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Sent via e-mail

**Our Ref: MGLA270421-1598**

18 June 2021

Dear ██████████,

Thank you for your clarified request for information which the Old Oak and Park Royal Development Corporation (OPDC) received on 20 May 2021. Your request has been considered under the Environmental Information Regulations (EIR) 2004.

**You had originally requested**

**Fol request: re "Schedule 17 Old Oak Common Lane Cycle Study Report (20/04/2020)"**

A copy of this report, **1CP02-BVS\_WSP-PL-REP-SS07-000001**, is at:

[9396-1396791686.pdf \(london.gov.uk\)](#)

It states:

***"1.1.5: The cycle lane study has developed through a series of workshops with OPDC, London Borough of Ealing (LBE), London Borough of Hammersmith and Fulham (LBHF), and Transport for London (TfL). Discussions with stakeholders will continue on cycle provision as the highway realignment and wider public realm develops."***

Please provide:

(1) A copy of all data, internal and external, held by you, from your first involvement with the subject considered in this report, until the publication date (20/04/2020).

None of this data is redactable now, in a 'safe space' for policy discussion as defined by the Information Commissioner's Office.

(2) A copy of all data held by you on this subject, from that publication date, to date.

You may feel some of this data is redactable. Or you may not.

### **You clarified**

I wish to clarify my request, as in the red text added in your letter which is repeated below:

"Thank you for your request for information which the Old Oak and Park Royal Development Corporation (OPDC) received on 25 April 2021.

You asked the OPDC to release data related to the Schedule 17 Old Oak Common Lane Cycle Study Report (20/04/2020).

From our assessment, it is clear that we will not be able to answer your request without further clarification.

- Firstly, I would like to check what you mean by 'data' as it can be read two ways. We need to know whether you are only interested in any data sets/figures/research related to the report/workshops, or whether you are asking for 'all information' including communications such as emails. You talk about 'internal and external' data so it seems more likely that you are interested in the broader interpretation including all communications. However, please confirm so that we can search appropriately.

**Yes, it is the broader interpretation, including emails. However, no 'raw' datasets are required, except as summarised and presented in reports to workshops and used in decision-making.**

- Where you talk about 'the subject of the report' this could be interpreted in various ways – anything to do with the specific content and involvement in the cycle study report relating to the specific application 20/0011/HS2OPDC; anything to do with OPDC's involvement in the delivery of a safe cycle route along Old Oak Common Lane. However, please be aware that a very broad interpretation is likely to attract a refusal under EIR Regulation 12(4)(b). **No it is just a narrow interpretation, as in your first option.**

- I note that you also quote paragraph 1.1.5 specifically, so if the focus of your request is the workshops mentioned and any information pertaining to the workshops, please do make this clear. We are confident this information could be located and extracted.

**Workshops and their related information are certainly included. Hopefully that includes any recent workshops/emails on the implementation of the report's conclusion of a footpath on only one side of the road under the railway bridges.**

**Our response is as follows:**

Unfortunately, we are unable to provide you with the information you are seeking. Your request falls under the exception to disclose under regulation 12(4)(b) of the Environmental Information Regulations (EIR). This provision allows public authorities to refuse requests which are obviously or clearly unreasonable or when the estimated cost of compliance is too great.

In reaching this decision we have considered the views of the Upper (Information Rights) Tribunal in 'Craven v IC & DECCC [2012] UKUT442 (AAC)' in respect of the EIR exception under regulation 12(4)(b), the formal [guidance](#) issued by the Information Commissioner's Office, along with Decision Notices regarding this EIR exception, such as FS505859262, amongst others, which all acknowledge that public authorities may use the fees regulations as the basis of considering the cost and time of complying with a request.

In this instance, we have decided this request falls within scope of regulation 12(4)(b) and is manifestly unreasonable because of the considerable amount of time that would be required to collate and review the information. This would place an unacceptable burden on the lead officers and constitute an unreasonable distraction from normal work.

Even though you clarified that you are interested in the less broad interpretation of 'the subject of the report', this nonetheless captures a great deal of information.

#### **Before publication of the study**

For the purpose of your request, the lead officer undertook email searches using key terms ("Old Oak Common Lane"; "Cycle Study"; "20/0011/HS2OPDC"; "Cycle Study Report"; "Cycle Workshop") and located over **4,000** results prior to publication.

#### **Following publication of the study**

Further searches were carried out by a different officer on the subject of the report (delivery of a segregated cycle lane) since the publication of the report for key words ("Old Oak Common Lane"; "Cycle Study"; "Urban Integration Study"; "UIS") and located just under **6,400** results.

Even if the total number of emails in each case is eventually less than the figures above, taking into account overlap and repetition of emails in conversation chains, each set of emails would need to be reviewed initially by at least two members of OPDC staff who would need to manually check to find whether the emails and any attachments are in scope of your request. This would place an unacceptable burden on their resources and constitute an unreasonable distraction from normal work given the wide scope of the request.

Further, some of the information would likely engage one or more of the disclosure-exemption (exemption) provisions of the EIR. I refer in particular to part 2 of your request ("*A copy of all data held by you on this subject, from that publication date, to date*") where much of the information seems likely to relate to [material in the course of completion](#) and an unfinished document, the Urban Integration Study. The Urban Integration Study covers a broad area of matters across the OPDC area and the integration of a cycle lane along Old Oak Common Lane forms just a small part of this. We would consequently have to spend a considerable amount of time reviewing each piece of information individually and

consulting with third parties to consider whether it would be exempt from disclosure. The time and resources required to review this information would be unreasonable given the potential for it to remain exempt information.

Because of the extent of the work needed to process your request, we are engaging Regulation 12(4)(b). We believe that the request is 'manifestly unreasonable' because to provide the information you have requested would impose unreasonable costs on the OPDC and require an unreasonable diversion of resources.

A public authority can only engage this provision if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Whilst many issues relevant to the public interest test have already been considered in deciding if this exception is engaged in terms of proportionality and value of the request, we must apply the public interest test in regulation 12(1)(b). On balance therefore, it is our view that the public interest in maintaining the exception in regulation 12(4)(b) outweighs the public interest in disclosure. In making this decision, we have taken account of the fact that the [HS2 Cycle Study](#) itself has been published and [OPDC's Committee Report](#) which considers the submitted HS2 Cycle Study at paragraphs 7.13-7.20 has also been published.


When refusing a request for environmental information under regulation 12(4)(b) on the grounds of cost, public authorities are required to provide advice and assistance and explaining how a request may be refined. However, your current request is particularly broad, and it is not clear what specific type of information you are most interested in in relation to the Cycle Study.

We will be happy to consider a further refined request. For example, is there a particular aspect of the Cycle Study with which you have an interest? We may then be able to narrow the topic of discussions to a narrower keyword, and/or a timeframe. As an example, we previously thought you may have a specific interest in information about the workshops. Your clarified request remains broad, but you do mention a footpath – if that is your key area of focus. You may wish to resubmit a request that focuses more narrowly on what you are interested in.

I understand this response may cause frustration, but it aims to ensure - as recognised in the guidance - that our responsibilities under the act do not distract from our other statutory functions.

If you have any questions regarding this letter, please write to [info@opdc.london.gov.uk](mailto:info@opdc.london.gov.uk) quoting the reference at the top of this letter.

Yours sincerely



**Director of Planning**

If you are unhappy with the way the OPDC has handled your request, you may complain using the OPDC's FOI complaints and internal review procedure, via [info@opdc.london.gov.uk](mailto:info@opdc.london.gov.uk)

<https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>