



11 February 2019

INFORMATION REQUEST REFERENCE 18-090

Dear 

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

“Under FoI please advise the following:

1. *How many meetings have been held between*
 - a) *LLDC officers, advisers, consultants, board members, planning decisions committee members*
 - and*
 - b) *MSG/Madison Square Gardens owners, staff, advisers, consultants?*
2. *What were the dates of the meetings?*
3. *Were minutes taken at these meetings?*
4. *Can you forward copies of these minutes to me?*
5. *When is the LLDC expecting to consult the public on the planning application for the Sphere?*
6. *What form will the consultation take place?”*

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. Your request relates to planning therefore the Legacy Corporation has handled the response under EIR.

Please find attached in **Annex A** the details of confirmed meetings held between LLDC officers, advisers, consultants, board members, planning decisions committee members and MSG//Madison Square Gardens owners, staff, advisers, consultants. Some meeting minutes are already published on our website under FOI 18-049:

<https://www.queenelizabetholympicpark.co.uk/our-story/the-legacy-corporation/good-governance/publication-scheme/disclosure-log/2018-foi>.

The remaining minutes are in **Annexes B to L**. Please note that certain information has been redacted under the following EIR regulations:

- Reg.12(5)(a) - adversely affect international relations, defence, national security or public safety;
- Reg.12(5)(e) – adversely affect commercial confidentiality
- Reg.12(5)(f) – adversely affect interests of the provider.
- Reg.13 – Personal data

Details of where the exceptions are applied is in **Annex A**. Further information on the exceptions is below:

Please note that where the meeting records contained information that was not relevant to your request, this information has been removed and the record annotated to identify the placemark.

Regulation 12(5)(a)

*12(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—
(a) international relations, defence, national security or public safety;*

Under regulation 12(5)(a) a public authority may refuse to provide information in response to a request where the disclosure of the information would adversely affect national security and public safety. The information redacted in paragraph 2.5.1 of Annex D has been withheld under this exception as it provides details of planned security arrangements in relation to the proposed Sphere and for the protection of its visitors.

In applying this exception, we have had to balance the public interest in withholding the information against the public interest in disclosure. The factor we considered in deciding where the public interest lies is that this venue is likely to have a high profile and attract national and international attention and with consideration to its location, may become a target for external forces. The information contained within Annex D may assist any individual whose aim may be to cause maximum disruption and harm on a large scale.

The Legacy Corporation considers that there are strong and overriding public interest consideration here because we are seeking to safeguard national security and public safety, and not seeking to undermine the protection of the public. The Legacy Corporation considers that the balance of the public interest is to withhold this information.

Regulation 12(5)(e)

*12(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—
(e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;*

Under regulation 12(5)(e) a public authority may refuse to provide information in response to a request where the disclosure of the information would adversely affect the commercial interests of the third party that provided the information.

To maintain this exception, the public authority needs to consider the commercial nature of the information and if there is an obligation of confidentiality in relation to the information provided in addition to the consideration of the public interest and the balance weighed in favour of release.

The information withheld under this exception was provided during the pre-application discussions which comes with an expectation of confidentiality for information provided that could harm the 3rd party if released. If all information received during the pre-app process was considered public, this would harm the effectiveness of these discussions as it would place restrictions on the information exchange and reduce their usefulness. However, this is always balanced by an understanding that the public authority has EIR obligations where the emphasis is on release. It is therefore important for both the pre-app process and EIR that consideration is given to releasing as much as possible but balanced against protecting the commercial interests of the applicant which would be harmed if certain confidential information was released.

The information withheld under this exception, if released, would harm the commercial interests of the 3rd party that provided the information. It is the consideration of the Legacy Corporation that the public interest in maintaining the exception outweighs the public interest in disclosing the information.

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 requires 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 under this exception 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 given 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 may 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.

Regulation 13

(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.

(2) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—

(i) any of the data protection principles;

(3) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1) of that Act and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.

It is the standard practice of the Legacy Corporation 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.

This Regulation states that a public authority shall not disclose personal data, to the extent that the requested information includes personal data of which the applicant is not the data subject and as respects which the conditions in either Regulation 13(2) or Regulation 13(3) apply. In this instance, the relevant condition that applies is Regulation 13(2)(a)(i), whereby the information is defined as personal data within Section 3(2) of the Data Protection Act 2018.

Q5. When is the LLDC expecting to consult the public on the planning application for the Sphere?

We had expected the application to be with us by now but it has not been submitted. We will consult on the planning application soon after it has been submitted.

Q6. What form will the consultation take place?

We will notify the public and invite comments on the proposal by sending formal consultation letters to properties nearby, publishing notices in local press (Newham Recorder, East London Advertiser, Waltham Forest Guardian and Hackney Today) and by posting site notices. We are also proposing to use social media to let people know about the application and may host a public consultation event. The specifics will be publicised after we have received the proposal.

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