

An Roinn Oideachais agus Scileanna
Bóthar Phort Laoise
An Tulach Mhór
Co. Uíbh Fhailí
R35 Y2N5

Department of Education and Skills
Portlaoise Road
Tullamore
Co. Offaly
R35 Y2N5

[REDACTED]

[REDACTED]

8th February 2017

Re: FOI request 2016/416

I refer to the request which you made under the Freedom of Information Act 2014 for records held by this body regarding:

1. *Any and all memoranda, emails, letters and notes of meetings and other discussions in relation to the purported transfer of lands at Notre Dame, Churchtown, Dublin 14*
2. *Copies of all minutes, resolutions and all other legal documents including the purported Conveyance of the Lands at Notre Dame, Churchtown, Dublin 14*
3. *Any and all memoranda, emails, letters and notes with all stakeholders including without limitation the National Asset Management Agency relating to the Lands at Notre Dame, Churchtown, Dublin 14*
4. *A copy of all Ministerial Orders concerning Lands at Notre Dame, Churchtown, Dublin 14.*

I, Valerie Healion, EO have now made a final decision to part grant your request on 8th February 2017.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied, and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that this body considers relevant to your request. It describes each document and refers to the sections of the FOI

Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access

Section 42 – Restriction of Act

Part 5 of the Freedom of Information Act 2014 outlines Restrictions of the Act i.e. specific records held by an FOI Body for which the Act does not apply to. In this instance, there are 2 particular sub-sections which apply to records held with Site Acquisition and Property Management Section. The relevant sections are:

(f) – *“a record held or created by the Attorney General or the Director of Public Prosecutions or the Office of the Attorney General or the Office of Director of Public Prosecutions, other than a record relating to general administration.”* The Chief State Solicitor’s Office and the Office of the Parliamentary Council are constituent parts of the Office of the Attorney General.

(j) – *“a record given by an FOI body to a member of the Government or a Minister of State for use by him or her for the purposes of any proceedings in either House of the Oireachtas or any committee of either or both of such Houses or any subcommittee of such a committee (including proceedings in relation to questions put by members of either such House to members of the Government or Ministers of State (whether answered orally or in writing.*

I can advise that the Chief State Solicitor’s Office acted as the legal representative for the Minister in the acquisition of the lands at Notre Dame, Churchtown, Dublin 14. As such the restriction of Section 42 (f) of the Freedom of Information Act 2014 applies to all legal records relating to the conveyancing process. However I can confirm that Due Diligence was carried out throughout the acquisition process and that the requisite consent of the Charities Regulatory Authority was obtained in respect of this particular acquisition.

I further advise that Section 42(j) of the Freedom of Information Act 2014 is being applied to records relating to information provided to members of the Government .

Other sections of the Act which can apply to deny access to documents are known as its exemption provisions.

I consider that the exemptions provided for in i) Section 29 (Deliberations of Public Bodies), ii) Section 30 (Functions and negotiations of Public Bodies), iii) Section 31 (Legal Professional Privilege) and vi) Section 36 (Commercially sensitive information) of the FOI Act 2014 apply in relation to a number of records referred to on the attached schedule. These exemptions are discussed further below.

Section 29: Deliberations of Public Bodies

"A head may refuse to grant an FOI request if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes) under section 29(1) (a)."

Having considered section 29(1) (a) I must also consider section 29(1) (b) which provides that *"a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request".* Having considered where the balance of the public interest lies in these cases, I have decided to **withhold** such information at this time.

Section 30: Functions and Negotiations of Public Bodies

"A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body under section 30(1) (c)."

Having considered section 30(1) (c) I must also consider section 30(2) which provides that *"a head may decide to release records if, in his or her opinion, "the public interest would, on balance, be better served by granting than by refusing to grant the request".* Having considered where the balance of the public interest lies in these cases, I have decided to **withhold** such information at this time.

Section 31: Legal Professional Privilege

Section 31(1)(a) provides that records that *"would be considered exempt from production in proceedings in a court on the ground of legal professional privilege may be withheld".*

Section 36: Commercially sensitive information

A head shall refuse to grant an FOI request if the record concerned *" (b)financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or (c)information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates".*

Having considered section 36(1) (b) and 36(1) (c) I must also consider section 36(3) which provides that a head may decide to release records if, in his or her opinion, *"the public interest would, on balance, be better served by granting than by refusing to grant the request".* Having

considered where the balance of the public interest lies in these cases, I have decided to **withhold** such information at this time.

Section 37: Personal information

Section 37(1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, *"access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual)"*.

Having considered section 37(1) I must also consider section 37(5) which provides that a head may decide to release records if, in his or her opinion, *"the public interest that the request should be granted outweighs the public interest that the right to privacy of the individual to whom the information relates should be upheld"*. Having considered where the balance of the public interest lies in these cases, I have decided to **withhold** such information at this time on the basis that the information is personal data in relation third parties.

I can confirm that there are no Ministerial Orders concerning the lands at Notre Dame, Churchtown, Dublin 14.

3. Right of appeal

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the

Freedom of Information Unit,
Department of Education and Skills,
Marlborough Street,
Dublin 1

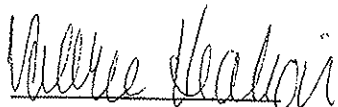
Or by email to: foi@education.gov.ie

Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of personal cheque or postal money order made payable to the Accountant in the Department of Education & Skills.

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Should you have any questions or concerns regarding the above, please contact me by telephone on 057-9325424.

Yours sincerely,



Valerie Healion

Site Acquisition & Property Management Section