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1 Stratford Place
Montfichet Road
London
E20 1EJ

[REDACTED]
[REDACTED]

23 May 2018

INTERNAL REVIEW - REFERENCE 18-001

Dear [REDACTED]

We refer to your email of 23 March 2018 where you requested an appeal under the Environmental Information Regulations 2004 (EIR) with regard to the response you received from the London Legacy Development Corporation (Legacy Corporation) in relation to your information request reference as above.

The internal review has been completed and the findings and recommendations of the internal review are as follows:

1. Background

1.1. The original request (Ref 18/001) was received on 22 December 2017 and requested that the London Legacy Development Corporation (Legacy Corporation) provide information under the Environmental Information Regulations 2004 (EIR) in response to a series of questions as set out here:

"... Requests - Please provide:

1. *In respect of the 2017 Drawings "received ... on 15th September 2016":*
 - a) *a statement of the means by which the 2017 Drawings were received on that date;*
 - b) *If by letter:*
 - i. *the name of the sender and the addressee, together with the addressee's title/role;*
 - ii. *any information / statements about the 2017 Drawings provided in the letter;*
 - iii. *the reason why the letter was not uploaded to the LLDC public register;*

- a) *The identity and title of the person to whom Ms Birt passed the Delegated Report;*
 - b) *The means by which the Delegated Report was passed to the person (or persons) referred to in 5(a);*
 - c) *If passed in hard copy:*
 - i. *Who passed the document on;*
 - ii. *Whether/how this was recorded;*
 - iii. *Any procedures which apply when a case officer passes Delegated Reports for decision;*
 - iv. *The number of LLDC Delegated Reports in 2016 that were passed for decision in hard copy only and the number that were passed for decision by e-mail.*
 - d) *If passed by e-mail:*
 - i. *the date and time sent of the e-mail (or e-mails) by which the Delegated Report was passed on;*
 - ii. *The identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - iii. *The specific content of the e-mail (or e-mails) referred to in S(d)(i), where this relates to the 2017 Drawings;*
6. *Regarding internal LLDC e-mails sent between 15 September 2016 and 19 September 2016 (inclusive) which forward or attach the Delegated Report, or which comment upon its content;*
- a) *The date and time of the e-mail;*
 - b) *the identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - c) *The specific content of each e-mail where this relates to the 2016 Drawings and/or the 2017 Drawings.*
7. *Regarding e-mail communication between, on the one hand, Tughela Gino and/or the Applicants (or anyone acting on its/their behalf) and, on the other hand, the LLDC, before the Application was approved on 19 September 2016, please provide a schedule of e-mails sent and received (if any) stating:*
- a) *the identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - b) *The date of each e-mail;*
 - c) *whether the e-mail had any attached documents;*
8. *In respect of any e-mail falling within 7, above, the specific content of that e-mail where this relates to the 2016 Drawings or the 2017 Drawings. For the avoidance of doubt, this includes (without limitation) any such content in the e-mail from Ms Birt of the LLDC to Tughela Gino dated 5 April 2016 providing pre-application advice.*

9. *Regarding e-mail communication between, on the one hand, Tughela Gino and/or the Applicants (or anyone acting on its/their behalf) and, on the other hand, the LLDC, following the Decision Notice dated 19 September 2016, please provide a schedule of e-mail communication (if any) showing:*
 - a) *the identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - b) *The date of each e-mail;*
 - c) *whether the e-mail had any attached documents;*

10. *In respect of any e-mail falling within 9, above, the specific content of that e-mail where this relates to the 2016 Drawings or the 2017 Drawings. For the avoidance of doubt, this request applies to all correspondence once the architect identified that "the approved drawings had not been uploaded successfully onto the public register".*

11. *Regarding any telephone conversations or conversations in person between, on the one hand, Tughela Gino and/or the Applicants (or anyone acting on its/their behalf) and, on the other hand, the LLDC prior to the Decision Notice dated 19 September 2017 where the conversation referred to or concerned the 2016 Drawings and/or the 2017 Drawings, please provide:*
 - a) *A copy of the written note of the discussion that was placed on the planning file (or pre-application planning file) in compliance with paragraph 4.1.3 of the LLDC Planning Decisions Code of Practice;*
 - b) *If not clear from the note provided under 11(a), the name and titles of the persons holding the discussion, and the date on which it was held;*
 - c) *Any other information about the content of the conversation where this is recorded in a way other than that described in 11(a).*

12. *Regarding any telephone conversations or conversations in person between, on the one hand, Tughela Gino and/or the Applicants (or anyone acting on its/their behalf) and, on the other hand, the LLDC after the Decision Notice dated 19 September 2017 where the conversation referred to or concerned the 2016 Drawings and/or the 2017 Drawings, please provide:*
 - a) *A copy of the written note of the discussion which was placed on the planning file in accordance with paragraph 4.1.3 of the LLDC Planning Decisions Code of Practice;*
 - b) *If not evident from the note provided under 12(a), the name and titles of the persons holding the discussion, and the date on which it was held;*
 - c) *Any other information about the content of the conversation where this is recorded in a way other than that described in 12(a).*

13. *Please state how the architect contacted the Corporation to identify that "the approved drawings had not been uploaded successfully uploaded onto the public register".*

- a) *If by telephone or other conversation, please provide:*
 - i. *A copy of the written note of the discussion which was placed on the planning file in accordance with paragraph 4.1.3 of the LLDC Planning Decisions Code of Practice;*
 - ii. *If not evident from the note provided under 13(a)(i), the name and titles of the persons holding the discussion, and the date and time when it was held;*
 - iii. *Any other information about the content of the conversation where this is recorded in a way other than that described in 13(a)(i).*
- b) *If by e-mail, please provide:*
 - i. *the date and time sent of the e-mail (or e-mails) in which the architect identified the issue;*
 - ii. *The identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - iii. *The specific content of the e-mail (or e-mails) referred to in 13(b)(i), where this relates to the 2016 Drawings and/or the 2017 Drawings;*

14. *Regarding any internal LLDC e-mail relating to the 2017 Drawings following the communication referred to in paragraph 10:*
- a) *the date and time sent of the e-mail;*
 - b) *The identity of the sender, recipient and any addressee in copy, together, in each case, with their title/role;*
 - c) *The specific content of the e-mail (or e-mails) referred to in 14(a), where this relates to the 2017 Drawings;*

For the avoidance of doubt, this includes (without limitation) e-mails relating to the decision to upload the 2017 Drawings on to the LLDC public register.

15. *The date on which the LLDC first attempted to upload the 2017 Drawings to the public register. If more than one attempt was made, please provide the date of each attempt.*
16. *Please state whether the requests for information in the DPDS Consulting letter dated 20 September 2017 were logged with the LLDC's FOI Coordinator in accordance with paragraph 5.5 of the LLDC Information Compliance Policy, and if so:*
- a) *The date on which the requests were logged; and*
 - b) *What specific requests were recorded.*
17. *If the requests referred to in paragraph 16 were not so logged, please state:*
- a) *the grounds on which it was determined that the LLDC Information Policy did not apply (with reference to any applicable paragraph of that Policy); and*
 - b) *who made the determination referred to in paragraph 17(a)."*

- 1.2. A response was sent on 23 January 2018 to inform you that the Legacy Corporation had carefully considered your request in its full context but had refused those questions numbered 1 to 15 citing EIR regulation 12(4)(b) *manifestly unreasonable*. A detailed justification for the application of the exemption was included in that response.
- 1.3. Your subsequent email request for internal review was received on 23 March 2018 setting out the grounds for appeal as follows:
 - I. *The ‘manifestly unreasonable’ exception at EIR regulation 12(4)(b) cannot properly be used by the Corporation to refuse this Request because the Request was not onerous and would not have had “... a disproportionate burden ... on the ... Corporation’s limited resources” or an “impact on delivery of its other responsibilities”.*
 - II. *Alternatively if (contrary to ground 1) the Corporation was justified in finding the Request to be manifestly unreasonable, it may only rely on the exception at regulation 12(4)(b) to the extent that the Request is manifestly unreasonable. The Corporation remains obliged to provide requested information where doing so presents no material cost or burden to its resources. It has not done this.*
 - III. *The Corporation has not had proper regard to the presumption in favour or disclosure of environmental information at regulation 12(2) EIR.*
 - IV. *The Corporation failed properly to apply the public interest test required by regulation 12(1)(b) EIR when considering whether the public interest justified providing the requested information.”*

2. Review findings:

- 2.1. The internal review – in which the panel reassessed the nature and full scope of your request – has now been completed and the findings and recommendations of the review are as follows:
- 2.2. The panel consider that the EIR regulation 12(4)(b) is engaged correctly in the instances of questions 1-15 given the likely impact on the limited resources - both financial and administrative – of the Legacy Corporation, in light of the extensive search required to locate and retrieve the requested information.
- 2.3. As confirmed in the responses to questions 16 and 17, the absence of any registered recorded information relevant to your request directed the Legacy Corporation to consider it overall a planning matter rather than an FOI or EIR case. As such, your questions had been passed to the Legacy Corporation’s Planning Team with the request that PPDT consider the planning issues raised.
- 2.4. The panel understands that, subsequent to the Legacy Corporation’s above request, a response addressing planning issues has now been sent to you by the organisation’s Head of Development Management (Planning Policy & Decisions).
- 2.5. The Legacy Corporation had acknowledged its duty to provide assistance where feasible under EIR and had therefore invited you to submit, as a new application, a revised request for recorded information to a scale achievable within the resources

of the organisation. The panel has been informed that no such request has been received by the Legacy Corporation to date.

3. Panel Recommendations:

- 3.1. After a full consideration, the internal review panel consider that the original response was justified in refusing the applicant's request for a response to questions 1 to 15 under EIR regulation 12(4)(b).

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

Deputy Chief Executive
London Legacy Development Corporation