



19 November 2021

**INFORMATION REQUEST REFERENCE 21-025**

Dear 

Thank you for your information request, received on 6 August 2021. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

*“After Lyn Garner’s public statement on PAI Capital and a potential long lease on the London Stadium, I would like to request the following information under the freedom of information.*

*1) Please supply meeting minutes or any notes of any physical or virtual meetings with PAI Capital or their representatives together with the dates and names of who was present at those meetings.*

*2) Please supply a copy of all emails or instant messenger exchanges between LLDC/E20/LS185 staff and PAI Capital or their representatives.*

*3) Please supply any documents including provisional contracts, letters of intent or memorandums of understanding between LLDC/E20 and Pai Capital.*

*4) Did LLDC/E20 seek any legal advice over the potential long lease of the London Stadium to a private company, if so with who was it sought and when?*

*5) Please respond to whether London Stadium stakeholders including West Ham United, UK Athletics and/or Delaware North were briefed or engaged in discussions about PAI before Lyn Garner’s public statement on 5th August 2021. If so when and with whom?*

*6) Did the E20 and/or LLDC board discuss and/or approve the offer of a conditional long lease of the London Stadium? If so how was this discussed and with whom?*

*7) Respond to whether London Assembly members and/or the Mayor of London were briefed about talks with PAI Capital before the public statement, If so when and with whom?”*

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, our response follows your order:

Q1. Please supply meeting minutes or any notes of any physical or virtual meetings with PAI Capital or their representatives together with the dates and names of who was present at those meetings.

The meetings between the Legacy Corporation and PAI were exploratory and no minutes were taken. The information on these meetings is available within the emails in **Annex A**.

Q2. Please supply a copy of all emails or instant messenger exchanges between LLDC/E20/LS185 staff and PAI Capital or their representatives.

Please find attached in **Annex A** the emails relevant to your request. Please be advised that information has been redacted under FOIA section 31(1)(a) - prevention of crime, section 40 – personal information and section 43(2) – commercial interests.

The specific redactions applied are shown within the redaction, and details on the exemption are below.

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 have assessed the impact of releasing this information and consider that the public interest in this particular information, namely details of the procedures and access codes required in order to ensure secure, private meetings, would not benefit from this information being released into the public domain. The security of any meetings would be compromised, and the prevention of crime would be likely to be prejudiced. It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.

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. 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.

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 takes the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process PAI Capital 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.

The Legacy Corporation, E20 and PAI were involved in highly sensitive commercial negotiations and whilst this deal may not be going ahead, we have a duty to consider similar arrangements and proposals with other third parties and therefore releasing any of the information currently redacted under this exemption would be likely to prejudice any future negotiations. The Legacy Corporation consider that releasing the information redacted under

section 43(2) would prejudice their commercial interests as it would reveal their negotiating positions in relation to a highly sensitive commercial issue.

### 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** that has been identified as commercially sensitive would be likely to prejudice commercial interests of E20 and the Legacy Corporation because it will reveal details which would likely impact on future highly sensitive negotiations.

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 is a lot of duplication within the emails chains – where possible, the duplicates have been extracted and the full correspondence chain has been identified in the schedule in **Annex B**.

The Legacy Corporation does not hold any record of any instant messages with PAI Capital.

Q3. Please supply any documents including provisional contracts, letters of intent or memorandums of understanding between LLDC/E20 and Pai Capital.

The official documents that the Legacy Corporation hold relevant to this request are being withheld under section 43 – commercial interests.

### 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 has assessed the impact of the official documents 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.

The Legacy Corporation, E20 and PAI were involved in highly sensitive commercial negotiations and whilst this particular deal is unlikely to go ahead, we have a duty to consider similar arrangements and proposals with other third parties and therefore releasing any of the information in these documents would be likely to prejudice any future negotiations. The Legacy Corporation consider that releasing the information redacted under section 43(2) would prejudice their commercial interests as it would reveal their negotiating position in relation to a highly sensitive commercial issue.

#### Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of these documents would be likely to prejudice the commercial interests of E20 and the Legacy Corporation because it will reveal details which would likely impact on highly sensitive future negotiations.

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.

#### Q4. Did LLDC/E20 seek any legal advice over the potential long lease of the London Stadium to a private company, if so with who was it sought and when?

In relation to the potential long lease of the Stadium to a private company, Pinsent Masons were appointed in February 2021.

#### Q5. Please respond to whether London Stadium stakeholders including West Ham United, UK Athletics and/or Delaware North were briefed or engaged in discussions about PAI before Lyn Garner's public statement on 5th August 2021. If so when and with whom?

The Legacy Corporation hold no record of London Stadium stakeholders being briefed or engaged in discussions about PAI before 5<sup>th</sup> August 2021.

#### Q6. Did the E20 and/or LLDC board discuss and/or approve the offer of a conditional long lease of the London Stadium? If so how was this discussed and with whom?

There was a E20 update meeting on 12 July 2021 where the situation was discussed however there was a verbal briefing. The following people were in attendance:

- David Bellamy
- Nicky Dunn
- Keith Edelman
- Shanika Amarasekara
- Gerry Murphy
- Nathan Homer
- Lyn Garner

The Legacy Corporation have no record of the Legacy Corporation Board discussing the offer.

#### Q7. Respond to whether London Assembly members and/or the Mayor of London were briefed about talks with PAI Capital before the public statement, If so when and with whom?

At the time of this request, the London Assembly had not been briefed. The Mayor was not directly briefed, however, a representative of the Mayor's Office attended the E20 Update meeting on 12 July 2021.

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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 forty working days 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