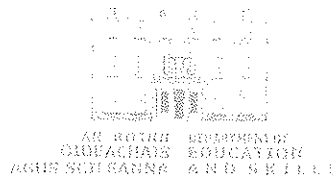


An Roinn Oideachais agus Seileanna  
Bóthar Phort Laoise  
An Tulach Mhór  
Co. Uíbh Fhailí  
R35 Y2N5



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



25 November 2016

Re: FOI request 2016/347

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

*Copies of all invoices, letters, documents, emails, faxes, notes of telephone conversations, minutes of meetings, reports and contemporaneous notes concerning the purchase of land, (including enquiries to purchase land), surveys, architects reports, engineers reports, valuers reports, planning applications, construction contracts/works for new school buildings for both Gaelscoil Chill Mhantáin and the Combined St. Joseph's & St. Ernan's Rathnew School from 1<sup>st</sup> January 2008 to present.*

Please note that the information sought is provided in two Sections: Section 1 - Gaelscoil Chill Mhantáin and Section 2 - St. Joseph's & St. Ernan's, and is divided into documentation provided by the following areas: Schools Capital Appraisal Section – Appendix A, Site Acquisitions and Property Management Section – Appendix B, Major Projects (Construction) – Appendix C and Major Projects (Design) – Appendix D.

I, Ruairi Smyth, HEO have now made a final decision to part grant your request on 25 November 2016

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**

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), Section 31 (Legal Professional Privilege) and Section 36 (Commercially sensitive information) of the FOI Act 2014 apply in relation to a number of records referred to on the schedule. These exemptions are discussed further below.

### **Section 15 (d): The Information is already in the public domain**

Section 15(1)(d) allows that a request which is received under FOI can be refused when the information is already in the public domain and can be accessed by the requester as a result.

### **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 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: 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 on the basis that premature release of these records could impair the integrity and viability of the negotiation process to a significant or substantial degree without countervailing benefit to the public.

#### **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.

### **3. Right of appeal**

In the event that you are unhappy with this decision you may appeal this, 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](mailto:foi@education.gov.ie). 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. In relation to an appeal regarding this decision there is a fee payable in the amount of €30.

Should you have any questions or concerns regarding the above, please contact the relevant person(s) as follows:

Donal O'Meara, EO Schools Capital Appraisal Section – 057 9324463

Ruairí Smyth, HEO Site Acquisitions and Property Management Section – 057 9325428

Noeleen Newman, EO Major Projects (Design) – 057 9324469

Blanaid Shiel, EO Major Projects (Construction) – 057 9324449

Yours sincerely,



Ruairí Smyth

Higher Executive Officer

Site Acquisitions & Property Management Section