

Gerlinde Gniewosz
[by email only]

27 August 2015
Our ref: IR106454

Dear Sir/Madam

Thank you for your request **IR106454** for an internal review received on 12 June 2015. I am sorry that you are dissatisfied with our attempts to handle your request under the Freedom of Information Act 2000 and Environmental Information Regulations 2004

The Council has now conducted a review and the original response and your complaint is partially upheld for the following reasons:

Your original request dated 31 March 2015 read as follows:

In relation to the Better Homes Board, please provide the following:

- (i) all minutes, notes and documentation produced by and for the board in the past 4 years*
- (ii) provide a list of the members on the Better Homes Board*
- (iii) provide the documentation regarding the governance, terms of reference, etc of the board.*

The list of members and the terms of the reference of the Better Homes Board was provided to you in response. The minutes were withheld as the Board is an internal sounding board and the minutes are regarded as internal communications. Furthermore, release of these minutes before a formal decision on Cressingham Gardens regeneration was taken by Cabinet in July 2015 would prejudice the effective conduct of public affairs.

Your complaint dated 10 June 2015 read as follows:

Firstly, you have not provided the current membership of the board. For example, Cllr Robbins listed is no longer a councillor. Please provide a current membership list.

Secondly, I am requesting an internal review for the rejection to provide the minutes, notes and documentation from the board. The board is a decision making and monitoring board as per the terms of reference. Consequently, it is in the best interests of the public to disclose the minutes that show the decisions that it makes and the rationale behind those decisions. It is not a working team or project team.

I can confirm that you were provided with the list held by the Council at the time of your original request. This has updated since. The current list of attendees is as follows:

Chair-Cabinet Member for Housing and Regeneration	Cllr Bennett
Cabinet Member- Finance and Resources	Cllr McGlone
Cabinet Member for Jobs and Growth	Cllr Hopkins
Deputy Cabinet Member Jobs and	Cllr Seedat

Housing	
Strategic Directors-Commissioning/Delivery	Sue Foster; Helen Charlesworth-May
Directors-Commissioning /Delivery	Rachel Sharpe; Mike Pocock
Director of Integrated Support	Christine Thompson
Assistant Director of Planning & Development	David Joyce
Lead Commissioner	Su Gomer
Programme Director, Strategic Capital Projects	Neil Vokes
Estate Regeneration and Housing Delivery Programme Manager	Julian Hart
Associate Director Commissioning	Mandy Green
Delivery Director Housing Management	Neil Wightman
Head of Growth, Capital and Tax	Christian Fleming
Social Housing Liaison Manager	Andy Radice
Senior Accountant	Julie Curtis
Corporate Property Manager	Sophie Linton

The Better Homes Board has a wide remit, and has met 14 times since 16 January 2014 to 28 May 2015 (see Annex A). I have therefore considered the information held that is relevant to Cressingham Gardens regeneration including any funding structures, e.g. Special Purpose Vehicle and any other topic that has an impact on Cressingham Gardens. For the other topics discussed by the Better Homes Board, the reason given in the original refusal letter remain valid.

Nearly all of the outputs in terms of evidence, guidance to residents/ tenants and early versions of Cabinet Reports produced by the Better Homes Board have been subsequently published. For example, a Cabinet report dated 9 March 2015 included both within the body of the report and the accompanying appendices, the relevant documentation, evidence and analysis to support the conclusion that options 1-3 were not affordable was in the public domain. The final report can be found at the following link.

<http://moderngov.lambeth.gov.uk/ieListDocuments.aspx?CId=225&MId=8963>

A further decision has been taken that option 5 is the preferred option i.e. total demolition. The Cabinet report dated 13 July 2015 can be found at the following link:

<http://moderngov.lambeth.gov.uk/ieListDocuments.aspx?CId=225&MId=9353>

However, it is my view that in relation to Cressingham Gardens there is a strong public interest in understanding the decision making process that led to the final option being decided and therefore I have taken the view that all relevant information leading to the decision should be released.

In accordance with Section 14(1) of the Environmental Information Regulations (EIR), this letter acts as a partial Refusal Notice. The only document that has not been provided to you is a report to the Better Homes Board on 24 February 2015 titled 'Options appraisals and business case for a new venture' which is looking at new funding structures. This document is commercially sensitive and was voluntary supplied.

Regulation 12(4)(e) - Internal Communications

The Council has determined that the document withheld is the subject of internal discussions where, amongst other things, options for new funding structures are being looked at.

As such the Council argues that the internal communications should be withheld to maintain “a safe, internal, confidential, private space (away from the public and hence external scrutiny) in which it is able to discuss and determine such issues affecting it, in order to facilitate full and frank deliberation and debate and permit high quality decision making which is required for the sound performance of the Council as a whole”.

Public interest test considerations

I have considered whether the public interest in maintaining the exception outweighs the public interest in disclosing the information. There are a number of public interest arguments that weigh in favour of disclosing the information you have sought:

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

However, there are also public interest arguments against disclosure:

- Releasing the requested information could prejudice the Council’s future decision making process, staff would be reluctant to have free and frank discussions if all that is discussed is subject to scrutiny with no safe space for ‘blue sky thinking’, the requested information may prejudice pending or future decisions which would be detrimental to the Council.

Once a decision has been made on the future funding structure for Cressingham Gardens regeneration. Cabinet have collective responsibility for decision making, reports are publicised in advance of meetings and interested parties will be informed and consulted on the final decision through the normal communication channels.

R12(5)(e)

Confidentiality of Commercial Information

Regulation 12(5)(e) provides:

(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.

This is a qualified exception under the EIR 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 exception. The public interest means what is in the best interests of the public, not what is of interest to the public.

R12(5)(f)

Interests of the person who supplied information

Regulation 12(5)(f) provides:

(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-

(f) the interests of the person who provided the information where that person

(i) was not under, and could not have been put under any legal obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure

This is also a qualified exception under the EIR relating to the need to consider the public interest in disclosing the information sought, in the same way as applies under R12(5)(e). The Council has determined that the information being withheld relates to sensitive commercial information that has been submitted to the Council on a confidential basis. The party who submitted that information to the Council has not consented to its disclosure. The Council considers that disclosure of the withheld information would, or would be likely to, adversely affect legitimate economic interests of third parties. As such, the Council considers that the exceptions under R12(5)(e) and (f) apply equally to the redacted information shown in the enclosed documents (save where that information relates exclusively to personal data, as identified below).

Public interest test considerations

The Council has considered whether the public interest in maintaining the exceptions under R12(5)(e)/(f) outweigh the public interest in disclosing the information. There are a number of public interest arguments that weigh in favour of disclosing the information you have sought:

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

However, there are also public interest arguments against disclosure:

- Releasing sensitive commercial information could prejudice the Council's future negotiation capabilities and reduce confidence third parties have with the Council in order to facilitate the decision making process. Both the Council and the third party 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', the requested information may prejudice pending or future discussions which would be detrimental to the Council or the third party.

The nature of all the material contained in the information that you have requested has been carefully considered by the Council, item by item. Where information is redacted in the enclosed documents the Council has considered that this does not relate to Cressingham Gardens.

For agenda items and papers that are not about Cressingham Gardens the exemptions applied previously remain engaged.

If you remain dissatisfied with the outcome of the review you have a further right to appeal to the Information Commissioner, who regulates the implementation of the Freedom of Information Act. The Commissioner can be contacted at the following address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Enquiry line: 0303 123 1113

Thank you for your interest in Lambeth Council.

Richard Carter
Freedom of Information Coordinator
Complaints and Information Unit

Corporate Affairs
Enabling Cluster
London Borough of Lambeth

Tel: 07710 026 240
Email: rcarter@lambeth.gov.uk
www.lambeth.gov.uk

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ANNEX A: BETTER HOMES BOARD

AGENDA AND MEETINGS

Agenda 28 May 2015

Minutes: meeting 28 May 2015

Agenda 23 April 2015

Minutes: meeting 23 April 2015

Agenda 7 April 2015

Minutes: meeting 7 April 2015

Release papers under Item 4

4 Cressingham Gardens_May 15 Cabinet_draft2

Meeting cancelled 24 March 2015

Agenda 24 February 2015

Release papers under Item 2

Cressingham Gardens draft Cabinet report

2a - Leaseholders Offer Booklet (2)

2a - Cressingham Appendix 4_Coproduction and engagement

2a – Cressingham Gardens Appendix 5 Refurbishment Effects

Withheld paper under item 3 'Options appraisals and business case for a new venture'.

Agenda 27 January 2015 - not redacted properly, can still read this

Minutes: 27 January 2015

Release papers under Item 6

6 Report Offer to CG

6 AOB – Cressingham Regeneration Tenants Offer

Agenda: 27 November 2014

Minutes: 27 November 2014

Release papers under Item 5

5b Cressingham Gardens

5b Cressingham Options June 2014

5b Cressingham appraisal summary appendix.pdf

Agenda: 23 October 2014

Minutes: 23 October 2014

Release papers under Item 3 and 4

3. Draft Cabinet report

4 Regeneration principles

Agenda 28 August 2014
Minutes: 28 August 2014

Release papers under Item 3
3. Draft Cabinet Report

Agenda 18 July 2014
Minutes: 18 July 2014

Terms of reference approved
Release papers under item 5b
5b Cressingham Gardens

Agenda 19 June 2014
Minutes: 19 June 2014

Meeting cancelled 21 May 2014

Agenda 16 April 2014
Minutes: 16 April 2014

Release papers under item 5
5 BHB_16 04 14 Estate Regeneration

Agenda 19 March 2014
Minutes: 19 March 2014

Agenda 12 February 2014
Minutes: 12 February 2014

Release Papers under Item 4
4. Better Homes Board TOR v2 Feb 2014
7b Cressingham Project Plan 7 Feb

Agenda: 16 January 2014
Minutes: 16 January 2014

Release Papers under Items 1 and 3
1. Better Homes-Delivery Gp-Draft TOR v1 Dec 13
3. Cressingham Gardens Project Initiation Document
3. Cressingham Gardens Project Plan V4