

Bóthar Phort Laoise
An Tulach Mhór
Co. Uíbh Fhailí
R35 Y2N5

Portlaoise Road
Tullamore
Co. Offaly
R35 Y2N5

22 December, 2016

[REDACTED]

Re: FOI request, original decision affirmed 2016/324

Dear [REDACTED]

I refer to the appeal which you made under the Freedom of Information Acts 2014 received on 5th December 2016.

I Ruairí Smyth HEO, am a more senior member of the staff of this body than the person making the first decision, Adelaide Mulrooney, and I have decided on 22nd December 2016 to affirm the original decision on your request. This decision on review is an entirely new and separate decision on your request, and is explained as such below.

Your original request sought access to the following:

"...records set out in the appendix to this letter and listed on page 3 (unnumbered) of your 12 September letter, provided that you also confirm that no submission was made to Dún Laoghaire Rathdown County Council in relation to the designation of our client's site for educational purposes in the draft Sandyford Urban Framework Plan 2011 – 2016.

Appendix

1. Memo on Goatstown-Stillorgan site selection process dated 23 February 2016, prepared and submitted to this Department by Dun Laoghaire Rathdown County Council in response to our letter of 29 October 2015.
2. Technical assessment reports prepared by Department personnel dated 9 March 2016 and 17 June 2016.
3. A valuation of the site procured by Dun Laoghaire Rathdown County Council dated 11 July 2016.
4. Internal correspondence and correspondence with Dun Laoghaire Rathdown County Council regarding site suitability, valuation and engagement with the landowner, all dated after 23 February 2016."

In arriving at this decision I have had regard to the original request the records which were located as part of that request and the appeal letter which you submitted in this regard.

I enclose for your attention a schedule of these records, this schedule summaries my findings and refers you to the latter part of this letter for a further explanation.

The purpose of this letter is to explain my 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

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

The 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 Sections 29 (Deliberations of Public Bodies), 30 (Functions and Negotiations of Public Bodies) and Section 36 (Commercially Sensitive Information) of the FOI Act 2014 apply in relation to all of the records referred to on the schedule. These exemptions are discussed further below.

Section 29: Deliberations of Public Bodies

A head may refuse to grant an FOI 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 on the basis that the records could reveal details regarding the deliberative process of which the Department has yet to finalise its deliberations and that such release could prejudice the Department's ability to properly conclude those deliberations

Section 30(1)(c): 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.

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 which could prejudice the effectiveness of tests, audits, inquiries, examinations or investigations conducted by or on behalf of an FOI body or the procedure or methods used to conduct such .

Section 36(1)(c): Commercially Sensitive Information

A head shall refuse to grant an FOI request if the record concerned contains 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.

Having regard to the aforementioned I have decided to affirm the decision made by the original decision maker in relation to your request and I have enclosed again for your attention a copy of the relevant sections of the Act which this decision relies on.

You may appeal this decision by writing to the Information Commissioner at 18 Lower Leeson Street, Dublin 2. There is a fee of €50 for such appeals, other than appeals against a decision to impose a fee. If you wish to appeal, you must usually do so not later than 6 months from the date of this notification. Should you write to the Information Commissioner making an appeal, please refer to this letter.

Yours sincerely,



Ruairi Smyth
Higher Executive Officer
Site Acquisitions & Property Management Section