



26 April 2016

INFORMATION REQUEST REFERENCE 16018

Dear 

Thank you for your information request, received on 15 March 2016. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“Could also please provide a copy of the Board paper to which this morning's letter refers and which provides the grounds for the confidence that there was no State aid?”

The London Legacy Development Corporation (Legacy Corporation) confirms that they hold information in relation to your request. The Board paper requested is attached in Annex A. The below information has been withheld under the following exemptions.

Page	Reference	Redaction	Exemption	Justification
3	4.1.3	Partial	s.43(2)	Commercially sensitive.
8	Report originators	Partial	s.40(2)	Personal information – do not have consent to release

S.43(2) - Commercial interests.

(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).

The section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). 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 in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

The Legacy Corporation have assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information within this agreement currently identified as commercially sensitive would be likely to prejudice commercial interests of the Stadium because it will reveal detail of financial information which would be likely impact on current and future negotiations in relation to the Stadium, which in turn would harm the Stadium's ability to achieve best value for the public purse.

The Stadium needs to be able to successfully operate in a small, strong and very competitive market. The information identified as commercially sensitive, if disclosed, would be likely to put the Stadium at a competitive disadvantage within this market by allowing competitors of the Stadium or other interested parties, who are not subject to the same legislation, to gain access to commercially valuable information.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

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.*

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

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 individual names and contact details. As we have not received consent of the data subjects, release of the requested information at this time would contravene the first data principle under Schedule 2(1) of the Data Protection Act 1998.

Please note: we are advised that as at the date of the Board meeting, 19 February 2013, David Sullivan and David Gold owned 61.2% of West Ham United, and had an option to purchase a further 25% of the club, not 30% as mentioned in paragraph 4.1.5.

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