



25 February 2014

**BY EMAIL**

**Ref: FOI 14-005**

Dear 

Thank you for your request for information, received on 27 January 2014. You asked us the following questions:

*“Under the Freedom of Information Act, we would like to request any correspondence, advice, or notes of meeting / telephone conversations to and from the planning authority in relation to the potential use of commercial building at the development known as The Forge, Crown Wharf, Dace Road for redevelopment of existing building and or site as a mix use building consisting of commercial space and residential units.”*

The correspondence the London Legacy Development Corporation (Legacy Corporation) hold in relation to your request is attached.

However, the correspondence in relation to The Forge also includes a Design Statement prepared by a third party. Please note, the information within the Design Statement has been redacted and has been withheld under the following provisions of the relevant Acts; namely under section 43 Commercial Interests of the Freedom of Information Act 2000 (FOIA) and Regulation 12(5)(e) which deals with Confidentiality of commercial or industrial information under the Environmental Information Regulations 2004 (EIR).

**Section 43 (2) Commercial Interests (FOIA)**

*“(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”*

**Reg.12(5)(e) Confidentiality of commercial or industrial information (EIR)**

*“12. (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—*

*(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—*

*(e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;”*

The Legacy Corporation has considered the public interest test in deciding whether to release the Design Statement as part of the information requested. The planning discussions are known as the ‘pre-app’ stage. Once a planning application has been submitted to the Legacy Corporation then the drawings and any supporting Design

Statements would be publically available. However, at this stage the public interest would not benefit from the information being released and therefore the Legacy Corporation is withholding specific information within the Design Statement as we consider it to be exempt under s.43 (2) and also under the exception contained in the EIR under reg. 12(5)(e) as defined above.

The public interest in maintaining the exception/exemption outweighs the public interest in disclosing the information in as much as releasing the information at this time would only serve a commercial interest, not the public interest, as the release of the information would put the third party at a disadvantage in light of their competitors and as such the information contained within the Design Statement could be of a direct benefit to the competitors.

With relation to the email correspondence, please note that the name(s) of the third party(ies) has been withheld as consent has not been received to release this information and the Legacy Corporation therefore consider it exempt under section 40 of the FOIA and also under the exception contained under regulation 13 of the EIR.

#### **Section 40 Personal information (FOIA)**

*“(2) Any information to which a request for information relates is also exempt information if –  
(b) either the first or the second condition below is satisfied  
(3) The first condition is –  
(a) in a case where the information falls within any of the paragraphs (a) to (d) of the definition of “data” in section 1 (1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene –  
(i) any of the data protection principles”*

#### **Regulation 13 Personal Data (EIR)**

*“(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.  
(2) The first condition is—  
(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—  
(i) any of the data protection principles;”*

The information is exempt under section 40 of the FOIA and also under the exception under regulation 13 of the EIR because its disclosure would breach any of the Data Protection Principles under the Data Protection Act 1998 (DPA). The First Data Protection Principle requires that the disclosure of personal data must be fair, and, in particular, that disclosure of personal data must comply with at least one of the conditions in Schedule 2 of the DPA.

We consider the name(s) of the third party(ies) not to be disclosed on the basis that the information is personal data and any disclosure of this information would be unfair to the person concerned and would be in breach of the First Data Principal. Also, we do not consider that the conditions set out in Schedule 2 of the DPA can be met to justify disclosure of this information because we do not have the individuals consent to disclose this personal data.

Please note in the attached email correspondence there is repeated mention of a letter to be sent to the third party by the Legacy Corporation planning department. The letter referred to in this email has not been written or sent.

The Legacy Corporation do not hold any notes from meetings and do not transcribe or record telephone conversations and as such we are unable to provide you with any further assistance in progressing your request.

If you are unhappy with our response to your request and wish to make a complaint or request a review of our decision, you should write to:

Executive Director of Finance and Corporate Services  
London Legacy Development Corporation  
Level 10  
1 Stratford Place  
Montfichet Road  
London  
E20 1EJ

Please note: complaints and requests for internal review received more than two months after the initial decision will not be handled.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely



FOI / EIR Co-ordinator  
London Legacy Development Corporation