

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 12 September 2012

**Public Authority:** North London Waste Authority  
**Address:** Lee Valley Technopark, Unit 169  
Ashley Road  
Tottenham  
London  
N17 9LN

#### **Decision (including any steps ordered)**

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1. The complainant has requested information connected to the re-development of the Brent Cross area in North London.
2. The Commissioner's decision is that North London Waste Authority has not complied with the Environmental Information Regulations 2004 (EIR) as regards some of the requested information.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation -
  - Release the withheld information in documents 2, 19, 47 and 48.
4. The public authority must take these steps within 35 calendar days of the date of this Decision Notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act 2000 (FOIA) and may be dealt with as a contempt of court.

#### **Background**

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5. The North London Waste Authority (NLWA) is the statutory waste disposal authority for seven north London boroughs and it is a public authority for the purposes of the EIR.

6. The NLWA operates a waste transfer facility out of the Hendon Transfer Station which is in the London Borough of Barnet. Waste is transported out of London by rail via the said station.
7. In 2008 developers submitted an outline planning application to the London Borough of Barnet for the re-development of the Brent Cross Shopping Centre<sup>1</sup>. Part of the development proposals requires the re-location of the Hendon Transfer Station.

## Request and response

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8. On 6 January 2011, the complainant wrote to the NLWA making a multi-part request. In the part of the request that is the subject of this decision notice he requested:

"FOIA1 - Under the Freedom of Information Act 2000 that you provide me with copies of all written correspondence and/or related information between LB Barnet and the NLWA relating to the NLWA PFI scheme concerning the existing Hendon Waste Transfer Station and its future land use or any proposed or potential land-sale and any cross-referenced to any correspondences between the BXC [Brent Cross Cricklewood] Partners or LB Barnet. All such information to be backdated to November 2009 to today (6<sup>th</sup> Jan 2011) and to be provided to me within the required 20-day statutory period"

9. The NLWA responded on 4 and 12 April 2011. It identified information within 82 documents that fell within the ambit of the complainant's request for information. Of these, it withheld twelve on the grounds of legal privilege (section 42 FOIA), one on the grounds of commercial interest (section 43 FOIA) and partly withheld seven on a combination of the previously mentioned grounds.
10. Following an internal review conducted, in accordance with the NLWA's review process, by London Borough of Camden, it wrote to the complainant on 28 April 2011. It stated that it considered "that all information held that is releasable has been released".

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[http://www.barnet.gov.uk/info/930329/brent\\_cross\\_cricklewood\\_development/907/brent\\_cross\\_cricklewood\\_development](http://www.barnet.gov.uk/info/930329/brent_cross_cricklewood_development/907/brent_cross_cricklewood_development)

11. On 20 May 2011, the complainant contacted the Information Commissioner to complain about the NLWA's handling of his request for information.
12. The Commissioner decided<sup>2</sup> that the NLWA had not dealt with the request for information in accordance with the EIR in that it did not apply the correct legislation (the EIR) when handling the request. He therefore required the NLWA to either provide the information requested in compliance with regulation 5(1) or issue a valid refusal notice that complies with regulation 14 of the EIR.
13. In a letter, dated 11 November 2011, the NLWA informed the complainant that it would continue to withhold the information albeit by reference to the EIR rather than the FOIA. It relied on the following regulations (in the EIR) to do so -
  - Regulation 12(5)(e) – The confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
  - Regulation 12(4)(d) – the request relates to material which is still in the course of completion, to unfinished documents, or to incomplete data, and;
  - Regulation 12(4)(e) - the request involves the disclosure of internal communications;
  - Regulation 12(5)(d) - the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law.
14. The NLWA then explained that it had next considered the public interest test. It found that the test favoured the maintenance of the exceptions, primarily because releasing the information would hamper NLWA's ability to secure best value in developing the Barnet site.
15. Following an internal review (as requested by the complainant) the NLWA wrote to the complainant on 14 December 2011. It stated that it upheld the original decision and added the following regarding its consideration of the public interest test -
  - The public interest in setting aside the exceptions would be:

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<sup>2</sup> FS50392590

- To promote accountability and transparency of the decision making process of the NLWA.
- The public interest in maintaining the exceptions specified would be:
  - To release information could adversely impact on any commercial negotiations regarding the development of the replacement Hendon facility, and
  - By so doing potentially adversely impact on the ability of the NLWA to secure best value.

## Scope of the case

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16. On 15 December 2011, the complainant contacted the Commissioner to complain about the NLWA's handling of his request for information.
17. The NLWA has provided the Commissioner with a schedule of the documents containing the withheld information and a copy of these documents. The relevant documents, a description of the withheld information therein and the exceptions relied on for withholding are laid out in the annex to this decision notice. The Commissioner has viewed and considered all the withheld information.
18. On 14 March 2012, as part of his investigation, the Commissioner wrote to the NLWA regarding the way it had handled the complainant's request for information. He drew attention to the fact that the NLWA considered a large part of the withheld information to be legal advice but it had not specifically cited regulation 12(5)(b). On 15 March 2012 the NLWA asked the Commissioner to consider the applicability of the said regulation. The Commissioner agreed to this request.
19. The complainant later stated to the Commissioner (on or around 29 March 2012) that he thought the NLWA had not completely informed him of all the requested information it held. The Commissioner pursued this issue with the NLWA who provided its substantive response by way of a letter dated 18 May 2012.
20. In a letter dated 19 June 2012 the Commissioner asked the NLWA to confirm on what dates the final versions of the withheld information in documents 36 and 50 were completed. The NLWA, in a letter dated 29 June 2012, explained that the completion date for both was 28 October 2010. The NLWA provided the Commissioner with a web link to the final versions of those documents.

## Reasons for decision

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### Information held

21. The Commissioner first decided whether the NLWA had informed the complainant of the entirety of the requested information it held.
22. The normal standard of proof to apply in determining whether a public authority does hold any requested information is the civil standard of "on the balance of probabilities".
23. In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority as well as considering, where appropriate, any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any evidence that further information is held, including whether it is inherently unlikely that the information so far located represents the total information held.
24. As stated above the NLWA supplied the Commissioner with a reply to his queries that sought to establish whether it held requested information it had not acknowledged to the Commissioner or the complainant. The reply it gave appeared to be suitably comprehensive and detailed. It adequately explained where the information was likely stored and the various searches undertaken. Additionally, neither the Commissioner nor the complainant has been able to identify evidence which indicates that the NLWA has not fully "disclosed" all information with the scope of the complainant's request. Accordingly, on the balance of probabilities, the Commissioner finds that the NLWA has informed the complainant of all the information that falls within the scope of his request.

### Withheld information

25. Regulation 5(1) of the EIR provides that "a public authority that holds environmental information shall make it available on request". A public authority may only refuse to disclose information where an exception applies.
26. If an exception applies, the information is still to be disclosed unless "in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information". This is assessed having regard to the overriding presumption in favour of disclosure. The result is that the threshold to justify non-disclosure is a high one.

Exception 12(5)(b)

27. The NLWA relies on regulation 12(5)(b) to withhold information in documents 59 and 71 to 80.
28. The exception provided by regulation 12(5)(b) attaches to information concerned with, amongst other things, the course of justice. The meaning of "the course of justice" is broad and includes information that attracts legal professional privilege<sup>3</sup>.
29. Legal professional privilege affixes to communications between a lawyer and their client that contain requests for legal advice and the legal advice itself. This also extends to "in-house" legal advice.
30. The Commissioner has viewed the information that the NLWA says has legal professional privilege and thus engages regulation 12(5)(b). The information consists of advice on legal matters from in-house lawyers to colleagues within the NLWA which fits the definition of legal professional privilege. The Commissioner therefore finds that it engages the exception.

Public Interest Test

31. The Information Tribunal, in *James Kessler QC v Information Commissioner (EA/2007/0043)*<sup>4</sup>, laid out with clarity (at paragraph 60) the following public interest factors in favour of maintaining the exemption at section 42 FOIA (regulation 12(5)(b) sister provision, as regards legal professional privilege, in FOIA):

"a. There is a strong public interest in maintaining legal professional privilege. That is, to an individual or body seeking access to legal advice being able to communicate freely with legal advisors in confidence and being able to receive advice in confidence.

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[http://www.informationtribunal.gov.uk/DBFiles/Decision/i314/Creekside\\_Forum\\_v\\_IC\\_&\\_DC\\_MS\\_\(0065\)\\_Decision\\_28-05-09\\_\(w2\).pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i314/Creekside_Forum_v_IC_&_DC_MS_(0065)_Decision_28-05-09_(w2).pdf)

<sup>4</sup> [http://foiwiki.com/foiwiki/info\\_tribunal/DBFiles/Decision/i92/Kessler\\_Decision.pdf](http://foiwiki.com/foiwiki/info_tribunal/DBFiles/Decision/i92/Kessler_Decision.pdf)

- b. Were legal advice disclosed routinely, there would be disincentive to such advice being sought and/or as a disincentive to seeking advice based on full and frank instructions.
- c. If legal advice were routinely disclosed, caveats, qualifications or professional expressions of opinion might be given in advice which would therefore prevent free and frank correspondence between a public authority and its legal advisers.
- d. Legal advice in relation to policy matters should be obtained without the risk of that advice being prematurely disclosed.
- e. It is important that legal advice includes a full assessment of all aspects of an issue, which may include arguments both for and against a conclusion; publication of this information may undermine public confidence in decision making and without comprehensive advice the quality of decision making would be reduced because it would not be fully informed and balanced. Advice would be diminished if there is a lack of confidence that it had been provided without fear that it might be disclosed."
32. Public interest factors that weigh in favour of releasing the information are:
- There is a presumption in favour of disclosure under EIR.
  - It would foster transparency, accountability and public understanding of the NWLA's actions as regards the Barnet site.
  - A significant amount of people are affected by the NWLA's action.
  - To promote accountability and transparency of the decision making process of the NLWA.
33. There is always a general public interest in the disclosure of environmental information. The EIR implements EU Directive 2003/4/EC on public access to environmental information. Recital 1 of the preamble to the Directive states this public interest clearly:
- "Increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually, to a better environment."
34. The Commissioner therefore recognises that there is a general public interest in the disclosure of environmental information because it

supports the right of everyone to live in an adequate environment and ultimately contributes to a better environment. This is a general public interest argument for disclosure and it does not have to relate to a specific exception. On the other hand, public interest arguments in favour of the exception have to relate specifically to what that exception is protecting.

35. Having regard to the withheld information that engages regulation 12 (5)(b) the Commissioner's view is that by a large margin the public interest test favours the maintenance of the exception.
36. Differently constituted Information Tribunals, with one exception, have said that the principle of legal professional privilege diminishes with age. The Commissioner accepts this principle on the basis that if advice has been recently obtained, it is likely to be used in a variety of decision-making processes (i.e. allowing the client to determine a course of action/issue court proceedings/raise challenges through other channels, e.g. ombudsman). The Commissioner recognises that these processes would be likely to be affected by disclosure.
37. However, the older the advice, the more likely it is to have served its purpose and the less likely it is to be used as part of a decision making process. This may mean that any harm to the privilege holder is slight and gives weight to arguments in favour of disclosure.
38. For these reasons, it is unlikely that the Commissioner would normally find in favour of disclosing recent legal advice but in any event the definition of 'recent' is dependent on specific circumstances; in some cases advice can remain relevant for a long time whilst in others it may be less relevant where legislation and case law have changed rapidly, for example. On the facts of this matter the request for the legal advice was made on 6 January 2011. The issues with which the advice is concerned were not settled and were very much on-going. These factors strongly bolster the maintenance of the exception; indeed at the time of issuance of this decision notice matters were still on-going.
39. The legal advice is, of a type and content, as one would expect to see on such a large project. On complicated matters, that impact on the public, public authorities need assurance that they will obtain the best legal advice. It is crucial, therefore, that the legal advice is not possibly corrupted by the fear or apprehension that it is to be picked over and criticised by its premature public dissemination. The Commissioner reaches this decision notwithstanding that there is a presumption of disclosure as stated in paragraph 26 above.
40. Ironically, some of those matters that appear to favour release are equally those benefited by upholding the exception. That is, given the



large amount of people affected by the project then those charged with making key decisions require legal advice that is asked for and given in confidence. Regulation 12(5)(b) is not an absolute bar and there will be occasions when the public interest is best served by the release of legally privileged information; this, however, is not such an occasion.

Exception 12(4)(e)

41. The NLWA relies on regulation 12(4)(e) to withhold information in documents 78, 37, 47 and 48.
42. Regulation 12(4)(e) of the EIR states that a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications. Regulation 12(4)(e) is a class based exception so it is not necessary to demonstrate prejudice or harm to any particular interest in order for its engagement.
43. Regulation 12(4)(e) is subject to a public interest test. The Commissioner must therefore also consider, where the exception is engaged, whether in all the circumstances of the case, the public interest in maintaining the exception outweighed the public interest in disclosing the disputed information.

Documents 47 and 48

44. The withheld information in documents 47 and 48 both consist of one sentence in internal NWLA emails between its employees that have otherwise been disclosed. The Commissioner does not doubt that this constitutes information within a communication internal to NWLA.
45. The public interest factors, as identified by the NWLA, for maintaining the exception are:
  - To release information could adversely impact on any commercial negotiations regarding the development of the replacement Hendon facility, and
  - By so doing potentially adversely impact on the ability of the NLWA to secure best value.
46. The Commissioner is not convinced that the factors identified by the NWLA are relevant. This is because the public interest arguments with regard to this exception should be focussed on the protection of internal deliberation and internal decision making processes.
47. The underlying rationale behind the exception, and thus a public interest factor for its maintenance, is that public authorities should have the necessary space to think in private.

48. The public interest factors for releasing the information include those considered above in relation to regulation 12(5)(b) and the Commissioner reminds himself of the presumption of disclosure.
49. The Commissioner notes that the redacted information comprises two sentences in two emails that have been otherwise released to the complainant. The Commissioner is of the unequivocal view that the withholding of the two sentences are no more necessary to preserve a safe thinking space than the rest of the parent emails that have been disclosed by the NLWA. Additionally the Commissioner cannot discern how the withheld sentences are any more commercially sensitive than some of the other information released from the parent emails. These factors so severely diminish the public interest factors for withholding the information that they do not outweigh the factors that favour release. Accordingly, the Commissioner finds that the public interest test favours releasing the withheld information in documents 47 and 48.

#### Document 78

50. Some of the information within document 78 is legally privileged information that the Commissioner has found to be exempt from disclosure as explained previously. However, document 78 includes two emails (not legally privileged) that the NLWA says are not for disclosure, as they constitute an internal communication.
51. One is an email between the NLWA's Director of Procurement and its Deputy Director of Procurement. The other is between the said Deputy Director of Procurement and its Planning Adviser and Waste Services Procurement Manager. Neither the Planning Adviser nor the Water Services Procurement Manager are employees of the NLWA but are, instead, contractors. However, the NLWA informed the Commissioner that both were secondees at the time of the communications. They had NLWA email addresses, office space at the NLWA and were treated as full members of the NLWA internal team.
52. The Information Tribunal has expressed reservations about adopting a 'standard test' in determining what amounts to an 'internal' communication (see paragraph 94, *DfT v ICO EA/2008/0052*). The Commissioner agrees that interpreting what type of information will be caught by the exception '... will depend on the context and facts in each situation' (paragraph 94). With this in mind, in judging what constitutes an 'internal' communication, the Commissioner will consider the substance and form of the relationship between parties, the particular circumstances of the case and the nature of the information in question. However, his default assumption, in line with the Directive's wording that "the grounds for refusal...shall be interpreted in a restrictive way",

will be that communications with third parties are not internal communications, unless there is evidence to the contrary.

53. The Commissioner has previously recognised that communications from staff seconded to a public authority to other staff within the public authority constitutes an internal communication for the purposes of EIR. The Commissioner is satisfied, having regard to the reasonableness of the NLWA's assertion and having viewed the information, that the communications contained in document 78 do constitute an internal communication. Accordingly, the exception is engaged and therefore the Commissioner must next consider the public interest test.
54. The public interest factors and considerations for the withheld information in document 78 are the same for the withheld information in documents 47 and 48.
55. The Commissioner notes that the information is concerned with matters pertaining to the re-development of the Brent Cross area and how the NWLA could, particularly in the drafting of agreements, achieve the best value and terms for it and thus vicariously for the public. Taking into account the withheld information and the NWLA's explanation regarding it, the Commissioner is satisfied that at the time that the information request was made and then refused the NLWA's ability to obtain the said values and terms would have been significantly impeded by releasing this information. He accepts that such a release would have compromised its ability to have a safe space to consider matters. Therefore on balance, and notwithstanding the presumption of disclosure, the Commissioner's view is that the public interest favours the maintenance of the exception in this instance.

#### Exception 12(4)(d)

56. The NLWA relies on regulation 12(4)(d) to withhold information in documents 36, 37 and 50.
57. Regulation 12(4)(d) states that information will be exempt from disclosure where it is material which is still in the course of completion, is an unfinished document or is incomplete data.
58. In line with the decision of the Information Tribunal in *Secretary of State for Transport v the Information Commissioner (EA/2008/0052)*, it is the view of the Commissioner that drafts are unfinished documents for the purposes of regulation 12(4)(d), and remain unfinished even upon completion of a final version.
59. The Commissioner has viewed the withheld information, which is as described. That is they are drafts of a written agreement between various parties regarding the development of Brent Cross which is

needed for the purposes of section 106 of the Town and Country Planning Act 1990<sup>5</sup>. The Commissioner is therefore satisfied that the exception is engaged in respect of the draft agreements and, as required by regulation 12(1)(b) of the EIR, has proceeded to consider the public interest associated with disclosure.

### Public Interest Test

60. The Commissioner considers there is a public interest in protecting a safe space for thinking and drafting inherent in regulation 12(4)(d). Applying the same principles as are accepted in relation to policy development, there is a public interest in enabling officials to get on with the task in hand without having to defend a preliminary position, or comment externally on what are only drafts and may not reflect fully formulated or agreed positions.
61. Upon publication of the final version of a document, the Commissioner's view is that generally, any prejudicial effect related to the sensitivity of the information included in a draft will be likely to reduce. This however, will differ from case to case - a judgment will have to be made based on the content of the information and the extent to which the draft contains information or reveals a position not covered in the final published version. How recent the publication of the final version of the document is and how recently the draft was produced will be other factors that will need to be taken into consideration – the more time that has passed, the more the public interest in maintaining the exception is likely to have diminished. The Commissioner considers that once a final version of a document is completed, the need for the protection of safe space in which to think and draft no longer exists.
62. However, there is also a public interest argument inherent in 12(4)(d) in favour of avoiding un-adopted positions being exposed to public scrutiny even after drafting is complete, so as to avoid public resources being expended in explaining or justifying draft documents or interim positions. Balanced against this of course, is the strong counter argument that there is a public interest in exposing draft positions so that the public is given a fully informed picture of the policy making process, promoting transparency and accountability in relation to the activities of public authorities. Generally, unless a public authority can provide specific reasons why a particular un-adopted position should not be exposed after publication of the final draft, the Commissioner gives more weight to the counter argument.

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<sup>5</sup> <http://www.legislation.gov.uk/ukpga/1990/8/section/106>

63. The Commissioner is mindful of the decision of the Information Tribunal in *Mersey Tunnels Users Association v Information Commissioner* (EA/2009/0001). Regarding the application of regulation 12(4)(d), the Tribunal remarked that –

“27. We consider that there may be little, if any, public interest in disclosing a draft which is an unfinished document, particularly if a finished or final version has been or is likely to be made public...Presenting work in a draft form before a final decision is made allows a public authority to consider matters at an early stage and to comment upon the final form such a report would take.

28. We do not consider that disclosure of these draft documents would provide the public with any greater understanding of the way in which the Council has dealt with the relevant issues.”

64. The final version of the document that the withheld information in documents 36, 37 and 50 links to had been completed by 28 October 2010. Although the NLWA only cited 12(4)(d) in November 2011, the Commissioner has to consider the application of any exceptions (even if belatedly applied) to the circumstances as they existed at the time of the request. At the time of the request – 6 Jan 2011 – the final version of the report had been completed less than three months previously. Having regard to this, the Commissioner’s view is that the public interest in enabling officials to get on with tasks in hand without having to defend a preliminary position, or comment externally on what were only drafts prevails. In this matter this factor is underlined by the fact that a large complex planning application, involving the NLWA, was still on-going at the time of the request. The Commissioner’s position is that therefore the public interest, as it was at the time the request for information was made, in maintaining the exception outweighs the public interest in releasing the information.

#### Documents 2 and 19

65. The information contained within documents 2 and 19 is as described in the annex attached to this decision notice.
66. The NLWA states that it is not required to disclose it by virtue of regulation 12(5)(d) when read together with Schedule 12A of the Local Government Act 1972 (“LGA 1972”).
67. Regulation 12(5)(d) of the EIR provides an exception where disclosure of the information in question would:

“adversely affect the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law”.

68. The Commissioner considers that “provided by law” will include confidentiality imposed on any person under the common law of confidence, contractual obligation, or statute.
69. Part VA of the Local Government Act 1972 (as amended) provides the public with a right of access - subject to certain exemptions - to meetings and documents of councils, their committees or subcommittees. Schedule 12A of the 1972 Act sets out discretionary exemptions to this right of access. However, it does not exempt information from a duty of disclosure as required or enabled by any other legislation, including the EIR. Accordingly the NLWA has not persuaded the Commissioner that the exception is engaged as regards the information in documents 2 and 19.

### **Conclusion**

70. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
- Disclose the withheld information in documents 2, 19, 47, and 48.

## Right of appeal

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71. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

72. If you wish to appeal against a Decision Notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

73. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Signed** .....

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## Annex

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The NLWA has provided the Commissioner with a schedule of the documents containing the withheld information and a copy of these documents. The relevant documents, the withheld information therein and the exceptions relied on for withholding are as follows –

<b>Document reference</b>	<b>Description of information</b>	<b>Reason for withholding information under EIR</b>
2	This is a letter relating to commercial arrangements regarding land including land allocated for a replacement waste facility at Hendon. As such its release would provide information regarding the Authority's proposals in relation to land which could hamper any commercial negotiations regarding the development of the replacement Hendon facility and accordingly potentially affect the Authority's ability to secure best value.	Exception 12(5)(d) read together with the Local Government Act 1972, Schedule 12A as the information relates to what would have been reported in part 2 committee/cabinet papers by either Barnet or NLWA
59	This document is an email chain which relates to legal advice to the Authority. In the Authority's opinion release of this document could hamper any commercial negotiations regarding the development of the replacement Hendon facility and accordingly potentially affect the Authority's ability to secure best value.	Legal advice is exempted from release as per exemption 12(5)(b).
71	This document is an email chain regarding legal advice associated	Legal advice exempted from



	with the negotiation of a Section 106 planning agreement for the Brent Cross Cricklewood development and advice received as a result.	release as per exemption 12(5)(b)
72	This document is an email chain regarding legal advice associated with the negotiation of a Section 106 planning agreement for the BXC development and legal advice received from as a result.	Legal advice is exempted from release as per exemption 12(5)(b).
73	This document is an email chain regarding legal advice concerning the negotiation of a Section 106 planning agreement for the Brent Cross Cricklewood development and legal advice received as a result.	Legal advice is exempted from release as per exemption 12(5)(b).
74	This document is an email from lawyers regarding draft heads of terms and discusses the Authority's obligations should it acquire part of the Brent Cross Cricklewood site.	Legal advice is exempted from release as per exemption 12(5)(b).
75	This document contains two emails regarding legal opinion in relation to the implementation of a Brent Cross Cricklewood Section 106 agreement and the obligations that would be likely to be placed upon the Authority in relation to the same.	Legal advice is exempted from release as per exemption 12(5)(b).
76	This document is an email from lawyers to the Authority regarding their advice in relation to the Section 106 agreement for the Brent Cross Cricklewood development.	Legal advice is exempted from release as per exemption 12(5)(b).
77	This document is a reminder about the first of the two emails contained in document 75.	Legal advice is exempted from release as per

	Accordingly, the Authority considers that the same reasons for withholding this information apply as outlined above.	exemption 12(5)(b).
78	This document is a series of email exchanges regarding the Authority's negotiating position regarding the Hendon replacement site and additionally includes reference to the Authority's on-going fuel use procurement. Release of this document could hamper any commercial negotiations regarding the development of the replacement Hendon facility and accordingly potentially affect the Authority's ability to secure best value	Some are legally privileged as correspondence with lawyers.  Remaining emails covered by exemption 12(4)(e) – Disclosure of Internal Communications.
79	This document contains emails regarding the Authority's concerns about the Section 106 Agreement for the Brent Cross Cricklewood development and how they might apply to the Authority should it secure a waste handling facility as part of the development.	Legal advice is exempted from release as per exemption 12(5)(b).
80	This document contains emails regarding the Authority's concerns about heads of terms; prior to final drafting of a Section 106 Agreement for the Brent Cross Cricklewood development and how they might apply to the Authority should it secure a waste handling facility as part of the development.	Legal advice is exempted from release as per exemption 12(5)(b).
19	This document lists comments from the Authority on proposed conditions and a Section 106 agreement for the Brent Cross	Such confidentiality provided by the Local Government Act 1972, Schedule 12A

	<p>Cricklewood development. The redacted information relates to the Authority's approach to the development of the waste handling facility in the light of other infrastructure associated with the development.</p>	<p>if the redacted information would have been reported in part 2 committee/cabinet papers exception 12 (5)(d)</p>
36	<p>The redacted section of this document contains the web link and password to a draft indicative program for the Section 106 agreement for the Brent Cross Cricklewood development.</p>	<p>The information is unfinished or in the course of completion, exemption 12(4)(d).</p>
37	<p>This document has redacted information as outlined in document 36 above and is accordingly judged that it should remain redacted as detailed above.</p>	<p>The information is unfinished or in the course of completion, exemption 12(4)(d).</p>
47	<p>This document is an internal NLWA email. Information about the timescales for the development and potential approach to the replacement site has been redacted along with a discussion about the relationship between the Authority and the developer.</p>	<p>Covered by 12(4)(e) – Disclosure of Internal Communications.</p>
48	<p>This is an internal NLWA email. The only redacted information in this document relates to comments upon the implications of delays to the development.</p>	<p>Covered by 12(4)(e) – Disclosure of Internal Communications.</p>
50	<p>This document has redacted information as outlined in document 36 above and is accordingly judged that it</p>	<p>See comments above at 36.</p>

should remain redacted as detailed above.

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|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19 | This document lists comments from the Authority on proposed conditions and a Section 106 agreement for the Brent Cross Cricklewood development. The redacted information relates to the Authority's approach to the development of the waste handling facility in the light of other infrastructure associated with the development. | Such confidentiality provided by the Local Government Act 1972, Schedule 12A if the redacted information would have been reported in part 2 committee/cabinet papers exception 12 (5)(d) |
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