frequently refers to the tithe maps prepared under the Tithe Act 1836. Extracts from the tithe maps may be required to be included in applications to record or upgrade rights of way made to Kent County Council (KCC). I estimate that there are between 400–450 tithe maps for Kent. All (or nearly all) of these are held by KCC.

The county council holds, in its archive, the majority of tithe maps prepared within the county under the Tithe Act 1836, being generally the parish copy deposited under s.64 of the 1836 Act. The Heritage Lottery Fund (HLF) provided £310,900 of support to the Kent Tithe Map Project under an agreement made in June 1997, primarily to restore and digitise the tithe maps of Kent. Under the terms of the agreement (disclosed by the HLF), 'The Grantee [KCC] will arrange for the public to have full appropriate access to the Property... . The Grantee will ensure that no person is unreasonably denied access to the Property.' The digitised maps are available to view on a terminal in the KCC Maidstone archive, and copies of local maps are held on CD at some other libraries for viewing at library terminals. The digitised maps are not available online.

In my view, the tithe maps comprise environmental information. They record the state of the landscape in the first half of the nineteenth century, including the existence of natural features such as woodland, ponds, streams, and taken with the tithe apportionments, record the state of land use (such as arable, pasture, rough grazing or common land). Therefore, they record 'the state of the elements of the environment, such as...land, landscape and natural sites'.

I made a request to KCC under the Environmental Information Regulations 2004 (EIR) on 8 August 2021 for 'a copy of all digitised tithe maps for the county of Kent, to be supplied in electronic form on a portable hard disk, or alternatively to be made available for download on a file transfer facility.' An offer was made to supply a portable hard disk for the purpose. My request also referred to the INSPIRE Regulations 2009, but this aspect was not taken further.

The request was acknowledged on 9 August, and given reference 23787341.

KCC sought clarification of my request on 10 August, to which I replied on the same day.

A response was made on 31 August. This stated that the maps were available to view at the Maidstone archive, and copies were available to purchase on request. The response was not in accordance with the EIR, and on the same day, I asked for a compliant response. KCC replied on 2 September that my request was being addressed as a review, and I replied on the same day to explain that I had not asked for a review, but a compliant response.

The compliant response was received on 3 September. This explained that the refusal was made under r.6(1), and agreed that, in those circumstances, the response ought to have complied with r.6(2). It was stated that the information was already 'available direct' by contacting the Maidstone archive.

I requested an internal review on 6 September, on the grounds articulated in the request.

KCC emailed with the outcome to the review on 29 September. The reply explained that, in addition to relying on r.6(1), KCC made available the information requested at a charge in accordance with r.8.

I replied on the same day, to say that the charge was not stated, and KCC had not proceed in accordance with r.8(4) by requiring advance payment of a charge. I also asked

where the charge was documented, pursuant to r.8(8)(a), in its schedule of charges, or if it was not documented in the schedule, what was the charge? I wrote again for an answer on 25 October.

KCC replied on 8 November that the 'copying charge for one tithe map is £15', and that the charge was recorded on an archives web page, 'Copying documents', at www.kentarchives.org.uk/our-services/copying-documents/. A discount of 20% was proposed for a request for more than 40 tithe maps.

I appeal on the basis that KCC was wrong to refuse my request under r.8 in that, so far as the information requested is made available at a charge, the charge specified does not comply with r.8(3) because the charge is not a reasonable amount; no request was made in accordance with r.8(4); and the charge was not published in its schedule of charges in accordance with r.8(8).

KCC has not specified exactly how many tithe maps are digitised, but if we assume the number is 425, then the charge would be $425 \times £15 \times 80\% = £5,100$. In its review, KCC said that: 'The charge for a copy of the digitised image of a tithe map is calculated by the staff time including overhead costs, incurred when preparing information to be supplied in response to a specific request. This includes time spent locating, retrieving, and extracting the information and putting it into the required format. The costs incurred when printing or copying the requested information and sending it to the applicant are also included in the charge.'

To comply with my request, a member of staff would need to plug in the portable disk supplied by me, select the relevant files on a drive or folder (*i.e.* all of them), copy them to the portable disk, remove and post the disk. I estimate the staff time taken would be about 15 minutes (but it might take considerably longer to await completion of the file transfer, which would not need to be supervised). In my view, £5,100 is not a reasonable amount for 15 minutes of an officer's time. Nor is it anticipated in or in accordance with the council's schedule of charges:

www.kent.gov.uk/about-the-council/information-and-data/access-to-information/publication-scheme#tab-1,5,7,8.

I would be satisfied if KCC were to disclose the requested data in electronic form to me, subject to any reasonable charge to cover the actual costs of disclosure.

Hugh Craddock
5 December 2021