

[REDACTED]

22 January 2018

INFORMATION REQUEST REFERENCE 17-071

Dear [REDACTED]

Thank you for your information request, received on 18 December 2017. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

"An extract of a meeting report for the LLDC Investment committee on 20th December says

"We are still waiting for a response from the EU regarding the complaint made in relation to state aid on the Stadium. The Corporation's response to the complaint was sent on 6 September 2016. In November 2017 the Department for Business, Energy and Industrial Strategy contacted us with correspondence from the EU notifying us that they would be releasing the non-confidential papers from our response to the complainant unless we expressly refused permission. Permission was given, however additional redactions were applied to our response letter following legal advice as it would impact on current legal action. No update on the status of the complaint has been received."

In light of this information under the Freedom of Information Act could I have a copy of the corporation's response or correspondence with the EU in relation to this complaint together with a copy of the original complaint made to the EU."

I can confirm that the Legacy Corporation holds information relevant to your request. Please find attached as follows the Legacy Corporation's response:

- Annex A: Submission 06092016_redacted
- Annex B: 099885-SA.45479 (2016FC)-UK-LMS-London Olympic Stadium_Confidentialities letter to UK 09 2017
- Annex C: UK reply to 10 April 2013 letter Non Confidential
- Annex D: April 2013 Suppl non paper non conf

Annex E: Oct 2012 Non-Paper non confidential
Annex F: Submission of 4 Feb nonconf redacted version
Annex G: SA.45479 Forward of complaint to MS067973
Annex H: Non-confidential version of State Aid complaint form.

Please note:

- Annexes A to F - These are the non-confidential versions of the documentation sent to the EU via the Department for Business, Energy & Industrial Strategy (BEIS).
- Annex H – The Legacy Corporation have only received a non-confidential version of the complaint.
- The Legacy Corporation does not hold any correspondence directly with the EU in relation to this complaint.

Previously, information that has been submitted to the European Union has been withheld under section 27 – international relations.

FOIA Section 27 International relations.

(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

(b) relations between the United Kingdom and any international organisation or international court,

However, in this case, having conferred with BEIS, the Legacy Corporation have confirmed that the non-confidential versions of these documents can be released at this time.

Where the information withheld is identified by square brackets [] these redactions were applied at the time of the initial response in September 2016. Where the information withheld is blacked out, then these redactions were applied in November 2017 following an enquiry from the EU about releasing the non-confidential documents. The Legacy Corporation redacted commercially sensitive information in relation to current legal proceedings.

The Legacy Corporation do hold unredacted versions of these documents, however these documents contain confidential information which has been submitted in confidence to the EU in relation to the complaint.

These documents are currently being withheld under section 22 – information intended for future publication.

FOIA section 22 - Information intended for future publication.

(1) Information is exempt information if—

(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

The section 22 is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we must 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 before the EU has resolved the complaint. There is, of course, a public interest in promoting transparency of the decisions and accountability in regard to public sector bodies, however, the disclosure of the information within the confidential versions of the EU correspondence, currently identified as commercially sensitive, would be likely to prejudice the commercial interests of the Legacy Corporation because it will reveal details which would be likely impact on and cause serious disadvantage in current and future negotiations and future plans.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding this information outweighs the public interest in disclosing it. However, the information will be reviewed once the EU complaint has been resolved.

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:

Deputy Chief Executive
London Legacy Development Corporation
Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

Email: FOI@londonlegacy.co.uk

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