

28<sup>th</sup> September 2023

,

**Re: Freedom of Information Request 202324 – Request Part-Granted.**

Dear ,

I refer to your request dated the 04<sup>th</sup> of August 2023 and extended by us on the 31<sup>st</sup> of August 2023, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

- *Copies of all correspondence between LDA officials of level principal officer and higher (or the LDA equivalent) and officials within CIE regarding a 5.6 hectare land parcel comprising railway sidings at Sheriff Street Upper in Dublin, dated between July 1 2022 and December 31 2022*
- *Any internal memoranda or correspondence between management officials within the LDA regarding the same site between January 1 2023 and February 28 2023*

I wish to inform you that I have decided to part-grant your request on the 28<sup>th</sup> of September 2023.

The purpose of this letter is to explain that decision.

**1. Findings, particulars and reasons for decisions.**

Details of your request were provided to the relevant sections within the LDA to identify records held which were within the scope of your request.

For clarity and for your convenience I am dividing your request into **Part A** and **Part B**.

**Part A - Refuse**

Under part A of your request, you sought “Copies of all correspondence between LDA officials of level principal officer and higher (or the LDA equivalent) and officials within CIE regarding a 5.6 hectare land parcel comprising railway sidings at Sheriff Street Upper in Dublin, dated between July 1 2022 and December 31 2022”.

In this regard, I am to advise you that no records have been identified as sought by you.

I am refusing your request in accordance with Section 15(1)(a) of the Freedom of Information Act 2014, which states:



## **Refusal on administrative grounds to grant FOI requests**

*15(1) A head to whom an FOI request is made may refuse to grant the request where-*  
*(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,*

There are no records within the scope of your request held by the LDA.

## **Part B – Part Grant**

Under part B of your request, you sought “Any internal memoranda or correspondence between management officials within the LDA regarding the same site between January 1 2023 and February 28 2023”.

In this regard, I am to advise you that I have decided to part-grant this part of your request.

The FOI Act 2014 provides that in certain circumstances, a public body may refuse the release of certain records or part thereof. As such a number of redactions have been applied to the attached records under Sections 29 and 37 of the Freedom of Information Act 2014. These redactions consist of feedback from the Department of Transport in relation to two sites. These redactions are detailed in the Schedule of Records in **Appendix 1**.

Section 29 of the Freedom of Information Act 2014 refers as follows:

### ***Deliberations of FOI bodies***

*29(1) A head may refuse to grant an FOI request-*

- (a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and*  
*(b) the granting of the request would, in the opinion of the head, be contrary to the public interest,*  
*and, without prejudice to the generality of paragraph (b), the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.*

### ***Public Interest Test***

As per section 29 of the FOI Act, I have considered the public interest issues which arise in this case 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 FOI Act.
- Ensuring fairness of procedures and that decisions are fair and equitable and evenly applied.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to make its decisions without undue intrusion into the process.
- The public interest is not best served by releasing these records.
- Premature release could negatively affect future decision-making processes.
- Premature release could contaminate the decision-making process.

- That the record an email that is headed as confidential.

A public interest test was carried out when considering the release of the records but, having balanced the factors both for and against the release, I have, on balance, decided that the public interest in preserving the integrity of the negotiation process would be better served by withholding the relevant parts of these records.

### **Section 37-Personal Information**

A number of redactions have also been applied to the attached records under Section 37 of the Act. These redactions are detailed in the Schedule of Records in **Appendix 1**.

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Additionally, the LDA as a matter of course redacts the mobile phone numbers and email addresses of employees as these are part of maintaining the body's IT security environment.

Section 2 of the FOI Act defines personal information as follows:

#### **2. (1) In this Act**

*"personal information" means information about an identifiable individual that, either*

*(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*

*(b) is held by an FOI body on the understanding that it would be treated by that body as confidential, and, without prejudice to the generality of the foregoing, includes*

*(iii) information relating to the employment or employment history of the individual,*

Section 37(1) provides that a public body shall refuse to grant a request if access to the records concerned involves the disclosure of personal information. I am satisfied that parts of certain records relate to third parties, and I am satisfied that the records consist of personal information.

*37. (1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

As section 37 requires a public interest test be carried out. I have considered the public interest issues which arise in this case 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 FOI.
- That there is more than just a transitory interest by the public in this information.
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The public interest is not best served by releasing these records.
- That the Organisation can conduct its business in a confidential manner.
- That there is a reasonable and implied expectation that sensitive personal information will remain confidential.
- That there is no overriding public interest that outweighs the individual's right to privacy.

Having balanced the public interest factors both for and against the release, I have decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

## 2. Right of Appeal

In the event that you are unhappy with this decision you may appeal against it. If you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Land Development Agency, 2<sup>nd</sup> Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to [foi@lda.ie](mailto:foi@lda.ie).

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque,

and made payable to Head of Finance, Land Development Agency, 2<sup>nd</sup> Floor, Ashford House, Tara Street, Dublin 2.

Payment can be made by electronic means, using the following details:

**The Land Development Agency DAC**  
**IE61AIBK93101264101092**  
**BIC: AIBKIE2D**

You must ensure that your FOI reference number (**FOI 202324**) is included in the payment details.

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Please be advised that the Land Development Agency replies under Freedom of Information may be released into the public domain via our website at [lda.ie](http://lda.ie).

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.



Should you have any questions or concerns regarding the above, please contact me by telephone on (01) 9103400.

Yours sincerely,



Monika Szyszko,  
Senior Compliance Manager



## Appendix 1: Schedule of Records

Requester name:		Request Re:202324			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
1	Email forwarded from Head of Strategic Planning of LDA to CEO of LDA Fw_ DOT comments on draft report	Feedback from Department on two sites  LDA personnel email addresses and phone nos. Name of PO from Department of Transport.	Section 29  Section 37	Deliberations of FOI Bodies  Personal Information	Part grant
		<b>Total number of pages</b>			1
		<b>Total number of pages for full release</b>			0
		<b>Total number of pages for partial release</b>			1
		<b>Total number of pages being withheld</b>			0

