

9 October 2024

INFORMATION REQUEST REFERENCE 24-026

Thank you for your information request, received on 13 September 2024. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000:

"I am writing to request information under the Freedom of Information Act 2000 regarding planning applications and biodiversity net gain (BNG) compliance.

Specifically, I am requesting the following information, with data broken down by calendar month since 12 February 2024:

1. *The total number of planning applications received by your authority that were subject to the mandatory statutory biodiversity net gain (BNG) requirements. (For the avoidance of doubt, please include both applications received that claimed BNG applied to their development AND applications that claimed BNG did not apply on their site (i.e. they claimed an exemption)).*
2. *The total number of planning applications that:*
 - a. *Claimed to be exempt from BNG.*
 - a. *Of this number, please provide the number that:*
 - i. *Claimed they were exempt from the BNG requirements under the householder exemption.*
 - i. *Claimed they were exempt from the BNG requirements under the de minimis exemption (developments impacting less than 25 square metres of habitat or 5 metres of linear habitat).*
 - i. *Claimed they were exempt from the BNG requirements under the self-build and custom-build exemptions.*
 - i. *Claimed they were exempt from the BNG requirements under different criteria.*
3. *For the answer to 2b(ii), 2b(iii) and 2b(iv) please set out.*
 - a. *How many of these claims of exemption were accepted by the validation team*
 - a. *Of this number, how many applications provided a complete statutory biodiversity metric sheet or Small Site Metric Sheet to demonstrate that they were genuinely entitled to an exemption.*

Given this information is not publicly available, please provide it in an accessible format. If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide

advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.”

I can confirm that the Legacy Corporation holds information which falls within the scope of your request, however, please be advised that, due to the subject of the request, we are responding under the Environmental Information Regulations 2004 (EIR). The information requested is already in the public domain, therefore we are refusing to provide the information in the format requested under EIR section 6(1)(b):

EIR regulation 6 - Form and format of information

6(1) Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless—

*(a) it is reasonable for it to make the information available in another form or format; or
(b) the information is already publicly available and easily accessible to the applicant in another form or format.*

As a planning authority we are not formally required to record these numbers, however, this information can be obtained by reviewing individual application forms, each of which are available on our Planning Register via the [Citizen Portal](#). As an example, page 7 of application 24/00063/FUL provides detail pertaining to the biodiversity net gain (BNG) requirements.

Please be advised that, in addition to the above, the Legacy Corporation are refusing your request as providing the information requested in the format requested has been identified as manifestly unreasonable under the EIR regulation 12(4)(b).

EIR regulation 12(4)(b) - manifestly unreasonable

12(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that-

(b) the request for information is manifestly unreasonable.

While there are no appropriate costs limit under the EIR, the exception at regulation 12(4)(b) of the EIR can apply if the cost or burden of dealing with a request is too great.

In assessing the cost or burden of dealing with a request, public authorities need to consider the proportionality of the costs involved and decide whether they are clearly or obviously unreasonable.

Your request asks for information relating to all applications received since 12 February 2024. Each of these applications would need to be individually reviewed, information gathered, reconciled and amalgamated. The process will take a considerable amount of time to complete.

The Legacy Corporation is not a large organisation and the time, and resources taken to provide the requested information would have a considerable impact on those resources.

The Legacy Corporation have considered the public interest in respect to their decision and appreciate that they also must balance public interest with the effective, efficient and economic use of the resources that they have responsibility for as a public authority. In this instance, the Legacy Corporation cannot justify the disproportionate burden this request would place on the Legacy Corporation's limited resources or the impact it would have on delivery of its other responsibilities.

While there is a presumption in favour of disclosure under EIR, providing information for this request, especially as it is already publicly available, would place unreasonable demands on

our resources and for this reason, the Legacy Corporation consider your request to be manifestly unreasonable under regulation 12(4)(b) of the EIR.

Under the EIR section 9 duty to provide advice and assistance:

EIR regulation 9 - Advice and assistance

9.(1) A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants.

The Legacy Corporation have been able to identify some planning applications which were likely to be subject to mandatory statutory biodiversity net gain (BNG) requirements. Please note this is not a guaranteed list and for certainty each application form received since 12 February 2024 would have to be individually reviewed as explained above.

- 24/00063/FUL
- 24/00067/REM
- 24/00078/FUL
- 24/00079/FUL
- 24/00100/FUL
- 24/00113/FUL
- 24/00122/OUT
- 24/00174/REM
- 24/00227/FUL
- 24/00264/FUL
- 24/00277/FUL
- 24/00313/FUL
- 24/00342/FUL

Please also note that some of these applications are not yet determined, therefore may still be subject to changes relating to the BNG requirements.

If you are unhappy with our response to your request and wish to make a request for an internal review of our response, you should write to:

Deputy Chief Executive
London Legacy Development Corporation
Level 9
5 Endeavour Square
Stratford
E20 1JN

Email: FOI@londonlegacy.co.uk

Please note: requests for internal reviews received more than forty working days after the initial response will not be handled.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website www.ico.gov.uk

Yours sincerely

FOI / EIR Co-ordinator
London Legacy Development Corporation