

Reply from RMBC Regarding Request by DTC for Information Under the Information of Land Act for Land Parcel LDF0219 (Off Wentworth Way)

Copy received by us on 22/07/2013

Freedom of Information Act 2000 – Request for Information – 256

Thank you for your request for information received on the 17th June 2013. Please find our response below:

1. Will you please supply all correspondence between land owners, potential developers, RMBC and all other parties, together with minutes of any and all meetings, relating to land parcel 219 (off Wentworth Way)? It is widely understood that the names of the land owners are [edit - local landowners names withheld], and The North Fermanagh Company Ltd, with the potential developer being Taylor Wimpey.

Consideration of this request for information was undertaken but after applying the exemptions listed below, the Council concluded that disclosure of the information requested is prevented for the following reasons.

Exemptions:

Section 40 - Freedom of Information Act 2000: Personal information relating to developer's and land owners:

Some of the information held on file contains third party personal data (i.e. personal data about someone other than you) and is therefore exempt under Section 40(2) of the 2000 Act. Section 40(2) provides that information which constitutes third party personal data and which falls within the definition of 'data' in the Data Protection Act 1998 is absolutely exempt from disclosure if one of two conditions is satisfied: One of the relevant is that the disclosure of the information would contravene [Principle 1](#) as set out in the 1998 Act. Disclosure of personal information recorded within correspondence forms would contravene the requirement in Principle 1 that personal data must be processed 'fairly and lawfully'. Disclosing such information without the consent of the individual concerned would not constitute 'fair processing' of data and would therefore be unlawful.

Section 41 - Freedom of Information Act 2000: Information provided in confidence to the Council

Information has been exempt under Section 41 of the 2000 Act where its disclosure under the Act would, or would be likely to constitute a breach of confidence; i.e. Information is exempt information if:

- (a) It was obtained by the Council from any other person (including another public authority), and
- (b) The disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person

As Section 41 is an absolute exemption, the Council is not obliged to consider and apply a public interest test to ascertain whether withholding the information outweighs the public interest in its disclosure.

However, it is felt that the Council's rationale behind the decision to withhold would be useful to you:

- There is an assumed anonymity of the landowner / developer /agent in providing information to the Council in the carrying out of its duties in the preparation of the SHLAA (Strategic Housing Land Availability Assessment) and in its 'call for sites' to be considered for potential future development in the Sites and Policies Document.
- The information provided by the landowner / developer /agent has been provided in good faith and inappropriate disclosure would breach their confidence and trust in the Council.
- Release of this information could potentially jeopardise future relationships with parties who the Council may need to work with in the future if their sites are to be allocated for future development.
- The release of this information could damage the Council's reputation.

Section 43 - Freedom of Information Act 2000: Commercially sensitive information

Information has been exempt under Section 43 of the 2000 Act where its disclosure under the Act would, or would be likely to prejudice the commercial interests of any person. As Section 43 is a qualified exemption, the Council is obliged to consider whether disclosure of the information would be in the public interest before refusing to supply the information. Therefore the Council have taken the following factors into account:

Factors for withholding information

- All prospective LDF sites (over 650 have been surveyed and are being considered for their suitability to be allocated for development purposes in the Sites and Policies Document) are in competition with each other.
- The Council has only identified a proportion of these sites for future development purposes in the current consultation and these allocations can be challenged.
- There are significant sums of money involved in the development of potential sites and a commercial advantage could be gained by the release of sensitive information at an inappropriate time.
- The Council is required by Central Government to prepare a SHLAA and determine if a site is achievable, deliverable and available. Information is provided by individual landowners / developers /agents to the Council in confidence in the carrying out of its duties to prepare the SHLAA.

Factors for disclosing information

- To release the information would be in the spirit of openness and transparency in which the Council operates.
- The information is of interest to some members of the public.

Taking the above into consideration and the interaction between the three exemptions applied, the Council has decided not to disclose details of any correspondence between the Council and landowners on this occasion.

The SHLAA - Strategic Housing Land Availability Assessment - is required to be produced in the preparation of the Council's Local Plan and its preparation is required by Central Government. The SHLAA forms one of the key evidence base documents to support the Local Plan. The Rotherham SHLAA has been published on the Council's web site:

http://www.rotherham.gov.uk/info/1004/planning_policy/1283/strategic_housing_land_availability_assessment

2. In the development of the LDF (Core Strategy) how were the views of the local community represented at RMBC meetings, including the meetings of stakeholders?

In preparing the Rotherham Local Plan, the Council follows procedures set down by Central Government. The Council is required to consult with general and specific consultation bodies and the wider general public in the preparation of its Local Plan. These procedures set out in the Statutory Instruments (HMSO) 2012 No. 767 Town and Country Planning, England Regulations. Representations received to any consultation of a draft Local Plan document are collated in the Council's Consultation Portal. Representations made at the Publication Stage of a Local Plan document are presented to an independently appointed Planning Inspector for consideration during the Examination in Public.

Prior to the preparation of the Publication Core Strategy, the Council has prepared early draft documents that were consulted on. The representations received were considered and used to inform subsequent drafts of the document. At each stage of Local Plan preparation the Council prepares and publishes a feedback report. The feedback reports are presented to Members of the Council and subsequently published on the Council's web site.

The Council's Local Development Scheme (May 2013) outlines the legislation and the process for adopting a development plan document and the timetable for preparing the Rotherham Local Plan. Previous drafts of Local Plan Core Strategy are submitted to the Planning Inspector along with the feedback reports that are prepared following each round of consultation activity.

Below is the link to the Council's Local Development Scheme:

http://www.rotherham.gov.uk/downloads/file/8793/local_development_scheme_may_2013/1004

If you are not satisfied with this response you have the right to an internal review by the Council. Please contact us via the above email address or by post to Sarah

Corbett, Information Governance Manager, Legal Services, Riverside House, Main Street, Rotherham, S60 1AE.

If you are not satisfied with the internal review, you can appeal to the Information Commissioner. Contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF. Telephone 01625 545700. Alternatively go to <http://www.ico.gov.uk/>

Yours sincerely,