

13th September 2023

Re: Freedom of Information Request 202332 – Request Part Granted.

Dear ,

I refer to your request dated 15th of August 2023 and accepted by this office on the 31st 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).

– *All correspondence sent to the LDA's email address privatelandacquisitions@lda.ie from the period 24 July 2023 to 27 July 2023 (scope updated and accepted).*

– *All correspondence received by John Coleman from LDA staff about the Private Land Acquisition Initiative from the period 01 May 2023 to current date.*

– *All correspondence between John Coleman and the Department of Housing about the Private Land Acquisition Initiative from the period 01 May 2023 to current date.*

I wish to inform you that I have decided to part-grant your request on the 13th of September 2023.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions.

Upon receipt of your request was forwarded to the relevant section within the LDA who conducted a search for records relating to your request. A number of records have been identified and these are attached herewith. In accordance with the provisions of the FOI Act a number of redactions have been made to these records. These redactions are detailed in the Schedule of Records.

For ease of reference, I have divided your request into parts A, B and C.

Part A – Request Refused

In respect of part A of your request where you requested *All correspondence sent to the LDA's email address privatelandacquisitions@lda.ie from the period 24 July 2023 to 27 July 2023 (scope updated and accepted).* wish to inform you that I am refusing this part of your request. I am refusing these records in accordance with section 36(1)(b), 36(1)(c) and 37(1) of the FOI Act.

The FOI Act 2014 also provides that in certain circumstances, a public body may refuse the release of certain records or part thereof. These records and reasons for their refusal are detailed in the Schedule of Records in **Appendix 1**.

These records contain information which is of a commercially sensitive nature. In accordance with the provisions of Section 36 of the Act, I am refusing the release of these records. Section 36 states that:

Commercially Sensitive Information

36. (1) *Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains*

(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or

(c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

I am satisfied that these records contain information that could result in the material financial loss or gain to the persons to whom the information relates as it includes the number of acres held by individuals, development potential and access to services at these sites.

In addition, I am satisfied that the release of certain commercial information contained within these records would prejudice the competitive position of the LDA and any current or future negotiations by the LDA.

I am cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. If the record was made available to you it is reasonable to expect that it would prejudice the ability of the LDA to compete in negotiations in the future as competitors would be aware of its position.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the harm and public interest relevant to this request.

I have considered the public interest issues which arise in your request, 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.
- That there is more than just a transitory interest by the public in this information being released.
- The right to commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part A of your request, I have taken account of the following:



- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That the LDA can conduct its commercial activities with external stakeholders in a confidential manner.
- That there is no overriding public interest that outweighs the individual's right to privacy in this case commercial activities.

Having balanced the public interest factors both for and against the release, I 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.

I am also refusing the release of these records under the provisions of section 37.

Section 37-Personal Information

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, including personal financial 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 the body's IT security management.

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 would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties, including representations on behalf of family members and work email accounts, and I am satisfied that the records consist of personal information. This information includes names, contact details and personal financial information in terms of property ownership and size of said property.

Section 37(1) of the FOI Act states as follows:

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 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.

Part B – Request Part Granted

In respect of part B of your request where you requested *All correspondence received by John Coleman from LDA staff about the Private Land Acquisition Initiative from the period 01 May 2023 to current date* I wish to inform you that I am part-granting this part of your request.

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.

The records requested are attached to this decision letter for your information.

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 36 (1) and Section 37 (1) of the Freedom of Information Act, 2014. These redactions are detailed in the Schedule of Records in **Appendix 1**.

Section 36 states that:

Commercially Sensitive Information

36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains

(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person



to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or
(c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

I am satisfied that the release of certain sensitive information contained within these records would prejudice the competitive position of the LDA. This therefore is commercially sensitive in accordance with the provisions of Section 36 of the Act

I am cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. If the records were made available to you it is reasonable to expect that it would prejudice the ability of the LDA to compete negotiations in the future as competitors would be aware of its position.

I am of the view that the release of this sensitive records could reasonably be expected to result in a material financial loss by the LDA as it could prejudice its competitive position in the conduct of its business.

Furthermore, releasing this information which could prejudice any current or future negotiations by the LDA.

I am refusing the release of full or parts of the records under the provisions of section 36(1)(b) & 36(1)(c) as they contain commercially sensitive information.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the harm and public interest relevant to this request.

I have considered the public interest issues which arise in your request, 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.
- That there is more than just a transitory interest by the public in this information being released.
- The right to commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part one of your request, I have taken account of the following:

- Allowing a public body to hold commercial information without undue access by members of the public.
- The public interest is not best served by releasing these records.
- That the LDA can conduct its commercial activities with external stakeholders in a confidential manner.
- The security of the LDA's IT systems.
- That there is no overriding public interest that outweighs the individual's right to privacy in this case commercial activities.



Having balanced the public interest factors both for and against the release, I 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.

Section 37-Personal Information

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 the body's IT security management.

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 would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties employed outside of the Land Development Agency 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 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.

Part C – Request Refused

In respect of part C of your request where you sought *All correspondence between John Coleman and the Department of Housing about the Private Land Acquisition Initiative from the period 01 May 2023 to current date* details of your request were provided to the relevant section within the LDA to identify records held which were within the scope of your request.

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

Therefore, I am refusing this part of 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.

- I5(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,

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, 2nd Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to 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, 2nd 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 202332**) 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.

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,
Compliance Manager

Appendix 1: Schedule of Records

Requester name:		Request Re:202332			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
Part A					
1 page	FW_	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (2)	FW_ 2_{size} 2km from {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (3)	FW_ Automatic reply_ Private Land {location}	N/A	37	Personal Information	Refuse
2 pages (4-5)	FW_ {location} Lands	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (6-8)	Attachment to above Planning Permission extension notification	N/A	36	Commercially Sensitive Information	Refuse
5 pages (9-13)	Attachment to above Acknowledgement of planning application	N/A	36	Commercially Sensitive Information	Refuse
1 page (14)	Attachment to above Photograph of area and nearby schools	N/A	36	Commercially Sensitive Information	Refuse
2 pages (15-16)	FW_ {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (17)	FW_ Expression of Interest- Purchase of Privately Owned Site for the Development of Affordable Housing	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (18)	Attachment to above map showing site	N/A	36	Commercially Sensitive Information	Refuse
1 page (19)	FW_ expression of interest regarding an offer for sale of land in {location}	N/A	36	Commercially Sensitive Information	Refuse
			37		



				Personal Information	
2 pages (20-21)	FW_ {location}Expansion Area	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (22)	FW_ Folio {Folio number}{location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (23-24)	FW_ {location}Site for referral to LDA	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (25)	Map	N/A	36	Commercially Sensitive Information	Refuse
1 page (26)	Photograph of frontage	N/A	36	Commercially Sensitive Information	Refuse
2 pages (27 - 28)	FW_ Land for housing - {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (29)	Map attached to the above email	N/A	36	Commercially Sensitive Information	Refuse
1 page (30)	FW_ Land sales in {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (31 - 32)	FW_ Query about Selling my land	N/A	37	Personal Information	Refuse
1 page (33)	FW_ Request For Expressions of Interest_ from Landowners for the sale of Residential Land_Development Sites to the Land Development Agency	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (34)	Overhead photo 1	N/A	36	Commercially Sensitive Information	Refuse
1 page (35)	Overhead photo 2	N/A	36	Commercially Sensitive Information	Refuse
1 page (36)	Overhead photo 3	N/A	36	Commercially Sensitive Information	Refuse



1 page (37)	Overhead photo 4	N/A	36	Commercially Sensitive Information	Refuse
1 page (38)	Elevation	N/A	36	Commercially Sensitive Information	Refuse
1 page (39)	Floor plan	N/A	36	Commercially Sensitive Information	Refuse
4 pages (40 – 43)	Registry of ownership	N/A	36	Commercially Sensitive Information	Refuse
1 page (44)	Notification of grant of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
1 page (45)	Extension of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
1 page (46)	Grant of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
6 pages (47-52)	Application form	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (53 – 55)	FW_ Sites	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (56)	Fwd_ 2_{size} 2km from {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (57)	Land in {location}	N/A	37	Personal Information	Refuse
1 page (58)	Private land acquisition	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
1 page (59)	Private Land Acquisitions - Expression of Interest	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (60 – 62)	RE_ Automatic reply_	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	



6 pages (63 – 68)	RE_ {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (69 – 70)	Re_ Development Site with planning for sale for social housing	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (71 – 73)	RE_ Development Sites for sale	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (74 – 75)	Re_ Expression of interest	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (76 - 78)	Re_ {location}Expansion Area	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (79 – 80)	Re_ Land in {location} for sale	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (81 – 82)	Re_ Land in {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages (83 – 85)	Re_ LDA Land Acquisitions	N/A	37	Personal Information	Refuse
2 pages (86 – 87)	RE_ Private Land Acquisition Initiative	N/A	37	Personal Information	Refuse
2 pages (88- 89)	Re_ Property with planning	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages (90 - 91) (Duplicate)	Re_ Query about Selling my land	N/A	37	Personal Information	Refuse
1 page (Duplicate) (92)	Re_ Request For Expressions of Interest_ from Landowners for the sale of Residential Land_Development Sites	N/A	36	Commercially Sensitive Information	Refuse
			37		



	to the Land Development Agency			Personal Information	
1 page (Duplicate) (93)	Overhead photo 1	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (94)	Overhead photo 2	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (95)	Overhead photo 3	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (96)	Overhead photo 4	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (97)	Elevation	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (98)	Floor plan	N/A	36	Commercially Sensitive Information	Refuse
4 pages (Duplicate) (99-102)	Registry of ownership	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (103)	Notification of grant of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (104)	Extension of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
1 page (Duplicate) (105)	Grant of planning permission provided as appendix	N/A	36	Commercially Sensitive Information	Refuse
6 pages (Duplicate) (106-111)	Application form	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse
2 pages (112-113)	RE_ Scheme of 196 apartments in {location}	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse
2 pages (114-115)	RE_ Site the {location} on the {location}	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse
1 page (116)	Request For Expressions of Interest from Land owners for the sale of Residential Land_Development Sites to the Land Development Agency	N/A	37	Personal Information	Refuse



1 page (117)	Zoned Lands at {location} Co {location}	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
8 pages (118 – 125)	Sketch Proposal for Lands at {location}	N/A	36	Commercially Sensitive Information	Refuse
Part B					
3 pages (126-128)	RE_ Staging website - EOI Land acquisition	LDA employees – email and phone number in signature Non- LDA employees name, phone number, email address in text of emails as well as in signature	37	Personal Information	Part Grant
2 pages (129-130)	RE_ Media_ PR_ {redacted} & Private Land	Small sections of bullet points external bodies contacted, LDA activity outside of the scope of request LDA employee – email and phone number in signature Name external individual	36 37	Commercially sensitive information Personal Information	Part Grant
2 pages (131-132)	EOI Land Acquisition - Draft Press Release 12.7.23	NA	NA	NA	grant
4 pages (133-136)	EOI Private Land Acquisitions - DRAFT 12.7.23	NA	NA	NA	Grant
5 pages (137-141)	Private Land Acquisition EOI Information Form draft	NA	NA	NA	Grant
3 pages (142-144)	Private Land Acquisition Application Submission Checklist Form draft	NA	NA	NA	Grant
1 page (145)	Land Acquisition -EOI	LDA employee – email and phone number in signature	37	Personal Information	Part Grant
1 page (146)	Excel sheet Attachment – Land acquisition - enquiries_26July2023	Whole document	37	Personal Information	Refuse
1 page (147)	EOI Updates-28.7.23	1 paragraph & 1 bullet point and section of bullet point (external bodies contacted) Names and initials of employees of outside bodies	36 37	Commercially sensitive information Personal Information	Part Grant



2 pages (148-149)	FW_ HA Land Acquisitions	1 paragraph and portion of proceeding section – Price of Housing Agency’s acquisitions Housing Agency Officials names and contact details	36 37	Commercially sensitive information Personal Information	Refuse
4 pages (150-153)	Excel Attachment - 23- 07-05 Land Acq Extract	Whole document in depth information on value and location of HA sites not all finalised	36	Commercially sensitive information	Refuse
Part C					
0 pages	NA – No records	NA – No records	15	Administrative Grounds	Refuse
					Total number of pages
					153
					Total number of pages for full release
					14
					Total number of pages for partial release
					9
					Total number of pages being withheld
					130

