



15 September 2015

INFORMATION REQUEST REFERENCE 15-057

Dear Sirs.

Thank you for your information request, received on 18 August 2015. You asked us to provide the following information under the Environmental Information Regulations 2004 (EIR):

“Following our meeting of 12th August mention was made of complaints that had been received. We ask the council to provide a copy of those complaints removing any third party information that can identify the complainant.

Whilst writing could we ask that the council anonymise the complainants by referring to them as Resident A, Resident B etc, and could they confirm how many residents have raised concerns in the last 12 months and on how many occasions. So for example if there have been 12 complaints, has that been from one resident, or twelve.”

The London Legacy Development Corporation (Legacy Corporation) can confirm that they hold the information you have requested. Our response is below, following your order.

- 1) Confirmation of the number of complainants and complaints received in relation to the property within the last 12 months;

In respect of your first request, I can confirm that we have received complaints from 5 separate individuals prior to the submission of the planning application and within the course of the last 12 months. Following submission of the planning application, representations from 10 individuals were received (which are available to view on the planning register) and Officer’s responses to these representations have led to further complaints which now form part of the enforcement investigation.

- 2) A copy of complaints with third party information removed that can identify the complainant.

In respect of your request for a copy of the complaints received we are withholding this information under the EIR regulations 12(5)(b), 12(5)(f) and 13(1).

*12(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—
(b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;*

*12(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—
(f) the interests of the person who provided the information where that person—
(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
(iii) has not consented to its disclosure;*

13(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.

The information requested forms part of an enforcement case as it concerns matters of planning enforcement and investigations into planning breaches. Disclosure could prejudice the way the Legacy Corporation conducts investigations and any other matter it has a duty to investigate. Additionally, members of the public believe that information provided by them during the course of such investigations should be treated in confidence and only used for the purposes for which it was provided. Information could also identify individuals and disclosure of such information could breach the principles of the Data Protection Act 1998.

The information would be exempt from disclosure pursuant to Regulation 12(5)(f) as members of the public / third parties have an expectation that information provided by them during the course of the Legacy Corporation investigations will be treated in confidence and only used for the purposes for which it was provided.

The information requested also falls within the scope of the exception Regulation 12(5)(b). The exception applies because release of the information could prejudice the course of justice.

The Town and Country Planning Act 1990 require the Legacy Corporation to regulate and enforce planning breaches. Enforcement action relies on the Legacy Corporation's ability to investigate enforcement cases away from public scrutiny. Disclosing correspondence in relation to planning enforcement issues would prejudice the Legacy Corporation's ability to effectively regulate planning matters and it would therefore adversely affect the course of justice.

For all exceptions within the Environmental Information Regulations, the public interest must be considered and tested. The public interest factors involved have been aggregated to provide a public interest test which incorporates both the exceptions referred to above.

Public interest factors in favour of disclosure

The Legacy Corporation acknowledge that there is strong public interest in the general principles of transparency and accountability. More specifically there is a public interest in understanding how decisions are made and ensuring judgments relating to planning enforcement are fair and balanced.

Public interest factors in favour of maintaining the exceptions

The release of this information could prejudice the way the Legacy Corporation conducts investigations into this or any other matter over which it has a duty to investigate. The Planning Enforcement Plan of the Legacy Corporation's Planning Policy and Decisions Team (PPDT) states that the personal information of any one reporting a breach of planning control will be kept confidential. The Planning Enforcement Plan is available via the Legacy Corporation website - <http://queenelizabetholympicpark.co.uk/>.

Disclosing information contained in the enforcement file would prejudice the authority in carrying out its statutory functions. More specifically, with regard to 12(5)(b) for the purpose of ascertaining whether any person has failed to comply with planning law.

Any information provided by third parties during the course of such investigations should be treated in confidence and only used for the purposes for which it was provided. The Legacy Corporation believes that people would be discouraged from providing information if they thought their information might be released publicly without a compelling reason to do so.

It is therefore important that this information remains confidential.

The information is also withheld as releasing the information, even anonymised, would constitute the disclosure of third party personal data.

Even if the name of the individuals were withheld, it is likely that their identities could be deduced from their correspondence. Therefore this information is also withheld under Regulation 13(1).

In coming to this decision, consideration was given to the Data Protection Act 1998 principles.

Such information should only be processed for specified, lawful and compatible purposes and I do not consider this to be a compatible purpose [Principle 2].

Furthermore such information should be processed in accordance with the rights of the data subject who would have a legitimate expectation that the information would not be disclosed to members of the public [Principle 6].

The Legacy Corporation considers that the disclosure of this information to members of the public without expectation or consent would be likely to cause damage or distress to the data subjects. I have given regard to condition 6 of Schedule of 2 of the DPA which provides:

6 (1) the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

In reaching a view the Legacy Corporation have taken account of the individual's reasonable expectations of what would happen to their personal data and whether disclosure would be incompatible with the purposes for which it was obtained and whether disclosure would cause any unnecessary or unjustified damage to the individual.

In this particular case the data subjects would not have any reasonable expectation that their complaints would be made public.

For these reasons, the Legacy Corporation consider the balance of public interest to be in favour of not disclosing the information requested.

In accordance with the Environmental Information Regulations 2004 this letter acts as a Refusal Notice.

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 response 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