



14 November 2022

INFORMATION REQUEST REFERENCE 22-041

Thank you for your information request, received on 19 October 2022. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

“Please provide a copy of the LLDC’s housing delivery plan 2020-25, as detailed in Item 16 of the board meeting of 21st July 2020.

Please find the relevant cover report:

www.london.gov.uk/moderngov/ldc/documents/s63945/Item%2016%20-%20PUBLIC%20-%20Housing%20Delivery%20Plan.pdf

Please note that an exemption under of part 1, paragraph 3 of Schedule 12A should not be used to justify not publishing any detail at all of this report.

The overarching strategy cannot reasonably be argued as putting the LLDC’s business or financial interests at risk and must be balanced with the LLDC’s other responsibilities and obligations as a local authority, such as accountability and transparency.

If any parts of the strategy contain information that is already public record then this would further undermine the argument that the entire strategy remains confidential.

Parts of the strategy that would pose a financial or business risk of published should be redacted, rather than used as a justification to exempt the entire report.”

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:

The Housing Delivery Plan submitted to the 21 July 2020 Board meeting is attached in **Annex A**. Please be advised that information has been redacted under FOIA section 40 – personal information and section 43 – 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 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.

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.

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). If released, the information would prejudice future negotiations, sensitive financial information and strategies as well as details of sensitive risk assessments. 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, while the passage of time since the paper was presented to the Board means that the majority of the information can now be released, the disclosure of the information identified as commercially sensitive would be likely to prejudice commercial interests of the Legacy Corporation because it will reveal details on future negotiations, sensitive financial information and strategies as well as details of highly sensitive risks which, if released, which would be likely 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.

If you are unhappy with our response to your request and wish to make a request for an internal review of our response, you should write to:

Deputy Chief Executive
London Legacy Development Corporation
Level 9
5 Endeavour Square
Stratford
E20 1JN

Email: FOI@londonlegacy.co.uk

Please note: requests for internal reviews 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

Yours sincerely

FOI / EIR Co-ordinator
London Legacy Development Corporation