

Reference: 16197509

Date: 7 July 2020

Dear Mr Slattery

Re: Freedom of Information Act 2000

We are writing in reference to your Freedom of Information request.

Section 1 of the Freedom of Information Act 2000 provides two distinct but related rights of access to information which impose corresponding duties on public authorities. These are:

- The duty to inform the applicant whether or not information is held by the authority and, if so,
- The duty to communicate that information to the applicant.

Section 17 of the Freedom of Information Act 2000 requires the London Borough of Barking and Dagenham, when refusing to provide such information (because the information is exempt within the provisions of the Act) to provide you, the applicant, with a Notice which:

- a) states the fact that an exemption has been applied
- b) specifies the exemption in question, and
- c) states why the exemption applies (if that would not otherwise be apparent)

Please find below a copy of your request along with the exemption that applies:

On 21st May 2019 your Cabinet approved the business plan (2019-24) for its 'BeFirst' subsidiary regeneration group, which earmarks a number of council-owned sites for redevelopment. See -

<https://modgov.lbbd.gov.uk/Internet/ieDecisionDetails.aspx?Id=3444>

The business plan itself (Appendix 1) was withheld from publication on the grounds of 'commercial sensitivity'.

I am requesting that you disclose a copy of the business plan with any commercially sensitive information redacted. Please make sure not to redact any of the proposed development sites as whilst disclosure of these may be politically sensitive (especially if these sites involve the demolition of council homes) they are not commercially sensitive.

Section 43(2) Commercial Interests

Commercial Interests Section 43(2) provides an exemption from disclosure where to release information would, or would be likely to prejudice the commercial interests of any party (including the Public Authority holding it). Disclosure of the requested information could prejudice pending or future negotiations the Council may be subject to.

This is a qualified exemption under the FOI Act which means that consideration must also be given to whether in all the circumstances of the case, the public interest favouring disclosure is greater than the public interest in maintaining the exemption. The public interest means what is in the best interests of the public not what is of interest to the public.

Factors for withholding

- Releasing the requested information could prejudice the Council's current or future negotiation capabilities.
- Impact on client trust and confidentiality
- Resultant commercial prejudice (increased costs and possible legal action).
- the requested information may prejudice pending or future decisions which would be detrimental to the Council and or third parties.
- Both the Council and any third-party contractor would be reluctant to have free and frank discussions if all that is discussed is subject to scrutiny with no safe space for 'confidential communications',

Factors for disclosure

- The general proposition of maximising openness that the FOIA and the Council aspire to;
- The benefits of ensuring transparent and accountable government by disclosing how the Council receives and spends public money;

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Internal Review Procedure

If you are dissatisfied with the handling of your request then you have a right under Section 50 of the Act to request an internal review. All such requests must be sent to us within 8 weeks and must clearly state your reference number and your reason for your request for an internal review.

We will respond to your request for an internal review within 20 working days of receipt. Your request for an internal review should be sent by email to foi@lbbd.gov.uk quoting your FOI reference number.

Information Commissioners Office

Should you remain dissatisfied with the final outcome of the internal review then you may apply directly to the Information Commissioner (the "ICO") for an independent review. The ICO is the Government's Independent Body responsible for overseeing the Freedom of Information Act 2000, the Data Protection Act 1998 and The Environmental Information Regulations 2004. Please note the ICO will only review cases that have exhausted the council's internal review procedure. All correspondence to the ICO must quote the council's reference number and your reasons for your appeal. The ICO's contact details are as follows;

The Information Commissioners Office,

London Borough of Barking and Dagenham

One borough; one community;

London's growth opportunity

Wycliffe House,
Water Lane, Wilmslow,
Cheshire,
SK9 5AF.

More information can be found at the ICO's website at <http://www.ico.org.uk> If you have any further enquiries about this matter, please do not hesitate to contact us by emailing foi@lbbd.gov.uk

We trust you find the above to be satisfactory but should you have any queries please do not hesitate to contact us.

Yours sincerely

The FOI Team