



10 September 2019

INFORMATION REQUEST REFERENCE 19-032

Dear [REDACTED],

Thank you for your information request, received on 15 July 2019. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

"Please could you provide (to this email address) the following information in full:

- *Agenda item 18 from the meeting of the London Legacy Development Corporation Investment Committee on Tuesday 12 February 2019: "East Bank Assurance Update - Exempt information relating to the item on Part 1" (Pages 53 – 70 in the Public Reports Pack - <https://www.london.gov.uk/moderngovlldc/documents/g6175/Public%20reports%20pack%20Tuesday%2012-Feb-2019%2011.00%20Investment%20Committee.pdf?T=10>)*
- *"Appendix 1: East Bank Quarterly Assurance Report and Programme Risk Register", referred to on page 90 of the Public Reports Pack for the meeting of the London Legacy Development Corporation Audit Committee on Wednesday 13 March 2019: <https://www.london.gov.uk/moderngovlldc/documents/g6187/Public%20reports%20pack%20Wednesday%2013-Mar-2019%2010.00%20Audit%20Committee.pdf?T=10>*
- *Agenda item 20 from the meeting of the London Legacy Development Corporation Audit Committee on Wednesday 13 March 2019: "Exempt information relating to risks and issues (East Bank)" (Pages 213 -226 of the Public Reports Pack). Please include "20b East bank programme risks" and "20c insolvency strategy" in this.*

We believe there is a public interest in publishing this information, on the grounds of accountability and ensuring value for money in decisions about public spending."

I can confirm that the Legacy Corporation holds information which falls within the scope of your request.

The information relevant to your request is below and our response follows your order:

- *“Agenda item 18 from the meeting of the London Legacy Development Corporation Investment Committee on Tuesday 12 February 2019: “East Bank Assurance Update - Exempt information relating to the item on Part 1” (Pages 53 – 70 in the Public Reports Pack - <https://www.london.gov.uk/moderngov/ldc/documents/g6175/Public%20reports%20pack%20Tuesday%2012-Feb-2019%2011.00%20Investment%20Committee.pdf?T=10>”*

Please see the attached document entitled **Annex A** which contains pages 53-70 of the London Legacy Development Corporation’s Investment Committee papers on 12 February 2019. Please note some information has been withheld under s.40(2) personal information and s.43(2) commercial interests.

- *“Appendix 1: East Bank Quarterly Assurance Report and Programme Risk Register”, referred to on page 90 of the Public Reports Pack for the meeting of the London Legacy Development Corporation Audit Committee on Wednesday 13 March 2019: <https://www.london.gov.uk/moderngov/ldc/documents/g6187/Public%20reports%20pack%20Wednesday%2013-Mar-2019%2010.00%20Audit%20Committee.pdf?T=10>”*

The East Bank Quarterly Assurance Report was not circulated to the Audit Committee at their March meeting. The East Bank Quarterly Assurance Report is attached at **Annex B**. Please note some information has been withheld under s.40(2) personal information and s.43(2) commercial interests.

The Programme Risk Register is provided in **Annex C** below.

- *“Agenda item 20 from the meeting of the London Legacy Development Corporation Audit Committee on Wednesday 13 March 2019: “Exempt information relating to risks and issues (East Bank)” (Pages 213 -226 of the Public Reports Pack). Please include “20b East bank programme risks” and “20c insolvency strategy” in this.”*

Please see attached document entitled **Annex C** which contains Agenda item 20 (pages 213-226) from the meeting of the London Legacy Development Corporation’s Audit Committee on Wednesday 13 March 2019. This is the East Bank programme risk register and Insolvency Strategy. Please note some information has been withheld under s31 law enforcement, s.40(2) personal information, s.43(2) commercial interests.

Section 31 - Law enforcement.

*(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—
(a) the prevention or detection of crime*

The section 31 exemption 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 prevention of crime. 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.

The Legacy Corporation has assessed the impact of releasing this information and consider that it would not be in the public interest to release the information. The withheld information relates to the safety and security elements of the design of the buildings at East Bank. It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing at this time

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

It is the standard practice of the Legacy Corporation to withhold personal information unless consent to release the information has been received.

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 Section 1(1)(a) of the Data Protection Act 1998.

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).

The 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.

The Legacy Corporation has assessed the impact of releasing the information redacted under this exemption. There is, of course, a public interest in promoting transparency of the decisions and accountability in regards to the agreements that are entered into by public sector bodies. However, the disclosure of the information currently identified as commercially sensitive would be likely to prejudice the

commercial interests of the Legacy Corporation and of third parties involved in the East Bank project because it will reveal details of financial information and future plans which would be likely impact on current and future procurement activity being undertaken, which in turn would harm the Legacy Corporation's and third parties' ability to achieve best value for the public purse.

It is the view of the Legacy Corporation that, at this time, 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