

13 April 2016

Our Ref: e18873

Re: Request for information under the Environmental Information Regulations 2004

Your request for information which was received on 28 March 2016 has been considered.

Please find our response below.

Your request:

What is the estimated total Capital cost and funding for all the proposed buildings on the Riverside site plan, in the Council's "Twickenham Rediscovered" document?

Our response:

We consider that it would be inappropriate to provide information at this time as the information is currently still in draft form.

Please see Appendix 1 for our legal refusal notice.

Yours sincerely

Data Protection and Information Officer

Appendix 1

Detailed legal reasoning for refusal

Regulation 2(1) of the EIR defines environmental information as:

“Any information in written, visual, aural, electronic or any other material form on –

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements...”.

We consider that information relating to Twickenham Riverside redevelopment would fall within parts a and c above.

Material in the course of completion, unfinished documents and incomplete data (Regulation 12(4) (d))

Regulation 12(4) (d) is engaged when the request relates to material that is still in the course of completion, unfinished documents or incomplete data.

This information is still being developed and is not yet complete.

We have considered a relevant ICO Decision Notice involving Islington Borough Council ([FER0453309](#)). This request asked for information on the council draft proposal to redevelop an area of Holly Park in Islington, London. The Council withheld a report relating to evidence produced or assessments undertaken to support their view on the suitability of the estate as a site to accommodate additional housing. The ICO upheld Islington’s use of Regulation 12(4)(d). We note this case as it is similar to the position in Richmond with regards to the proposed redevelopment of Twickenham Riverside.

Paragraph 34 of the above Decision Notice states that: -

The fact that (the Council) was willing to share some of that information with residents likely to be affected by the proposals at this initial stage did not mean that that [the requested information] was complete.

Similarly, we consider that although we have been able to share some information concerning Twickenham Riverside via our website that this does not mean that all of our information held or draft costings relating to the viability of this project is complete.

We note that the redevelopment of Twickenham Riverside is a contentious local issue. We consider the ICO's comments at paragraph 57 of the above decision to be relevant: *If it is not managed properly public attitudes to such development and change within their area may naturally harden and turn confrontational rather than open and engaged. This would prevent rather than be conducive to good working relations with the community and residents associations.*

We consider disclosure of draft information may be misleading to the public and delay any meaningful comment or debate. This may adversely affect public attitudes towards the redevelopment and cause further friction within local communities.

We therefore consider this exception is engaged. We have next considered the public interest in disclosure/maintaining the exception.

The public interest in disclosure

We note that there is a considerable amount of public interest in disclosing information which may directly affect a specific community. We note the presumption in favour of disclosure required by Regulation 12(2) EIR.

We also note that we are proactively publishing information and updates via our website. The relevant web-link is http://www.richmond.gov.uk/twickenham_rediscovered

We will continue to add to the website as and when it is appropriate. We consider that the information already available is sufficient to recognise the public interest in this issue.

The public interest in the exception being maintained

We consider that the main reason to maintain the exception is that the Council should be able to discuss ongoing issues within a "safe space" without fear of early disclosure of potentially misleading information.

We note that Islington Council's arguments which were accepted by the ICO are also applicable to our reasoning:

The council needs to be able to consider and fully explore all the options available to them and exchange views within a safe place.

- ☐ *To release draft information would likely result in further representation being made on the basis of incomplete and possibly incorrect material.*
- *Any decision made by the council would be subject to the normal planning and consultation rules that are required under planning law.*
- *When final decisions are reached, the reasons for the decisions are likely to be released with that decision. Therefore during the public consultation the decisions of the council could be properly questioned*

We have already initially consulted with residents in relation to the redevelopment of the riverside in Twickenham. We also consider that providing information which may generate unnecessary questions or debate in connection with a contentious local issue is not in the public interest.

Further we note that there will be further opportunity for residents to comment on the proposed redevelopment when the planning application is submitted. Similarly the Islington case would also allow for further consultation as noted at paragraph 58: *Additionally the planning application phase will allow for further representations to be made by the communities affected.*

It has been additionally explained above that the Council is proactively updating it's website with further information when it is considered appropriate to do so.

We note the ICO's comments in the above Islington case at paragraphs 53/54:

The Commissioner places more weight on the thinking space which officers and councillors require in order to formulate proposals to take the community. Robust proposals cannot develop within a vacuum, and there must be some work carried out to ascertain the viability of individual projects prior to consultations with those affected taking place.

The public interest may rest with initial work being withheld from disclosure before it is ready to be presented for consultation. In that way the proposal can be developed to a stage where the council has confirmed that in its view a particular option is viable and potentially preferred against other sites. If that were not the case, the initial work could be dogged by media and community pressure and interference. Communities may take action to prevent their area being designated for development.

We consider this applicable to the Twickenham Riverside redevelopment as we consider it necessary to have a safe space to consider plans including information relating to financial viabilities. We also consider it necessary to protect information from premature disclosure in order for the Council to fully and comprehensively consider proposals.

We also refer to Paragraph 41 of the above case which refers to comments made in a Tribunal case (Mersey Tunnel Users Association v ICO, [EA/2009/0001](#)): *There may also be, as in this case, in our view, a strong public interest in protecting such draft reports from exposure because of the risk of fruitless public debate and interrogation of officials as to unadopted positions and abandoned arguments.*

We are also mindful of the increasing need to obtain best value services for the residents of the borough and consider it is not in the public interest to disclose draft financial information if to do so may undermine our future position.

Therefore, we have decided at this stage, that the public interest in maintaining the exception outweighs any public interest in disclosure.

In accordance with the Environmental Information Regulations 2004 this letter acts as a Refusal Notice.

You have the right of appeal against the decision. If you wish to appeal please set out in writing your grounds of appeal and send to:

Corporate Complaints and Access to Information Manager
Community Engagement and Accountability Team
Adult and Community Services
3rd Floor Civic Centre
44 York Street
Twickenham
TW1 3BZ

E-mail: foi@richmond.gov.uk

If you are dissatisfied with the outcome of the internal appeal you may appeal further to the Information Commissioner's Office at:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
fax: 01625 524 510
DX 20819
www.ico.org.uk