



30 May 2023

INFORMATION REQUEST REFERENCE 23-018

Thank you for your information request, received on 11 April 2023. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Environment Information Regulations 2004 (EIR):

“I would like to see any meeting minutes or emails received from, or sent to, anyone working for the Madison Square Garden Company since 1 November 2022 about the proposed Madison Square Garden/MSG Sphere in Stratford.”

I can confirm that the Legacy Corporation holds information which falls within the scope of your request. The information relevant to your request is attached in **Annex A**.

Please be advised that information has been redacted under EIR regulations 12(4)(d) – unfinished documents, 12(5)(e) – Commercially confidential and 13 – personal data.

EIR Reg 12(4)(d) – unfinished documents

12(4). For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data;

Information disclosed under EIR 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 and the purposes for which they could use the information.

The Legacy Corporation has undertaken a public interest test for the use of this exception on the draft information and considers that the public interest in seeing the draft information is outweighed by the possible impact that releasing this information now would have. With these considerations in mind, the Legacy Corporation has withheld all attachments identified as draft documentation as they relate to work that is still in the course of completion. There is, of course, a public interest in promoting transparency of accountability of public sector

bodies, however, it is the view of the Legacy Corporation that, at this time, the public interest in withholding the information requested outweighs the public interest in disclosing it.

EIR Reg. 12(5)(e) - confidentiality of commercial or industrial information

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;

The Legacy Corporation has considered the public interest in deciding whether to disclose the information redacted under reg.12(5)(e). Under EIR there is a presumption towards disclosure, however consideration needs to be given to who will have access to this information and the purposes for which they could use the information.

While the information redacted under this exception would not be considered commercially confidential by the Legacy Corporation, the commercial interests of the third parties, MSG and its agents, have been taken into consideration. MSG has identified information within the correspondence that is commercially sensitive in relation to their commercial and economic interests and disclosing this information would harm their commercial interest and potentially provide information that would be likely to be used by their competitors.

As the local planning authority, the Legacy Corporation planning application process is an open one that is notified to the public. The public have the opportunity to comment on and object or support all planning applications should they wish to do so. While MSG have provided the commercial and economic information as part of the planning process, withholding the redacted information will not adversely affect the public's ability to participate in the planning decisions regarding this application.

However, disclosing this information would cause harm to the commercial interests of MSG and beyond this specific application, would be likely to harm the effectiveness of the planning process. The Legacy Corporation owes any applicant a common law duty of confidence in relation to the information submitted as part of the planning process, due to the nature of the information itself, its sensitivity and commercial nature. The redacted information is not widely known or in the public domain and so has the necessary quality of confidence on which a duty of confidence is owed to the applicant.

In addition, disclosure of the redacted information would make MSG and future developers wary about freely providing confidential information in the future. It is plainly in the public interest for developers to share with public authorities as much information as possible, including commercially sensitive financial information, to enable public authorities to make good, well-informed decisions in relation to planning and development projects in their local area.

The Legacy Corporation acknowledge that there is strong public interest in the general principles of transparency and accountability as well as in understanding how decisions are made and ensuring judgments relating to planning are fair and balanced. In addition, the Legacy Corporation appreciate that there is an interest in MSG information, however, in this instance the Legacy Corporation believe that the balance of the public interest is in withholding the information and not disclosing it. Disclosing the redacted information at this

time would damage the commercial interests of MSG and would lead to negative consequences to the Legacy Corporation as planning authority.

EIR Reg 13 – personal data

(1) To the extent that the information requested includes personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if—
(a) the first condition is satisfied, or
(b) the second or third condition is satisfied and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.
(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations— (a) would contravene any of the data protection principles

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 and the information is not already in the public domain. In this instance, the relevant condition that applies is Regulation 13(1)(a), whereby the information is defined as personal data within Section 3(2) of the Data Protection Act 2018.

The Legacy Corporation do not hold any minutes from meetings between it and the MSG team from 1 November 2022 to 11 April 2023.

Please note:

- There is a degree of repetition within the correspondence where the emails have diverged at some stage during the email chain.
- The exception being applied is shown within the redaction.
- All links within the emails have been deactivated.
- Any email attachments relevant to your request have been inserted behind the specific email.
- Where there is an email where the whole attachment has an exception applied, then the attachment has not in inserted and the attachment link on the email has been marked with the relevant exception.
- 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 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