

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

7<sup>th</sup> July 2017

[REDACTED]

**Re: FOI request 2017/220**

[REDACTED]

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

*"Will you please let me have, under the F.O.I. Act, the following documents:  
Copy of the Contract to Purchase.*

*Letters between the D. of Education and Skills and the D. of Agriculture.*

*Letters between the D. of Education and Skills and Savilles.*

*Letters between the D. of Education and Skills and the IGB. We were told at the PAC that meeting first took place Sept. 2016.*

*Copy of your internal Valuation and a copy of your plans and Traffic Assessment Report."*

I, Ruairí Smyth, Higher Executive Officer, have now made a final decision to refuse your request on 7<sup>th</sup> July 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

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

A draft version of the contract had not been received as at the date of your request and a final version has not yet been agreed. A Traffic Assessment Report will not be carried out until the design stages of the school building project.

### 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 prejudice the effectiveness of tests, examinations, investigations, inquiries under section 30(1) (a) or 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) (a) and (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 36: Commercially Sensitive Information**

A head shall refuse to grant an FOI request if the record concerned contains 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 under section 36(1) (b) of the Act.

A head shall also 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 under section 36(1) (c) of the Act.

I am of the view therefore, that a number of records coming under the scope of your request are exempt from release under the provision of either Section 36(1) (b) or Section 36(1) (c).

### **Section 40: Financial and Economic Interests of the State**

A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, premature disclosure of information contained in the record could reasonably be expected to result in undue disturbance of the ordinary course of business generally, or any particular class of business, in the State and access to the record would involve disclosure of the information that would, in all the circumstances, be premature, under Section 40(1)(b) or access to the record could reasonably be expected to result in an unwarranted benefit or loss to a person or class of persons under Section 40(1)(d). This subsection applies to property or other assets held by or on behalf of the State or a public body and transactions or proposed or contemplated transactions involving such property, or other assets under Section 40(2)(i).

Having considered section 40(1) (b) and (d) as related to Section 40(2)(i) I must also consider section 40(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.

### **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 D01 RC96 or email [foi@education.gov.ie](mailto: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 and Skills. Please note the Department of Education and Skills no longer accept cheque payments from business users. For

further information regarding payment methods for business users, please email [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.

### **Publication**

All non-personal FOI requests will be recorded on an FOI disclosure log which will be published on the Department of Education and Skills website in due course.

Should you wish to discuss the above, please contact me by telephone at 057-9325428 (direct line).

Yours sincerely,



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Ruairi Smyth  
Higher Executive Officer  
Site Acquisition and Property Management Section

E-mail: [ruairi\\_smyth@education.gov.ie](mailto:ruairi_smyth@education.gov.ie)