

The Council's solicitors are currently in the process of drafting a Sixth Supplemental Agreement. This agreement will make changes to the existing Regeneration Agreement to allow leaseholders of the houses in Phases 1 and 2 to acquire the freehold on request.

Refusal Notice

We consider that regulation 13 (Personal information) applies to some of the information requested.

Therefore, we have decided to withhold the information.

[Part 1 of Schedule 19](#) of the Data Protection Act 2018 amends the personal data exception Regulation 13 of the Environmental Information Regulations 2004. These are consequential amendments designed to ensure that the correct provisions of the GDPR and the new Act are referenced instead of the now repealed DPA 1998. They will not fundamentally impact when personal data can, and cannot, be disclosed in response to an EIR request.

We consider the information is subject to Regulation 13 because to release it would be a breach of the Data Protection Act 2018.

Personal Information is governed by the Data Protection legislation and is defined as any information relating to an identified or identifiable natural person ('data subject'). It adds that: an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location number, an online identifier or to one or more factors specific to the

physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The withheld information is exempt because disclosure would contravene the first data protection principle which requires that personal data is processed fairly and lawfully. Disclosure of the requested information would breach this principle and in particular the requirement of fairness.

Regulation 12 (5) (e) (Confidentiality of commercial or industrial information)

We consider that regulation 12 (5) (e) (Confidentiality of commercial or industrial information) applies to the information requested because we consider that disclosure of the information requested would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Therefore, we have decided to withhold the information.

In applying this exemption, we have had to balance the public interest in withholding the information against the interest in favour of disclosure.

Factors in favour of disclosing

- There is a clear public interest in the work of local government being closely examined to encourage the discharging of public functions in the most efficient and effective way
- There is an important public interest in the work of public bodies being transparent and open to scrutiny to increase diligence and to protect the public purse
- There is a public interest in public authorities being accountable for their decision making

Factors in favour of withholding

- There is a weighting in favour of maintaining the exception due to the fact that the development is ongoing
- Providing details of the commercial arrangements with the development partner is likely to cause harm to the Council as it currently has several other redevelopment projects at differing stages and is likely to have more in future
- Publishing commercial terms of the arrangement is likely to deter other development partners from wanting to do business with the Council and bringing much needed investment into the Borough
- Development partners are in competition with each other and divulging their sensitive commercial information would damage those organisations in future bidding processes and in obtaining funding for the schemes
- Commercial information relating to individuals and property transactions relating to sale of properties

Having weighed the factors both for and against disclosure it is my judgement that the public interest will not be served by disclosing the information as detailed

above. With the passage of time, the commercial sensitivity of some information decreases, however, in this case the timing of disclosure is of critical importance as the agreement is still ongoing. The Council considers that disclosure of sensitive information would be likely to prejudice commercial negotiations with other developers/ partners if they knew the structure of this deal and how their own deal compares.

R12 (4)(d) - Material which is still in the course of completion, to unfinished documents or to incomplete data

In the case of the draft, the document is an unfinished, unofficial and unsigned version of the drafting a Sixth Supplemental Agreement which does not fully represent the originating authority's views. Release could give a misleading and inaccurate picture.

The general argument in favour of releasing information is that there is a public interest in being able to scrutinise aspects of the Local Authorities where that information might be easy to access and will not prejudice the London Borough of Barnet. Against disclosure the argument is the public interest in permitting public authorities to publish information in a manner and form and at a time of their own choosing. It is a part of the effective conduct of public affairs that the general publication of information is a conveniently planned and managed activity within the reasonable control of public authorities. Where the decision has been made in principle to publish, there is a reasonable entitlement to make arrangements to do so and this is scheduled to happen over the next few months.