

7 February 2022



Email: 

Dear 

### **Freedom of Information Act 2000 - Request Reference CA145**

With reference to your request for information received on 16 December 2021, reference CA145, please find the response provided below.

#### **Question**

*I am requestng information under the Freedom of Information Act regarding a letter written by the Combined Authority and uploaded to the ECDC planning portal for application: 20/00424/OUM | Land At Camp's Field South Of Stretham Road Wilburton Ely Cambridgeshire CB6 3RX The office of the Combine Authority Submitted a letter posted on the March 20th 2020 - it is entitled STATEMENT OF COMMUNITY BENEFIT, and was prepared on behalf of Stretham & Wilburton Community Land Trust and Laragh Homes by the Combined Authority, and appears to contain inaccuracies or statements that give rise to concern.*

*I am emailing to request that you send me any information or email exchanges taking place in the Combined Authority, which would shed light on the current status and validity of this document, also whether there has been any consideration of its appropriateness, and the governance over its authorship.*

*Please could you send me any emails or communications which would indicate or confirm whether this document has standing or validity, and should be considered as carrying weight in the determination of this planning decision. As the determination of this application is imminent I would sincerely appreciate a response as soon as might be possible.*

#### **Answer**

There are 17 email trails and one legal advice note. The emails found that fall within the scope of this request are attached and the subject titles are given below:

Camps Field – Laragh Homes/SWCLT  
Camps Field – Laragh Homes/SWCLT – Draft to Q1 needed today please  
Camps Field – Laragh Homes/SWCLT – Background  
Little Thetford CLT Urgent  
Camps Field – previous Mayoral Community Statement URGENT  
Camps Field – Laragh Homes/SWCLT  
Legal Advice note – CLTs

The Mayor's Office  
72 Market Street  
Ely  
Cambs  
CB7 4LS

In relation to emails from external sources to the Mayor, the following exemption applies:

### **Section 41 exemption**

Section 41(1) of the Act provides that:

#### ***41.— Information provided in confidence.***

*(1) Information is exempt information if—*

*(a) it was obtained by the public authority 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.*

The Information Commissioner's guidance on the application of this exemption is available at:

[information-provided-in-confidence-section-41.pdf \(ico.org.uk\)](#)

The guidance confirms that:

*Information will be covered by Section 41 if:*

- *it was obtained by the authority from any other person,*
- *its disclosure would constitute a breach of confidence.*
- *a legal person could bring a court action for that breach of confidence, and*
- *that court action would be likely to succeed*

*When determining if disclosure would constitute a breach of confidence, the authority will usually need to consider:*

- *whether the information has the quality of confidence,*
- *whether it was imparted in circumstances importing an obligation of confidence, and*
- *whether disclosure would be an unauthorised use of the information to the detriment of the confider.*

[ ... ]

*When determining if an action for breach of confidence would be likely to succeed, the authority will need to consider whether there would be a public interest defence to the disclosure.*

The exemption is designed to give those who provide information on a confidential basis a degree of assurance that their confidences will continue to be respected, should the information fall within the scope of a freedom of information request, unless and until they provide express permission that it may be disclosed.

In this instance, officers of the Cambridgeshire and Peterborough Combined Authority have sought the consent of the parties to that correspondence and consent has been denied.

Names of junior members of staff of the Cambridgeshire and Peterborough Combined Authority and all personal email addresses have been redacted. Section 40 of the Freedom of Information Act 2000 [“the Act”] includes the following:

### **Section 40 exemption**

Section 40 of the Act provides that:

#### **40.— Personal information**

*(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*

The Information Commissioner’s guidance on the requests for personal data about public authority employees is available at:

[s40 Personal information \(section 40 and regulation 13\) version2.3 \(ico.org.uk\)](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/section-40)

The guidance confirms that it covers data which can identify individual employees.

The above two exemptions are *absolute*. This means that there is no public interest test to consider when applying the exemption.

Legal advice received by the CPCA is legally privileged. Section 42 of the Freedom of Information Act 2000 [“the Act”] includes the following:

### **Section 42 exemption**

Section 42 of the Act provides that:

#### **42(1). – Legal Professional privilege**

*(1) Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.*

The Information Commissioner’s guidance on legal professional privilege is available at:

[legal professional privilege exemption s42.pdf \(ico.org.uk\)](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/section-42)

This exemption relates to information which is legally privileged and relates to legal advice received by the CPCA in relation to CLTs.

The exemption is qualified, and therefore subject to the public interest test. In this instance it is concluded that the public interest lays in maintaining the exemption in order for the CPCA to receive legal advice, and to consider it. As the advice was received recently (10 January 2021), the legal privilege continues to apply while it is reviewed.

I hope this information is helpful but if you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review, you should write to us via our contact us email address – [democratic.services@cambridgeshirepeterborough-ca.gov.uk](mailto:democratic.services@cambridgeshirepeterborough-ca.gov.uk) or write a letter to Complaints, Cambridgeshire and Peterborough Combined Authority, the Mayor's Office, 72 Market Street, Ely, Cambs CB7 4LS within 40 days of the date of this e-mail.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or via their website: <https://ico.org.uk/>

Generally, the ICO will not undertake a review or make a decision on a request until the internal review process has been completed.

Yours sincerely

A black rectangular redaction box covering the signature of Sue Hall.

**Sue Hall**  
Governance Assistant