

Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ



12 March 2019

INFORMATION REQUEST REFERENCE 18-060

Dear 

Thank you for your information request, received on 12 September 2018. You asked the London Legacy Development Corporation (Legacy Corporation) and E20 Stadium LLP (E20) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“Thank you for this response [LLDC FOI 18-011]. Could I please request this same information including the “not relevant” content. I’m happy for you to consider this as a New request if it helps you.

For the avoidance of doubt, I’m not appealing any of the exemptions used. I just want the information provided to include everything marked as not relevant.”

I can confirm that the Legacy Corporation and E20 holds information which falls within the scope of your request. The information relevant to your request is attached in **Annex A**.

Please note that in addition to the exemptions applied to the original response reference 18-011, information has been redacted under FOIA section 40 – personal information and section 43(2) commercial interests. A schedule of redactions is attached in **Annex B** identifying the new redactions.

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 does not fall within subsection (1), and
(b) the first, second or third condition below is satisfied.*

It is the standard practice of the Legacy Corporation and E20 to redact personal information for those members of staff under Head of Service level, and for non-Legacy Corporation personnel unless consent to release the information has been received. Phone numbers have also been redacted.

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 s.3(2) of the Data Protection Act 2018.

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.

Prejudice to commercial interests

The Legacy Corporation and E20 have assessed the impact of releasing the information redacted under the exemption s.43 – commercial interests 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 commercial interests would be caused by disclosure so that the exemption is engaged.

At the time the request was received, the Legacy Corporation, E20 and West Ham were involved in legal proceedings. While these proceedings have concluded, there are still areas subject to commercial negotiations between E20 and West Ham, therefore, the Legacy Corporation and E20 consider that releasing the information redacted under section 43(2) would prejudice the parties' commercial interests as it would reveal their negotiating positions in relation to a number of highly sensitive commercial issues which may be the subject of further legal proceedings.

Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the information within **Annex A** identified for this request as commercially sensitive would prejudice the commercial interests of E20 and the Legacy Corporation because it will reveal details which would be likely impact on current and future highly sensitive negotiations and this would impact on E20's ability to get best value for the public purse.

It is the view of the Legacy Corporation and E20 that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

Please note: where there is an attachment, these have been inserted into the document bundle. Any attachments with the file extension *.png have not been included as these are just QEOP logos, etc automatically attached to the email.

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