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London
E20 1EJ

[REDACTED]
[REDACTED]

4 March 2019

INFORMATION REQUEST REFERENCE 18-059

Dear [REDACTED]

Thank you for your information request, received on 12 September 2018. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“Under the freedom of information could you provide:

- 1) *A copy of the catering agreement for the London Stadium between Delaware North and London Stadium 185*
- 2) *An updated copy of the Catering Services Business Plan specifically referred to in the Stadium Plus Operator agreement dated 30th January 2015*
- 3) *A breakdown of catering revenue from West Ham United games for the last Premier League season including the split of how the revenue is shared between Delaware North, London Stadium 185, West Ham, E20/LLDC and any other parties plus any management fee deducted by any of the parties for catering services.”*

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. Our response follows your order:

Q1. A copy of the catering agreement for the London Stadium between Delaware North and London Stadium 185

The contract between London Stadium 185 Limited (LS185) and Delaware North Companies (UK) Hospitality Services Limited (Delaware North) catering agreement relating to Stadium and South Park is being withheld under FOIA section 43 – commercial interests.

Section 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).

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 the Legacy Corporation's 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.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm, if there is any, from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, in this instance under section 43 – commercial interests, and therefore any third party that may be affected by disclosure is asked to provide details, if any, of the harm that releasing the information would have on its commercial interests. The Legacy Corporation takes the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process, as the Legacy Corporation is not party to the contract, LS185 and Delaware North were contacted for their views.

Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption s.43 – commercial interests based on their own assessment in addition to considering information from LS185 and Delaware North, in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third party(ies). They have concluded that prejudice to the commercial interests of a third party would be caused by disclosure so that the exemption is engaged.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the contract would be likely to prejudice the commercial interests of Delaware North, LS185, E20 Stadium (E20) and consequently the Legacy Corporation. The catering agreement is a revenue generating contract which, if released, would be likely to impact the commercial position of Delaware

North in their dealings with the market and LS185 in the terms it would negotiate for events. Revealing details of the contract would likely impact on current and future negotiations of LS185 and Delaware North and this would ultimately impact on E20 and the Legacy Corporation's ability to get best value for the public purse.

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

Q2. An updated copy of the Catering Services Business Plan specifically referred to in the Stadium Plus Operator agreement dated 30th January 2015.

The Catering Business plan is being withheld under FOIA section 43(2) – commercial interests.

Section 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).

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 the Corporations 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.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm, if any, from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, in this instance under section 43 – commercial interests, and therefore any third party that may be affected by disclosure is asked to provide details, if any, of the harm that releasing the information would have on its commercial interests. The Legacy Corporation takes the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process, LS185 and Delaware North were contacted for their views.

Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption s.43 – commercial interests based on their own assessment in addition to considering information from LS185 and Delaware North, in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third party(ies). They have concluded that prejudice to the commercial interests of a third party would be caused by disclosure so that the exemption is engaged.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, releasing the Catering Business Plan would be likely to prejudice commercial interests of Delaware North, LS185, E20 and consequently the Legacy Corporation. The Catering Business Plan provides information in relation to the catering provision at the London Stadium which, if released, would be likely to impact on the commercial position of Delaware North in their dealings with the market. Revealing details of the Plan would be likely impact on current and future negotiations and this would ultimately impact on LS185, E20 and the Legacy Corporation's ability to get best value for the public purse.

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

Q3. A breakdown of catering revenue from West Ham United games for the last Premier League season including the split of how the revenue is shared between Delaware North, London Stadium 185, West Ham, E20/LLDC and any other parties plus any management fee deducted by any of the parties for catering services."

The breakdown of the catering revenue from the West Ham United games, and its distribution amongst various parties, for the last Premier League season is being withheld under section 43(2) – commercial interests.

Section 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).

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.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm, if any, from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, in this instance under section 43 – commercial interests, and therefore any third party that may be affected by disclosure is asked to provide details, if any, of the harm that releasing the information would have on its commercial interests. The Legacy Corporation takes the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process, LS185 and Delaware North were contacted for their views.

Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption s.43 – commercial interests based on their own assessment in addition to considering information from LS185 and Delaware North, in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third party(ies). They have concluded that prejudice to the commercial interests of a third party would be caused by disclosure so that the exemption is engaged.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, releasing a breakdown of the catering revenue of West Ham games and its distribution amongst various parties, would be likely to prejudice the commercial interests of Delaware North and LS185. Delaware North provides catering services to other events and locations and this information, if released, would be likely to be used by competitors and event organisers to influence negotiations which would put Delaware North at a commercial disadvantage in a very competitive market. In addition, for LS185 contracts, this information if released, would be likely to be used by promoters and other parties to negotiate the terms for events at the London Stadium.

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

If you are unhappy with our response to your request and wish to make a complaint or request an internal 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