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1 Stratford Place
Montfichet Road
London
E20 1EJ

[REDACTED]
[REDACTED]
[REDACTED]

12 May 2016

INFORMATION REQUEST REFERENCE 16015

Dear [REDACTED],

Thank you for your information request, received on 7 March 2016. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“As a further FOI request could you please provide me with copies of all documents sent to and received from the European Commission, via the UK Representative, in connection with State aid and the legacy use of the stadium.”

The London Legacy Development Corporation (Legacy Corporation) confirms that they hold information in relation to the scope of your request.

The information consists of email correspondence, including attachments, between LLDC and the Department for Business, Innovation & Skills (BIS), the Government Department responsible for processing UK State aid cases and complaints addressed to UK authorities, relating to documents sent by BIS via the UK's Representation to the European Union in connection with State aid and the legacy use of the stadium. This is included in **Annex A**.

Information within Annex A has been withheld under section 40(2) and section 27(1) of the FOIA.

Section 40(2) – personal information

*(2) Any information to which a request for information relates is also exempt information if—
(a) it constitutes personal data which do not fall within subsection (1), and
(b) either the first or the second condition below is satisfied.*

The section 40 exemption is absolute and is not subject to the public interest test. It is the standard practice of the Legacy Corporation to redact personal information unless consent to release the information has been received.

In this instance, the relevant condition that applies is section 40(2) whereby the information is defined as personal data within Section 1(1)(a) of the Data Protection Act 1998. The redacted information includes the name and home address of the witnesses to this agreement. As we have not received consent of the data subject, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

Section 27(1) – International relations

(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—(a) relations between the United Kingdom and any other State, (b) relations between the United Kingdom and any international organisation or international court, (c) the interests of the United Kingdom abroad, or (d) the promotion or protection by the United Kingdom of its interests abroad.

The section 27(1) exemption is a qualified exemption and subject to the prejudice test and the public interest test.

Under the prejudice test we have to consider whether disclosure of this information would, or would be likely to, prejudice relations between the United Kingdom and the European Commission.

The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification to withhold this information under this exemption.

We consider that the section 27(1) exemption is engaged in this case in relation to the documents attached in the email correspondence because the disclosure of that information would, or would be likely to, prejudice relations between the United Kingdom and the European Commission, as disclosure of the information would compromise the effective conduct of the United Kingdom's international relations. In considering whether to withhold information, LLDC has consulted with BIS who confirmed that this is the case.

BIS noted that the Commission has consistently taken the view, with reference to the legacy use of the Olympic Stadium, that BIS should not release information shared in this context between a Member State and the Commission. BIS also highlighted that under Article 5 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, BIS is under an EU obligation not to disclose documents originating from the Commission or any document that could reveal the contents of EU originating documents. This applies in cases, where BIS has consulted the Commission and obtained their view that they do not wish BIS to release information shared in the context of discussions with them.

We have given careful consideration to the public interest factors for and against disclosure of the information contained in your request and we consider that the balance of the public interest in non-disclosure outweighs the public interest in disclosing it.

We recognise and have taken account of the public interest in promoting transparency of decisions and accountability by public sector bodies involving the expenditure of public money. However, it is the view of the Legacy Corporation that the public interest in withholding this information outweighs the public interest in disclosing it because of the need to maintain relations that are based on mutual trust and cooperation between the United Kingdom and the European Commission.

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

██████████ on behalf of ██████████
FOI / EIR Co-ordinator
London Legacy Development Corporation