

Mr Edward Surridge

**Our ref:** WT10369

**Sent by email to:**

Request166053-  
87450ced@whatdotheyknow.com

**Date:** 18 July 2013

Dear Mr Surridge

**RE: Request for information under the Freedom of Information Act 2000 (FOIA) /  
Environmental Information Regulations 2004 (EIR)**

We refer to your e-mail dated 24 June 2013.

Our Estates Team are currently investigating the viability of the commercialisation of Osney Dry Dock. Until these investigations are complete we do not know if we will proceed with this scheme. We are still waiting to hear if we need planning permission for a change of use. If the scheme is viable and we do go ahead we will inform all interested parties. I can confirm that you are on the list of those expressing an interest and we will notify you.

In your e-mail you have requested, under the FOI Act, "all information available with redaction / deduction to personal and applicable commercially confidential" in respect of the commercialisation of Osney Dry Dock.

Requests for information, that is information in a recorded format, are generally governed by the Freedom of Information Act 2000 (FOIA). The information you have requested is environmental and it is therefore exempted from the provisions of FOIA by FOIA s.39(1). We have therefore considered your request under the provisions of the Environmental Information Regulations 2004 (EIR). EIR regulation 12 allows a public authority to refuse to disclose environmental information if an exception to disclosure applies under paragraphs (4) or (5) and in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. A public authority shall apply a presumption in favour of disclosure.

**Information withheld**

You have requested available information concerning the commercialisation of Osney dry dock. We hold draft terms and conditions for the lease which have not yet been completed or agreed.

We are withholding these draft documents under EIR Regulation 12(4)(d):

"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".

Disclosure under the EIR is release to the world at large. To release information at this stage would cause harm to a decision making process by disclosure of provisional stages and early thought processes. The information relating to the commercial use of the dock will be supplied to interested parties as part of their involvement in the bidding process being run by Phil Porter once it has been finalised.

## **Public Interest Test**

We have weighed the public interest factors in favour of maintaining the exceptions and find that they outweigh the public interest factors in disclosing the information. In carrying out the public interest test we have considered:

### **1. Factors in favour of releasing the information:**

We recognise that disclosure of environmental information is of inherent general benefit, increases accountability of public authorities and allows public participation in the debate of environmental issues. We only withhold information if we are sure that disclosure would cause substantial harm. The information relating to Osney Dry Dock opening for commercial use is not currently in the public domain and so cannot be deemed as a factor for releasing or not releasing the information. However, this information will be in the public domain after conclusion of the bidding process. In this case we do not consider that release of the information at this time would contribute to the effective running of the public sector, to the need for openness and transparency, nor to sustainable development.

### **2. Factors in favour of withholding the information:**

It is clearly in the public interest for a public authority to have a degree of private space in which to discuss issues in areas of particular and legitimate concern to them without facing immediate public scrutiny. There should be no distraction, undue pressure or influence from outside the process of discussion. Premature disclosure of the information would adversely affect the effectiveness of meetings and discussions and impact negatively on the outcome of those discussions and the quality of the final position reached, which would be contrary to the interests of the parties and the public. We consider that release of the draft terms and conditions at this stage would prejudice the effective running of the Environment Agency.

The strength of this argument for refusal at this time is increased because there is an intention to make information available as part of the bidding process (which we have previously explained is dependent on the timing of a response from the Local Authority in relation to a possible requirement for a Change of Use application for the site).

The terms and conditions have been drafted by staff in the Estates team with advice from the Legal department, and contain information we consider to be protected by legal professional privilege as it relates to the seeking and provision of legal advice.

We are unable to separate out information for release from material which we are currently treating as confidential.

It is reasonable to withhold the draft versions of these documents that have been requested, as the finalised versions will be supplied as part of the any party's involvement in the bidding process.

As indicated, upon assessing the factors in the public interest test, we have assessed that in relation to the supplying of the documents which are either still in the course of completion, unfinished documents or to incomplete, we find that the factors in favour of withholding information outweigh the public interest factors in disclosing the information.

## **Rights of appeal**

If you are not satisfied with our response to your request for information, you can contact us to ask for our decision to be reviewed. If you are still not satisfied following this, you can make an appeal to the Information Commissioner, who is the statutory regulator for Freedom of Information. The address is: Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Tel: 01625 545700.

Fax: 01625 524 510.

E-mail: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk).

Website: <http://www.informationcommissioner.gov.uk>

Yours sincerely  
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