

LBR28/INQ-17

THE LONDON BOROUGH OF RICHMOND UPON THAMES

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 226(1)(a) AND
226(3)(b)**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
ACQUISITION OF LAND ACT 1981**

**THE LONDON BOROUGH OF RICHMOND UPON THAMES (TWICKENHAM
RIVERSIDE) COMPULSORY PURCHASE ORDER 2021**

AND

**APPLICATION FOR A CERTIFICATE PURSUANT TO SECTION 19 ACQUISITION
AND SCHEDULE 3 OF LAND ACT 1981**

ACQUIRING AUTHORITY

NOTE ON TIMELAPSE FOOTAGE

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1. **TIMELAPSE FOOTAGE**

- 1.1 The Trust proposes to present timelapse videos (the “footage”) to the Inquiry. On Sunday 11 June, the Inspector, via the Programme Officer, sought the Acquiring Authority’s (hereafter the “Authority”) comments regarding any proposed presentation of the footage. In particular, the Inspector sought the Authority’s views in respect of matters of UK GDPR compliance in advance of any determination regarding the admissibility or otherwise of the footage.
- 1.2 The Information Commissioner’s Office (ICO) regulates and enforces the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA) (together the “DP Laws”). The ICO has issued guidance on the use of CCTV (or “Closed Circuit Television”) which is the term used to describe a video system of cameras around an area that records footage and transmits to monitors for viewing. ¹ The footage was captured by a CCTV system operated by the Trust within a public area. The nature of the footage is that individuals captured are identifiable from the images, such that the DP Laws apply.² Non-compliance with the DP Laws may result in appropriate regulatory action by the ICO.
- 1.3 First, the footage was taken from cameras that had been installed by the Trust without the permission or knowledge of the Authority, so the Authority was not a controller of the personal data collected. The cameras were located on property owned by the Authority, outside the area subject to the Trust’s lease. The Authority understands that the cameras were mounted on a storage container behind a wall of hoarding. The cameras were therefore not clearly visible to those individuals using the public space. There was no appropriate signage identifying the controller of the personal data collected (i.e. the Trust) via the CCTV or the purposes of collection of the footage.³ Therefore, the personal data collected by the Trust does not comply with the DP Laws by virtue of the way in which it has been collected.
- 1.4 Secondly, the CCTV system was not erected for the purposes of protecting the property, which is one of the key bases on which the ICO consider collection of such footage is appropriate. The Trust has confirmed during the inquiry (CPO Inquiry Thursday 8th June 2:09:48) that the footage was taken for the purpose of showing the activities for which the

¹ ICO, ‘Video surveillance (including guidance for organisations using CCTV)’.

² The footage constitutes “personal data”; “Personal data” under Article 4(1) UK GDPR 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.

³ The Trust previously submitted photographs of CCTV signage to the Programme Officer however, this signage relates to the Sunshine Café, not the wider Gardens. The Authority’s policy on CCTV footage is not to install CCTV cameras in its parks and gardens.

Gardens are used, as well as the numbers and frequency of visits by the public. The Trust have explained that the footage was collected over a period of at least four years for this purpose, (CPO Inquiry Thursday 8th June 2:08:29 and later noted as five years at 2:22:37). The precise period over which the Trust have been collecting footage of the public space and its users without permission is unclear. Nor is it clear to what extent the footage has been shared prior to it being submitted to the inquiry.

- 1.5 The issues around collection and transparency of the footage are, in the first instance, a compliance issue for the Trust, as controller of the personal data responsible for the purpose of the collection of the footage. From the information described above the footage has been collected in contravention of the DP laws, as it was collected without sufficient transparency for individuals that are identifiable within the footage.
- 1.6 If the Authority were to permit the showing of the footage in a public inquiry or publication of the footage on the inquiry website (for which the Authority is responsible, through the programme officer that it instructs), the Authority itself would be “processing” the data for the purposes of DP Laws⁴. Given that the footage was collected unlawfully and constitutes personal data to which the DP Laws apply, this act of processing would be contrary to DP Laws. The Authority would be liable for this breach of DP Laws.
- 1.7 The Authority is also concerned that the footage would allow the recognition of individuals by defining characteristics during the public inquiry, which might present a risk to individuals who were not aware that they were being filmed or indeed, who was filming them and for what purpose.
- 1.8 However, the Authority has indicated that it is willing to assist the Trust in presenting its case in a way that does not bring the Authority into breach of DP Laws. The Authority has suggested that a series of still images could be presented if they were adequately blurred so that no person would be identifiable by their clothing or appearance. In these circumstances, DP Laws would not apply to the use of the footage as it would not constitute personal data to which DP Laws apply. However, the Trust has indicated that it does not wish to proceed in this way and is in the process of editing the footage to remove any identifiable characteristics of those filmed without their consent.

4 UK GDPR Article 4(2) “processing” means any operation or set of operations which is performed on personal data or on sets of 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

- 1.9 The Authority reserves its position on whether it would maintain its objection to the footage being used as part of the public inquiry, until it has received the edited footage from the Trust and had an opportunity to review that. Should the footage adequately remove all identifiable characteristics of those filmed without their permission, the Authority accepts that the showing of the edited footage would not, in itself, breach any of the DP Laws. Whilst in such circumstances the Authority would remove its objection to the use of the footage, it would respectfully request that its objection to the covert manner in which it was originally collected, be noted.