

11 October 2018

**INFORMATION REQUEST REFERENCE 18-061**

Dear Sir,

Thank you for your information request, received on 13 September 2018, following on from the request reference 18-049. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Environmental Information Regulations 2004 (EIR):

*“any record or note of the information/materials requested in the First Request (18-049 - a copy of any record or notes of: 1) pre-application discussions or correspondence between any MSG [Madison Square Garden] group company (or its agents) and LLDC in relation to the development of the Site [the land north west of Angel Lane]; and 2) discussions about the need for, content or scope of the environmental statement which will accompany the planning application” (other than notes of formal pre-application meetings). We expect this to include (but not be limited to):*

- 1. copies of emails and letters to MSG, or its agents regarding the development of the Site;*
- 2. notes of telephone calls with MSG, or its agents regarding the development of the Site;*
- 3. copies of any correspondence regarding MSG's representations on the Local Plan Review (as referred to on pg.4 of the Response);*
- 4. the draft Planning Performance Agreement (as referred to on pg. 3 of the Response);*
- 5. any further correspondence (including with LB Newham as referred to on pg. 3 of the Response) regarding, and subsequent drafts of, the Planning Performance Agreement;*
- 6. the details of the briefing on the proposals for potential projects coming forward for Stratford Station (as referred to on pg. 19 of the Response);*
- 7. agendas for pre-application meetings and the supporting materials;*
- 8. a copy of the briefing note and presentation to the London Legacy Development Corporation Planning Decisions Committee on 27 March 2018 (as referred to on pg. 13 of the Response);*
- 9. a copy of the Energy Strategy (as referred on pg. 20 of the Response);*
- 10. a copy of the presentation to the London Legacy Development Corporation on 31 May 2018 (as referred to on pg. 38 of the Response);*
- 11. a copy of the Energy Strategy (as referred on pg. 69 (if different to that referred to on page 20 of the Response); and*
- 12. any feedback on the baseline, 2022 and 2031 methodology for views analysis (as referred to on pg. 67 of the Response).”*

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. The information requested in question 1 and 5 are being withheld under EIR regulation 12(4)(b) – manifestly unreasonable.

In addition, any information requested above that has been provided by MSG or its agents in relation to the pre-application process is being withheld under EIR regulation 12(5)(f) - adversely affect interests of provider: Further information on the refusals under these exceptions is below:

Q1. copies of emails and letters to MSG, or its agents regarding the development of the Site;

Q5. any further correspondence (including with LB Newham as referred to on pg. 3 of the Response) regarding, and subsequent drafts of, the Planning Performance Agreement;

With reference to your other request for copies of emails, letters and correspondence to MSG or its agents regarding the development of the site, please be advised that the Legacy Corporation are refusing this request on the basis of EIR regulation 12(4)(b) manifestly unreasonable.

EIR regulation 12(4)(b) – manifestly unreasonable

*12(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—*

*(b) the request for information is manifestly unreasonable;*

Searches were run across the email archive for email correspondence between the Legacy Corporation and those organisations that fall within the scope of your request. These have been identified as:

The Madison Square Garden Company  
DP9  
Herbert Smith Freehills  
London Communications Agency  
Momentum Transport Consultancy  
Populous  
Trium Environmental Consulting  
Volterra Partners

The searches were conducted using the email domain name to ensure that all the results were included, irrespective of specific individuals. The initial search results were:

Domain	Number of items
@msg.com	223
@dp9.co.uk	6,327
@hsf.com	1,865
@londoncommunications.co.uk	1,476
@momentum-transport.com	5,526

@populous.com	12,665
@volterra.co.uk	55
@triumenv.co.uk	26
<b>TOTAL</b>	<b>28,163</b>

Given the size of the search results, further searches were conducted on the three largest result groups (DP9, Momentum Transport Consultancy and Populous), in order to hopefully focus the search results and make the search size more manageable, as these consultants are working on unrelated projects in the Corporation's area.

Domain	Original size	Search term	Number of items
<b>@dp9.co.uk</b>		MSG	204
		Sphere	69
		Angel	611
		Stratford garden	29
		<b>Total for domain</b>	<b>6,327</b>
<b>@momentum-transport.co.uk</b>		MSG	103
		Sphere	35
		Angel	25
		Stratford garden	5
		<b>Total for domain</b>	<b>5,526</b>
<b>@populous.com</b>		MSG	61
		Sphere	28
		Angel	26
		Stratford garden	None found
		<b>Total for domain</b>	<b>12,665</b>
<b>Current total</b>	<b>24,518</b>	<b>Revised total</b>	<b>1,196</b>
@londoncommunications.co.uk	1,476		
@volterra.co.uk	55		
@hsf.com	1,865		
@msg.com	223		
@triumenv.co.uk	26		
Total for search results	<b>3,645</b>	Total for search results	<b>3,645</b>
<b>Old total</b>	<b>28,163</b>	<b>New total</b>	<b>4,841</b>

While these searches do reduce the search results there is still a substantial number of emails that would need to be reviewed in order to identify and extract those relevant to your request and there is no guarantee that the focussed searches include all the relevant information.

While there are no appropriate costs limit under the EIR, the exception at regulation 12(4)(b) of the EIR can apply if the cost or burden of dealing with a request is too great. The Legacy Corporation is not a large organisation and the time and resources taken to answer this response would have a considerable impact on those resources.

In order to provide you with the information you have requested, we would have download, export, extract and then review all of the emails from the search results in order to try to identify the requested information.

In assessing whether the cost or burden of dealing with a request, public authorities need to consider the proportionality of the costs involved and decide whether they are clearly or obviously unreasonable.

The email search saves the search results in segments dependent on size, the larger the size of the search result then the more segments there are. The time estimate for the emails is based on the time taken to export, download and extract 1 segment. This is then extrapolated dependent on the number of segments and used to calculate the time taken.

For the focused searches results, there are 17 files that would need to be downloaded, exported and extracted before they can be searched in order to ascertain relevance to the request. The Legacy Corporation have estimated that this process would take approximately 4 hours.

Once extracted and accessible, there are over 4,800 emails that would need to be reviewed in order to establish if they hold relevant information. Based on an estimate of 1 email reviewed every 30 seconds this exercise would take over 40 hours to complete.

The estimates of time above do not include the review of the remaining emails that would then be required in order to identify information that would need to be redacted or any third-party consultation that would be required.

As of the date of this request, the Legacy Corporation Planning Policy and Decisions Team has 9 Planning Officers within its Development Management team and one post responsible for the co-ordination of information requests under the EIR and FOI legislations. The Legacy Corporation have considered the public interest in respect to their decision and appreciate that they also have to balance public interest with the effective, efficient and economic use of the resources that they have responsibility for as a public authority.

The Legacy Corporation cannot justify the cost or the use of resources that would be required to answer your request and the disproportionate burden this request would place on the Legacy Corporation's limited resources or the impact there would be on delivery of its other responsibilities. While there is a presumption in favour of disclosure under EIR, responding to this specific request would place unreasonable demands on our resources and for this reason, the Legacy Corporation consider your request for *copies of emails and letters to MSG, or its agents regarding the development of the Site* to be manifestly unreasonable under regulation 12(4)(b) of the EIR.

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required. We will then be able to ascertain whether we would be able to respond without the impact on the resources. Any reformulated request will be treated as a new information request.

Q2. notes of telephone calls with MSG, or its agents regarding the development of the Site;

The Legacy Corporation does not record phone calls and does not hold notes of telephone calls with MSG or its agents regarding the development of the Site.

Q3. copies of any correspondence regarding MSG's representations on the Local Plan Review (as referred to on pg.4 of the Response);

Correspondence received by the Legacy Corporation regarding MSG's representation on the Local Plan Review is attached in **Annex A**.

Q4. the draft Planning Performance Agreement (as referred to on pg. 3 of the Response);

The Planning Performance Agreement (PPA) has now been signed and a copy is attached in **Annex B**.

Please note: the PPA was accurate at the time of signing and we are currently working with the applicant on a revised programme for submission

Q6. the details of the briefing on the proposals for potential projects coming forward for Stratford Station (as referred to on pg. 19 of the Response);

The briefing on the proposals referenced in the previous response did not take place.

Q7. agendas for pre-application meetings and the supporting materials;

The Legacy Corporation does not hold any agenda for the pre-application meetings.

Q8. a copy of the briefing note and presentation to the London Legacy Development Corporation Planning Decisions Committee on 27 March 2018 (as referred to on pg. 13 of the Response);

The briefing note is attached in **Annex C**.

An additional Legacy Corporation document in relation to the Montfichet Road vision is attached in **Annex D**.

As referenced above, all the remaining information in relation to this request was provided by MSG or its agents in relation to the pre-application process is being withheld under EIR regulation 12(5)(f) - adversely affect interests of provider:

EIR regulation 12(5)(f) – adversely affect interests of provider.

*For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—*

*(f) the interests of the person who provided the information where that person—*

*(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;*

*(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and*

*(iii) has not consented to its disclosure;*

Please note: the word 'person' in the regulation is not restricted to an individual and also includes legal persons such as companies.

Under EIR Regulation 12(5)(f) is a qualified exception and require the Legacy Corporation to conduct a test of public interest in terms of disclosure as set out in Regulation 12(1)(b).

There is, of course, the Legacy Corporation's commitment to openness and transparency, as well as the inherent presumption in favour of disclosure of information requested under the EIR, however, the following factors have been considered in favour of maintaining the exception:

The Legacy Corporation have a duty of confidence in relation to information provided to them during the pre-application process. There is not a legal requirement to provide information to the Legacy Corporation and the decision of the third party to provide information is entirely voluntary. The quality of any information provided benefits the pre-application process, however, it is provided with the understanding that it will be treated in confidence.

The information currently withheld was provided as part the pre-application process and the Legacy Corporation can confirm that this information was provided voluntarily, with the expectation that it would be treated in confidence and with no expectation of disclosure. In addition, MSG or its agents have not received consent to its disclosure.

Making volunteered information available to the public could inhibit open and constructive discussions between the Legacy Corporation and third parties and adversely affect this pre-application process, and any future pre-application processes, where the provision of information by the third party is restricted as commercially sensitive and confidential information could not be guaranteed to be held in confidence by the Legacy Corporation.

The Legacy Corporation can confirm that they have been advised that releasing the information at this time will adversely affect the interests of the third party who proved the information. In addition, due to the concern in relation to the adverse impact of the possible release of the information requested under the EIR, the third party has now strictly controls how the Legacy Corporation can access the information relevant to the pre-application process, which in turn is adversely affecting the quality of the service.

The public interest in releasing this information at this time is small, especially with consideration that once the pre-application process has concluded and a planning application has been submitted, then the information will be publicly available.

The Legacy Corporation can confirm that, in this instance, it believes that the factors in favour of withholding the information requested outweigh those in favour of disclosure.

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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](mailto: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](http://www.ico.gov.uk)

Yours sincerely

FOI / EIR Co-ordinator  
London Legacy Development Corporation