

[REDACTED]

23 November 2020

INFORMATION REQUEST REFERENCE 20-027

Dear [REDACTED]

Thank you for your information request, received on 18 September 2020. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

I am sending this request under the Freedom of Information Act, and would like the following information:

- *E20 Stadium LLP's annual report and financial statements for March 2020;*
- *E20 Board Minutes for all meetings after 5 March 2019 (this is because I don't believe minutes for meetings after this date have been published on your website);*
- *Minutes of the Meeting of the London Legacy Development Corporation Audit Committee on 13 July 2020*

All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications):

- *between Richard Irish and Lyn Garner from 1 February 2020 to the present; and*
- *between Richard Irish and Nathan Homer from 1 September 2020 to the present; and*
- *between Richard Irish and Ash Sharma from 1 February to the present.*

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. The information relevant to your requests are below and our response follows your order:

Q1. E20 Stadium LLP's annual report and financial statements for March 2020;

The E20 Stadium LLP's (E20) annual report and financial statements for 2019/20 are being withheld under the exemption provided for by section 22 FOIA – information intended for future publication.

The section 22 exemption is a qualified, class based exemption and is subject to the public interest test.

Section 22 - Information intended for future publication.

(1) Information is exempt information if—

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time when the request for information was made, and*
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).*

This information is published annually on the Legacy Corporation website and the Legacy Corporation can confirm that there existed the intention to publish this information, as previous years, before the date your request was received.

The public interest test considers and balances the public interest in disclosing this information now against the public interest in disclosing this information in accordance with the usual timescale for publication and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption at the present time.

The Legacy Corporation have assessed the impact of releasing the information withheld under this exemption ahead of the intended publication schedule. There is, of course, a public interest in promoting transparency of decisions and accountability however, it is the view of the Legacy Corporation that it is not in the public interest to release the requested information ahead of the usual timescale for publication. We consider that in all the circumstances, it is reasonable for the information to be withheld from disclosure until the formal publication of the Annual report and accounts, in accordance with accepted practice. We consider that the public interest is best served by allowing the annual accounts to be published to their normal timetable.

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.

Q2. E20 Board Minutes for all meetings after 5 March 2019 (this is because I don't believe minutes for meetings after this date have been published on your website):

The E20 Board minutes for all meeting after 5 March 2019 are being withheld under the exemption provided for by section 22 FOIA – information intended for future publication.

The section 22 exemption is a qualified, class based exemption and is subject to the public interest test.

Section 22 - Information intended for future publication.

(1) Information is exempt information if—

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time when the request for information was made, and*
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).*

This information was published regularly on the Legacy Corporation website, however the process for publishing the minutes broke down. The Legacy Corporation can confirm that there existed the intention to publish this information, as previous years, before the date your request was received, however, the process is being revised and the outstanding minutes are in the process of being prepared for publication. The remaining 2019 minutes are

scheduled to be published by the end of the current calendar year and the existing 2020 minutes are scheduled to be published by the end of the current financial year.

The public interest test considers and balances the public interest in disclosing this information now against the public interest in disclosing this information in accordance with the usual timescale for publication and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption at the present time.

The Legacy Corporation have assessed the impact of releasing the information withheld under this exemption ahead of the intended publication schedule. There is, of course, a public interest in promoting transparency of decisions and accountability however, it is the view of the Legacy Corporation that it is not in the public interest to release the requested information ahead of the current timetable for publication.

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.

Q3. Minutes of the Meeting of the London Legacy Development Corporation Audit Committee on 13 July 2020

The minutes of the Legacy Corporation Audit Committee of 13 July 2020 are available here: <https://www.london.gov.uk/moderngov/ldc/documents/g6225/Printed%20minutes%20Monday%2013-Jul-2020%2015.00%20Audit%20Committee.pdf?T=1>

All correspondence (letters, emails, presentations, briefings, analysis, texts, and all other forms of digital/electronic and non-electronic communications):

Q4. between Richard Irish and Lyn Garner from 1 February 2020 to the present; and

The correspondence between Richard Irish and Lyn Garner from 1 February 2020 to 18 September 2020 (the date that the request was received) are attached in **Annex A**. Please be advised that information has been withheld under section 40 – personal data and section 43(2) – commercial interests.

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 to redact phone numbers for all members of staff.

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 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.

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 from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation take the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process London Stadium 185 (LS185) 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 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.

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 as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation and LS185 because it will reveal sensitive financial information which would be likely impact on the financial and commercial activities and interests of LS185. In addition, releasing some of the information would be likely to impact on current negotiations with third parties. Releasing this information would impact on the current and future commercial interests of LS185, which would impact on the Legacy Corporation's ability to get 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.

Q5. between Richard Irish and Nathan Homer from 1 September 2020 to the present;
and

There is no correspondence between Richard Irish and Nathan Homer from 1 September 2020 to 18 September 2020 (the date that the request was received). Nathan Homer started working at the E20 Stadium LLP (E20) on 21 September 2020.

Q6. between Richard Irish and Ash Sharma from 1 February to the present.

The correspondence between Richard Irish and Ash Sharma from 1 February 2020 to 18 September 2020 (the date that the request was received) are attached in **Annex B**. Please be advised that information has been withheld under section 21 – information accessible to applicant by other means, section 40 – personal data and section 43(2) – commercial interests.

Section 21 - Information accessible to applicant by other means.

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

The first two attachments on page 1 of **Annex B** are part of Item 9 on the Audit Committee agenda and minutes of 5 March 2020 and are publicly available here: [Audit Committee 5 March 2020](#).

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 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. All 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 section 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.

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 from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation take the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process London Stadium 185 (LS185) 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 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.

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 as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation and LS185 because it will reveal sensitive financial information which would be likely impact on the financial and commercial activities and interests of LS185. In addition, releasing some of the information would be likely to impact on current negotiations with third parties. Releasing this information would impact on the current and future commercial interests of LS185, which would impact on the Legacy Corporation's ability to get 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.

Please note:

- There may be a degree of repetition within the correspondence where the emails have diverged at some stage during the email chain.
- All links within the emails have been deactivated.
- Any attachments with the file extension *.png are just QEOP logos, or other images that are automatically linked to the email. These have not been included

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