

22nd March 2021

Re: European Communities (Access to Information on the Environment) Regulations 2007 to 2011

Our reference: AIE202102

I refer to the request you made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations) for access to information on the Environment held by the Land Development Agency (LDA) relating to Central Mental Hospital Site in Dundrum (the Development).

I am required to make a decision on your request, at the latest by the 22nd March 2021. Copies of articles mentioned in my decision are detailed in Appendix 1. My decisions are as follows:

With regard to Request 1:

1. Any document, report, presentation or minutes of meetings in your hold concerning the environmental aspects of construction of the development at the Central Mental Hospital Site in Dundrum (for example site surveys, enviro surveys, construction / environment management plans, etc)

Summary of Decision

I refer to our previous correspondence regarding this matter where I invited you to make a more specific request under Article 7(8) of the AIE Regulations. Article 9(2)(b) of the AIE Regulations allows a public authority to refuse a request for information where a request remains formulated **in too general a manner**. As the request has not been sufficiently refined, I have therefore made a decision on your request and to refuse it pursuant to Article 9(2)(b) as it remains formulated in too general a manner.

Refine request

It is also open to you to refine your request and submit a new application under the AIE Regulations. If I can assist you in any matter relating to your request, please contact me at foi@lda.ie

With regard to Request 2:

2. Any documents or plans which describe environmental aspects of project specifically relating to site density

Summary of Decision

I have made a decision on your request. Some of the information is in the public domain <https://dundrumcentral.ie/faq/>, so I have decided to refuse access to these records, having regard to the provisions of the following articles of the AIE Regulations:

- Articles 8(a)(iv)



Release of this information would be contrary to section 15 (d) of the FOI Act – the information is in the public domain.

In relation to other information relating to your request, I have made the following decision. I have decided to refuse access to these records, having regard to the provisions of the following articles of the AIE Regulations:

- Articles 8(a)(iv)
Release of this information would be contrary to section 29 (1) (a) and section 36 (1) (b) of the FOI Act
- Article 9 (1) (c)
Release of the information adversely affect the commercial or industrial confidentiality within the LDA and between the LDA and other 3rd parties
- And article 9 (2) (c)
Some of the requested information concerns material in the course of completion, or unfinished documents or data

With regard to Request 3:

3. Minutes of Board meetings, management meetings or projects team meetings where environment aspects of the project relating to site density

Summary of Decision

I have made a decision on your request. The record requested does not exist, so I have decided to refuse this request, having regard to the provisions of the following articles of the AIE Regulations:

- Articles 8(a)(iv)
Release of this information would be contrary to section 15 (a) of the FOI Act – the record does not exist.

With regard to Request 4:

4. Any agreements in draft or place relating to environmental aspects of the site (I understand this covers land access and wayleave agreements)

Summary of Decision

I have made a decision on your request. I have decided to refuse access to these records, having regard to the provisions of the following articles of the AIE Regulations:

- Articles 8(a)(iv)
Release of this information would be contrary to section 29 (1) (a) of the FOI Act
- And article 9 (2) (c)
Some of the requested information concerns material in the course of completion, or unfinished documents or data

With regard to Request 5:

5. Minutes of meetings held between the LDA and other state or semi state organisations at which environmental aspects of the project were discussed and

any associated documentation, presentations or other material presented at same meetings.

Summary of Decision

I have made a decision on your request. I am part-granting your request.

I identified minutes of a Virtual Meeting held between DLRCC Property Management and the LDA which are relevant to your request. These are attached to this letter.

There were a number of meetings between DLRCC Planning Department and the LDA. The Planning Act is clear that the details of these meetings are confidential until an application is lodged. Relevant legislation can be found at:

<http://www.irishstatutebook.ie/eli/2000/act/30/section/247/enacted/en/html>

I wish to inform you that I am satisfied that the release of the records would reveal information provided in confidence and particularly noting that these meetings were held under Section 247 of the Planning Act, and should be treated as confidential. Therefore, I am refusing a number of records with due reference to Article 8(a)(iv) of the Access to Information on the Environment Regulations 2007 and in accordance with Section 247 of the Planning Act.

Public interest test

In accordance with Article 10(3) and 10(4) I have weighed the public interest served by disclosure against the interest served by refusal of **each of your individual seven requests**.

Regulation details that the public authority shall consider **each request on an individual basis** and weigh the public interest served by disclosure against the interest served by refusal. I have considered each of the above requests individually and the public interest issues which arise and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the Access to Environmental Information regulation
- That there is more than just a transitory interest by the public in this information being released.

In considering each of the above requests individually, the public interest factors which favour withholding the records of your request, I have taken account of the following:

- The best course of action which is in the public interest with regard to these records.
- That the LDA can conduct its business with external stakeholders in a confidential manner.
- That there is no overriding public interest that would outweigh the right of a public body to make significant decision that the body proposes.

I have determined that the public interest would not be served by disclosing the information you request as detailed above.

Emissions

In reaching the above decision and where information has been refused under Article 8 and/or 9(1)(c), I have in accordance with Article 10(1), examined whether your request relates to information on emissions into the environment and have determined that it does not.

Right of review

Under Article 11 of the AIE Regulations you have a right to request an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of the staff of the Land Development Agency, unconnected with the original decision, of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision.

If you wish to request an internal review, you can do so by writing to Monika Szyszko (foi@lda.ie), referring to this decision. This request must be made within one month of the date of receipt of this decision. The decision of an internal review will be communicated to you within one month of receipt of your request for an internal review.

Should you wish to discuss or received further assistance with any part of the above, please contact me at foi@lda.ie.

Yours sincerely,



Monika Szyszko,
Compliance Officer.

Appendix 1: Access to Environmental Information Regulation Articles mentioned above

Grounds that, subject to article 10, mandate a refusal

8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information—

(a) would adversely affect—

- (i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law,
- (ii) the interests of any person who, voluntarily and without being under, or capable of being put under, a legal obligation to do so, supplied the information requested, unless that person has consented to the release of that information,
- (iii) the protection of the environment to which that information relates, or
- (iv) without prejudice to paragraph (b), the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts);

or

(b) to the extent that it would involve the disclosure of discussions at one or more meetings of the Government, is prohibited by Article 28 of the Constitution.

Discretionary grounds for refusal of information

9. (1) A public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect—

- (a) international relations, national defence or public security,
- (b) the course of justice (including criminal inquiries and disciplinary inquiries),
- (c) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest, or
- (d) intellectual property rights.

(2) A public authority may refuse to make environmental information available where the request—

- (a) is manifestly unreasonable having regard to the volume or range of information sought,
 - (b) remains formulated in too general a manner, taking into account article 7(8),
 - (c) concerns material in the course of completion, or unfinished documents or data,
- or
- (d) concerns internal communications of public authorities, taking into account the public interest served by the disclosure.

Virtual Meeting between DLRCC Property Management and the LDA

Date: 23/01/21

Time: 14.30pm

Meeting Attendees: Barry Chambers LDA, Dearbhla Lawson LDA, Paul Kennedy SEO Properties & Estates, Alan Kennedy DLRCC Property, Finbarr Murphy DLRCC Property, Keith Gavin DLRCC Property.

Introductions and Project Overview:

BC: Advised the first phase of public consultation received a very strong response following direct engagement with over 5,000 residents and groups. LDA have taken the results of those engagements and have fed them into our planning, giving us an emerging concept of what can be achieved at this incredible site.

DL: This latest phase of consultation is based on early-stage proposals, and will feature a series of Covid-19 appropriate initiatives, where early ideas, plans, sketches and concepts will be presented and explored, showing how the proposals are shaping up and the potential of the development.

BC: A Virtual Project Consultation Room will be launched later today on the project website, dundrumcentral.ie and this will allow people to review the potential project from the comfort and safety of their homes or on their mobile devices. Having viewed the Virtual Consultation Room, consultees will be encouraged to give their views.

BC: These early-stage Concept proposals for Dundrum Central show the emerging proposals to develop a sustainable and distinctive community for this landmark site. These proposals include sensitive adaptive re-use of the heritage structures, with the new neighbourhood to be designed to complement and integrate within the mature landscape and parkland setting. Creating a community is a key aim of the concept designs, to be achieved through the design of the neighbourhood, the range of community and recreational facilities and sensitive re-imagining of key heritage assets on the site.

DL: There are also community spaces proposed, including multifunctional open space and public realm, with well-designed walking and cycling routes. Access to and integration with the surrounding community in the Dundrum and Windy Arbour areas is a key feature of the emerging proposals.

DL: In addition to the Virtual Consultation Room, there will be two Project Webinars hosted by the Project Design Team. Entry to the Consultation room and registration to attend the webinars is via www.dundrumcentral.ie. You can also register for the webinars by emailing community@dundrumcentral.ie

The webinars will take place on

January 27th from 7pm to 8pm

February 2nd from 5pm to 6pm

BC: The feedback we receive at this consultation phase will help to shape the design of the project and the development of a project masterplan. This masterplan will be shared with the community, when complete, at a consultation later in the Spring. Thank you for your support to date. We will continue to keep you up to date with the process and with the progress we are making. If you have any questions please feel free to contact me directly.

PK: Thank you for your presentation and we look forward to the feedback in relation to the Phase 2 of Public Engagement in relation to the proposed development of the Central Mental Hospital site in Dundrum. I acknowledge the engagement that has taken place with Dún Laoghaire-Rathdown County Council on the project to date and we look forward to engaging with you on this project as it moves through the various phases.