



12 May 2015

INFORMATION REQUEST REFERENCE 15-025

Dear 

Thank you for your information request, received on 16 April 2015. You asked us to provide the following information under the Freedom of Information Act 2000 (FOIA):

"A while ago I asked the LLDC for information regarding the Section 106 agreement made with respect to the Manor Gardens Allotments. I have to say I am confused on this matter following a response I have since received from the LVRPA.

One issue raised concerned the powers of the LVRPA to enter into Section 106 agreements. You supplied information in the form of notes by the LLDC's legal officer written in response to a letter from Mr Charman, which I attach. In this letter the legal advisor stated that 'LVRPA has broad powers to enter into the (Section 106) agreement under Section 1 of the Localism Act 2011 '.

I recently asked the LVRPA to clarify its powers to make such agreements, see the email discussion below. The LVRPA made no reference to the Localism Act and instead initially referred to the Town and Country Planning Act 1990, as amended, as supporting the powers it had to make agreements of different kinds under the Lea Valley Regional Park Act 1966, when Section 106 Agreements did not exist, to also make Section 106 agreements. However, on review it withdrew this claim and said it had no powers of its own to make Section 106 agreements, powers reserved to local authorities, and could only be a party to such agreements as a landowner. Its powers to make agreements relate to the development of the Lea Valley Park.

First, I would therefore ask for clarification of the information provided regarding the status of the LVRPA in this matter and the LVRPA's alleged power to make Section 106 Agreements as I can see nothing in the Localism Act that applies to the LVRPA nor do I see why the LVRPA's own opinion of its powers, or lack of them, to make Section 106 Agreements should be disregarded.

Is it still the contention of the LLDC that the LVRPA has powers to make Section 106 as stated in its original response?

Second, has the LVRPA become a party to the Section 106 Agreement and on what basis? Has the agreement been completed?

In your earlier response your legal advisor said the parties to the agreement have contractual obligations and these can be enforced.

Third, I would ask for clarification as to who has these contractual obligations, what exactly they are and who will enforce them.

As I understand it, under the terms of the planning decision, the Section 106 Agreement should have been completed by now.

Fourth, I would ask for clarification as to whether the Section 106 agreement is now in place and what precisely has been agreed, if it is in place. Please provide a copy of the final agreement.

Fifth, what action, if any, has been taken to enforce any of the contractual obligations referred to by your legal advisor?

Sixth, if it is not in place then presumably, on the basis of the planning decision, the matter will be returned to the Planning Committee and the allotments will be returned to Eton Manor? Please confirm that this will be done. If not, why not?"

I have provided our response below following your order:

Is it still the contention of the LLDC that the LVRPA has powers to make Section 106 as stated in its original response?

Following your information request, independent legal planning advice was sought. They have confirmed that the advice provided to you by Lee Valley Regional Park Authority (LVRPA) on 9 April 2015 is correct, in that *"the LVRPA have the power to enter in to an agreement for the improvement or development of the park, pursuant to the powers contained in the Lee Valley Regional Park Act 1966, and not under powers in the Town and Country Planning Act 1990."*

Second, has the LVRPA become a party to the Section 106 Agreement and on what basis? Has the agreement been completed?

The LVRPA entered in to the Section 106 Agreement as landowner, which it is able to do pursuant to the powers contained in the Lee Valley Regional Park Act 1966. Although the current legal advisor did note that the local planning authority would be the Legacy Corporation, not the London Borough of Hackney as referenced in the LVRPA response.

The section 106 agreement between the Legacy Corporation, LVRPA and London Borough of Waltham Forest (Waltham Forest) was completed on 18 June 2014.

Third, I would ask for clarification as to who has these contractual obligations, what exactly they are and who will enforce them.

For the above section 106 agreement, the covenants are given by the Developer (Waltham Forest) and the Owner (LVRPA) to the Legacy Corporation as the Local Planning Authority, and are enforceable by the Legacy Corporation.

Fourth, I would ask for clarification as to whether the Section 106 agreement is now in place and what precisely has been agreed, if it is in place. Please provide a copy of the final agreement.

Yes, there is a Section 106 agreement (dated 18 June 2014).

The Section 106 agreement is a public document and can be downloaded from the Legacy Corporation's electronic Planning Register by entering reference: 13/00444/FUL. A link is provided below.

<http://queenelizabetholympicpark.co.uk/planning-authority/view-and-comment-on-applications>

Fifth, what action, if any, has been taken to enforce any of the contractual obligations referred to by your legal advisor?

The Legacy Corporation has not taken any enforcement action at this time and is in discussions with the owner and developer in respect to its planning permission conditions and Section 106 obligations.

National Planning Policy Framework (NPPF) emphasises that enforcement action is discretionary and any action taken should be proportionate to the nature of the breach of control concerned.

The Legacy Corporation's Planning Policy and Decisions Team's (PPDT) Enforcement Plan outlines the procedures and standards of service that can be expected from the Legacy Corporation PPDT with regard to enforcement against unauthorised development and breaches of planning control. The Enforcement Plan sets out priorities for action and timescales for that action and its aim is to make sure that procedures are fair and reasonable, that interested parties are kept informed and aware of what is required and that the outcome of any action is commensurate with the nature of the breach of control.

A copy of the PPDT's Enforcement Plan is provided in **Annex A**, but can also be found on the Planning Authority section of the Legacy Corporation's website.

Sixth, if it is not in place then presumably, on the basis of the planning decision, the matter will be returned to the Planning Committee and the allotments will be returned to Eton Manor? Please confirm that this will be done. If not, why not?"

A Section 106 Agreement, as noted above, is in place.

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

Yours sincerely



FOI / EIR Co-ordinator
London Legacy Development Corporation