

# GREATER LONDON AUTHORITY

[REDACTED]  
(By email)

Our Ref: MGLA140818-0404

8 October 2018

Dear [REDACTED]

Thank you for your request for information which the GLA received on 14 August 2018. Your request has been dealt with under the Environmental Information regulations 2004.

Our response to your request is as follows:

*Please supply me with all viability assessments, appraisals and reports produced by the Applicant and Westminster Council, or any of their respective agents, in support or consideration of the planning permission for the Park Modern development, 117-125 Bayswater Rd, 2-6 Queensway, Consort House and 7 Fosbury Mews (Westminster Council ref 15/10671/FULL: GLA ref D&P/3607/01*

Please find attached the following information which we have identified as within scope of your request:

1. GVA Viability Assessment & Appendices
2. GE Assessment on Financial Viability on behalf of Westminster City Council

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
- b) estimated construction costs;
- c) contractor preliminaries
- d) any number that, by process of arithmetic be used to work back calculate (a) – (c).

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. The applicant provided the Viability Documents on the expectation and understanding that they would be held in confidence for the purposes of assessing the appropriate affordable housing investment as part of the development and to apply planning policy accordingly.

The GE Viability Assessment was marked "STRICTLY PRIVATE AND CONFIDENTIAL". The Local Planning Authority Assessment was marked as "Commercially Confidential" and comprises the confidential information that was provided within the GE report.

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;

- a) Estimated sale prices of properties within the development; Disclosure of this information would unfairly prejudice the ability to freely negotiate with a buyer. A commercial developer cannot prejudice its ability to get the best available sale price by making the public aware of its assumptions as to value.
- b) Construction costs; Placing this information into the public domain would undermine the ability of the developer to achieve best value in tendering for future contracts because it would give competitors in that market undue advantage if they had detailed costing information and therefore distorting the competition in the market.
- c) Contractor preliminaries – similar to the above, this is a key commercial component to judging the development costs of a project.

- 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 planning permission for the Park Modern development 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 commence commercial negotiations.

The principle underpinning the timing of requests in balancing the public interest in nondisclosure 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 MGLA140818-0404

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>