

# GREATER LONDON AUTHORITY

By email

Our Ref: MGLA130618-4734

16 August 2018

Dear

Thank you for your request for information which the GLA received on 12 June 2018. Please accept my apologies for the delay in responding. Your request has been dealt with under the Environmental Information Regulations (EIR) 2004.

You asked for a copy of the analysis of the 'Redevelopment of the Kennington Oval Gasholder Site' scheme viability and of the GLA review.

Please find attached the information we have identified as within scope of your request;

- Berkeley Homes Viability Analysis
- GLA Review of Viability analysis
- Benchmark valuation
- Revenue detail

Please note that some of the content falls under the exception to disclose in Regulation 12 (5)(e) (confidentiality of commercial or industrial information) of the EIR.

Applying the four-stage test from *Bristol City Council v Information Commissioner and Portland and Brunswick Squares Association (EA/2010/0012, 24 May 2010)*:

- **The information is commercial or industrial in nature.**

The redacted information the report details:

- a) estimated sale prices of the commercial and residential properties within the development;
- b) construction costs;
- c) anticipated profit margins; and
- d) sensitivity analysis,

The information can therefore be considered as commercial or industrial in nature.

- **Confidentiality is provided by law.**

The information is covered by the common law obligation of confidentiality, the information is not trivial in nature, nor is it in the public domain.

Berkeley provided the Viability Documents to the GLA on a voluntary basis on the expectation and understanding that they would be held in confidence so that the GLA could provide a summary of its conclusions in its [Stage 1 Report](#).

The Viability Report was marked "Private & Confidential". The Market Research Report was marked "Company Confidential". The Position Note was marked "Commercially Confidential" and expressly drafted on the basis that it would only be disclosed to the Council and the GLA. The GLA Assessment comprises internal GLA emails discussing the confidential information that was provided within the reports.

The redacted Information is therefore to be protected by confidentiality provided by law.

- **The confidentiality is protecting a legitimate economic interest.**

The confidentiality is protecting the legitimate economic interests in each of the following categories;

1. Estimated sale prices of the commercial and residential properties within the development;

The Redacted Information sets out Berkeley's growth-based assessment of the value of the commercial and residential properties within the scheme. With planning permission yet to be determined and the sale or pre-let of the commercial and residential units within the proposed development yet to be commenced, disclosure of this information would unfairly prejudice Berkeley's ability to freely negotiate with a buyer or tenant.

2. Construction costs;

Disclosure of information which sets out the assessment of the construction and other costs anticipated to be incurred in delivering the development would severely impact upon Berkeley's ability to negotiate competitive contracts with suppliers and contractors, both in the context of this development and in the future, as it reveals vital assumptions made about build costs on this and similar projects.

3. Anticipated profit margins;

Disclosure of this would hinder Berkeley's ability to negotiate with landowners when looking to acquire new land, as well as putting Berkeley at a disadvantage in comparison to other bidders in a competitive bid scenario. The information could be used by those competitors to predict the likely value to be offered for land by Berkeley and could therefore ensure they offer more.

4. Sensitivity analysis

The sensitivity analysis reflects the increase and decrease to appraisal inputs and how this impacts Berkeley's profit margins and as mentioned above, would hinder Berkeley's ability to negotiate.

- **The confidentiality would be adversely affected by disclosure.**

Disclosure of the information would inevitably harm the confidential nature of it and therefore the exemption at Regulation 12(5)(e) is engaged in respect of disclosure of the redacted information.

- Public interest

Regulation 12(5)(e) constitutes a qualified exemption from our duty to disclose information under the EIR, and consideration must be given as to whether the public interest favouring disclosure of the information covered by this exemption outweighs the public interest considerations favouring maintaining the exemption and withholding the information.

The GLA acknowledges that there is a public interest in the activities being undertaken with regards to the redevelopment of the Kennington Oval Gasholder Site and a specific public interest in the transparency of the GLA's achievement in delivering Mayoral commitments. However, it is not in the public interest to prejudice the developers negotiating position and the request comes at a time where the developer is yet to receive grant of planning permission and therefore yet to commence commercial negotiations e.g. building contracts, pre-lets, pre-development sales.

The principle underpinning the timing of requests in balancing the public interest in non-disclosure was similarly expressed by the Commissioner in his decision on [FS50538429](#). While acknowledging the strong public interest in overall transparency and accountability, he found that on balance the public interest still favoured maintaining the exception:

*90. However, in this case, the Commissioner considers there is a stronger public interest in maintaining the exception due to the specific circumstances at the time of the request and the very fact that no commercial negotiations had been entered into between the developer and its own prospective clients*

We therefore find that the public interest is therefore balanced in favour of non-disclosure of the redacted information because of the harm its release would cause. If you have any further questions relating to this matter, please contact me, quoting the reference MGLA130618-4734.

Yours sincerely

**Paul Robinson**  
**Information Governance Officer**

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints and internal review procedure, available at:  
<https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>