

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 19 March 2013

Public Authority: Brighton and Hove City Council

Address: King's House
Grand Avenue
Hove
BN3 2LS

Decision (including any steps ordered)

1. The complainant requested all information that Brighton and Hove City Council (the Council) held about pre-planning discussions with City College Brighton and Hove regarding its proposals to develop the site known as 'Pelham Street'. The Council refused to disclose the information on the basis that it was all exempt from disclosure on the basis of regulation 12(5)(f) of the EIR, (interests of the provider), and further that some of the information was also exempt from disclosure on the basis of regulation 12(4)(e) of the EIR, (internal communications). The Commissioner has concluded that some of the information is exempt from disclosure on the basis of regulation 12(4)(e). However, the Commissioner has also concluded that regulation 12(5)(f) does not provide a basis to withhold any of the requested information. Therefore, the Commissioner has ordered the Council to disclose some of the requested information.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with the documents in the attached schedule that the Commissioner has indicated need to be disclosed.
3. 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 2 May 2012 the complainant submitted a request to the Council which sought all documents in its possession related or dealing with City College Brighton and Hove's (the College's) pre-planning discussions with the Council regarding its intention to redevelop the site the College referred to as Pelham Street. (The full text of this request is included in annex A which is attached to this notice.)
5. The Council responded on 27 June 2012 and explained that although it held information falling within the scope of this request it considered it to be exempt from disclosure on the basis of the exceptions contained at regulations 12(4)(e) and 12(5)(f) of the EIR. The former provides an exception to the disclosure of internal communications and the latter allows a public authority to refuse to disclose information the disclosure of which would have an adverse effect upon the party that provided the information.
6. The complainant contacted the Council on 6 July 2012 in order to ask for an internal review of this decision. He provided the Council with detailed submissions to support his view that the information was not exempt from disclosure on the basis of these exceptions and even it was, then the public interest favoured disclosure of the information.
7. The Council responded on 3 August 2012 and explained that the internal review had concluded that the requested information was exempt from disclosure for the reasons set out in its refusal notice.

Scope of the case

8. The complainant contacted the Commissioner on 27 August 2012 in order to complain about the Council's handling of his request. The complainant referred the Commissioner to his correspondence with the Council in which he had argued that the information he requested was not exempt from disclosure.
9. The Commissioner understands that the Council has withheld all of the requested information on the basis of regulation 12(5)(f). The parts of the requested information which has been withheld on the basis of regulation 12(4)(e) comprises pre-planning communications between Council officers.
10. In order to assist the Council and complainant in understanding his decision, the Commissioner has compiled a schedule of the requested information and this is attached as annex B to this notice. The

Commissioner has also provided the Council with a more detailed version of this schedule so that it can clearly identify which document is which. The Commissioner has not provided the complainant with the more detailed version of the schedule because it risks revealing the content and nature of some of the withheld information itself.

11. At this stage the Commissioner wishes to highlight the fact that his role in assessing complaints under section 50 of FOIA, which includes complaints such as this involving requests handled under the EIR, is to make a determination on the application of any exemptions or exceptions by a public authority based upon the circumstances that existed at the time of the request. That is in an important point to emphasise in this case because at the time the request was submitted the Commissioner understands that the pre-planning process was ongoing. However, at the time this notice is being issued, such a process had ceased, and indeed the College had itself published details of its modified proposals in November 2012 and sought the public's views on them.¹ Nevertheless, the Commissioner's role is simply to consider the application of regulations 12(4)(e) and 12(5)(f) at the date the request was submitted, i.e. 2 May 2012.

Reasons for decision

Regulation 12(4)(e) – internal communications

12. The Commissioner has initially considered the Council's position that some of the information is exempt from disclosure on the basis of regulation 12(4)(e).
13. This regulation states that a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications. The exception is a class based one; that is to say if information falls within the scope of the exception then it is engaged – there is no need for a public authority to demonstrate some level of prejudice.
14. The Commissioner's guidance on regulation 12(4)(e) considers what information will fall within the definition of an 'internal communication'.²

¹ <http://www.ccb.ac.uk/public/news/public-exhibition>

²

http://www.ico.gov.uk/for_organisations/guidance_index/~/_media/documents/library/Environmental_info_req/Detailed_specialist_guides/eir_internal_communications.ashx

In particular the guidance considers this definition in the context of email chains. The guidance explains that an email received from a third party will not become an internal communication just because someone subsequently forwards it within the authority and nor will any attachment to such an email. However the internal emails forwarding the external email on will be an internal communication. This position has important consequences for this case which the Commissioner has described below.

15. As noted above, the Council has withheld a number of documents on the basis of this exception because they consist of communications between officers within the Council. The vast majority of these communications take the form of emails, or email chains.
16. For a number of these email chains, the Commissioner is satisfied that all of the recipients and all of the senders of the emails in the entire chain are employees of the Council. The Commissioner is therefore satisfied that such email chains are exempt in their entirety on the basis of regulation 12(4)(e). These are the emails numbered 3-6; 8; 10-12; 15-18; 21; 24; 42-45; and 53.
17. However, in a number of the withheld email chains, the earliest email(s) are between the Council and an external party and these emails are subsequently forwarded on between colleagues within the Council. In line with the referenced guidance, the Commissioner does not accept that these original emails (or any attachments to them) that were exchanged with third parties are internal communications despite subsequently being forwarded within the Council. The Commissioner has therefore 'split up' a number of the emails chains on this basis and has concluded that the only parts of these chains which are exempt from disclosure on the basis of regulation 12(4)(e) are the later emails which have been exclusively sent and received between Council employees. Such email chains are those numbered 7; 13; 14; 19; 20; 23; 34; 36; 37; 47 to 50; and 52. The Commissioner has labelled each of the emails in these chains A, B, C etc so that from the schedule it can be clearly identified which emails within each chain the Commissioner accepts falls within the scope of regulation 12(4)(e) and which do not.
18. Regulation 12(4)(e), like all of the exceptions contained within the EIR, is a qualified exception and therefore for the information that he accepts constitutes an internal communication the Commissioner must consider whether the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Public interest arguments in favour of maintaining the exception

19. The Council argued that the pre-planning application service is a valuable resource to both prospective applicants and the Council itself. It enables prospective applications to receive informal advice prior to the submission of a formal application and enables the Council to highlight any planning issues in principle or requirements affecting an individual case at an early stage. This enables the planning process to run more smoothly and often speeds up the formal process. Any disruption or hindrance to this process would not be in the public interest.
20. More specifically in terms of this exception, the Council argued that it was important to preserve space for officers to discuss pre-planning information internally in order to ensure well informed decision making and advice. The routine disclosure of such internal communications would cause officers to be more circumspect which would in turn impact on the ability of the Council to deal with pre-planning matters effectively, which for the reasons noted in the previous paragraph would not be in the public interest.

Public interest arguments in favour of disclosing the information

21. The complainant explained that the area immediately around the proposed development suffered from anti-social behaviour problems, including street drinking. Local residents, of which the complainant was one, had significant concerns as to the consequences of building accommodation for 600 students, in an area which already had off-licences open all night, on these anti-social behaviour problems.
22. The complainant argued that he needed to be able to see information associated with the pre-planning application process regarding the proposed development before the formal planning process began so that, as a local resident, he could understand what factors the Council considered important in its discussions with the College and aspects considered less important or ignored. The complainant emphasised that he needed to understand how and against what criteria the Council had made decisions up to this point so that his formal objections to the proposal, which would be made once the planning application process itself had commenced, could be better informed. This included knowing the type, scale, locations, details of construction, phases and proposed uses of the development, all of which the complainant understands would be addressed in the pre-planning information held by the Council.
23. The complainant emphasised that he was clear that the final plans, submitted as part of the formal planning process, may differ from those considered during the pre-planning process, and thus he would not misunderstand or be misled by the requested information.

24. Furthermore, the complainant explained that he had concerns about the way that the pre-planning process operated, with the Council officers having a vested interest in seeing plans discussed in the pre-planning process approved once a formal planning application had been made. In the particular circumstances of this case the complainant had concerns about the nature of relationship between the various parties involved. That is to say the Council using taxpayers' resources to communicate with planning consultants contracted by the College, and whether there had been a clear separation between the Council's pre-planning advice service and planning control. The complainant stated that without such a separation it may appear that a deal had been done by the time an application is put out to public consultation.
25. In terms of this latter point, the complainant argued that the difference between the planning application service and pre-planning advice service needed to be recognised. The former is a statutory duty; the other is a service which the Council chooses to deliver. In the complainant's opinion, the latter is not essential to the smooth running of the former; or even if it were, that is not a valid reason to withhold the information he had requested.

Balance of the public interest

26. With regards to the arguments in favour of maintaining regulation 12(4)(e), although a wide range of information will be caught by the exception, the public interest should be focussed on the protection of the internal deliberation and decision making processes. Arguments about protecting such deliberations and processes often relate to preserving a 'safe space' to allow a public authority to debate issues away from external scrutiny, and preventing a 'chilling effect' on free and frank views in the future. The weight that applies to these factors will vary from case to case, depending on the timing of the request and the content and context of the particular information in question.
27. As a general principle, the Commissioner agrees with the position advanced by the Council that there is a clear public interest in it offering a pre-planning service so that formal planning applications, when submitted, can be dealt with more effectively and efficiently. The Commissioner agrees with the Council that it would be strongly against the public interest if the pre-planning application process was disturbed.
28. Turning to the circumstances of this case, in the Commissioner's opinion the Council's arguments regarding safe space deserve to be given significant weight. This is because, at the time of the request, the pre-planning application process in relation to this particular development remained ongoing. Furthermore, the development in question clearly attracted considerable interest from the local community even at the

pre-planning stage. Therefore, the Commissioner accepts that disclosure of the requested information, before the pre-planning process was complete, would in the circumstances of this case have been likely to result in an infringement into the Council's safe space to develop ideas and reach decisions in relation to the pre-application process away from external interference and distraction.

29. With regards to the Council's line of argument that disclosure of the withheld information would have a 'chilling effect' on the contribution of officers in future discussions concerning pre-planning applications, the Commissioner recognises that there is a strong counter argument to this position. Namely that, public officials are charged with giving advice; they are expected to be impartial and robust in meeting their responsibilities and not easily deterred from expressing their views by the possibility of future disclosure. Nonetheless, the possibility of a chilling effect cannot be dismissed out of hand. The Commissioner accepts that the chilling effect can attract weight in some circumstances.
30. In the circumstances of this case, in the Commissioner's opinion given that the pre-planning process in relation to this development remained live at the time of the request, the Council's suggestion that disclosure of the information would have led to a loss of frankness and candour in officers' submissions in relation to this particular application should not be dismissed and indeed attracts some weight. Furthermore, the Commissioner believes that the frankness and candour of some of the information also adds weight to this argument. The Commissioner is also prepared to accept that it is not inconceivable that if the Council's internal discussions regarding pre-planning applications were to be routinely disclosed whilst such processes remained ongoing, then there would be a chilling effect on future contributions by council officials on other pre-planning applications.
31. With regards to the public interest arguments in favour of disclosing the information, the Commissioner recognises the complainant's interest, and that of other local residents, in seeking information about the proposed development in light of existing concerns regarding anti-social behaviour and associated issues in the area. Furthermore, the Commissioner recognises that disclosure of the withheld information at the time of the request would have provided the complainant with a clear understanding of the College's proposed plans, and indeed, of the Council's views on the proposed plans. This would, as the complainant suggested, arguably have provided him with some preliminary insight prior to the College's submission of its formal planning application which may have assisted him in responding to the formal application.
32. However, the Commissioner believes that the insight that this would have provided the complainant with would arguably have been of limited

use given that, as noted, the pre-planning plans are no longer representative of the plans which the College apparently intends to submit a planning application about. The Commissioner believes that it is important to remember that the Council is under a statutory duty to publically disclose information associated with formal planning applications and moreover is under a duty to seek the views of local residents on such an application. The proposed development by the College is no different. Therefore in the Commissioner's opinion the public interest regarding transparency and accountability regarding the College's proposed development is, to a significant extent met, by the existing established planning processes and procedures which the Council would have to follow once the College submitted a formal planning application.

33. Furthermore, having reviewed the withheld information, the Commissioner does not believe that there is any evidence of inappropriate discussions, or relationships, between the various parties. Whilst the information obviously involves the Council's officers providing advice to the College (and its advisers), and no fee is made for such a service, this process, is by its very nature exactly how the pre-planning process operates.
34. In conclusion, although the Commissioner fully understands the complainant's interests and concerns in seeking access to the withheld information, he believes the public interest in such information being disclosed at the time of the request was limited. In contrast, the Commissioner believes that significant weight should be attributed to the safe space arguments in the circumstances of this case in light of the fact that the pre-planning discussions were live at the time of the request, and that further some weight should also be attributed to the chilling effect arguments. The Commissioner has therefore concluded that the public interest favours maintaining the exception.

Regulation 12(5)(f) – interests of the person who provided the information to the public authority

35. The Council argued that all of the information falling within the scope of the request was exempt from disclosure on the basis of regulation 12(5)(f). As the Commissioner has already concluded that some of withheld information is exempt from disclosure on the basis of regulation 12(4)(e), the Commissioner has simply considered the application of regulation 12(5)(f) to the information which is not exempt from disclosure under regulation 12(4)(e).
36. Regulation 12(5)(f) states that:

'a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—

(f) the interests of the person who provided the information where that person—

(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure'

37. In the Commissioner's view the purpose of this exception is to protect the voluntary supply to public authorities of information that might not otherwise be made available to them. In such circumstances a public authority may refuse disclosure when it would adversely affect the interests of the information provider. The wording of the exception makes it clear that the adverse effect has to be to the person or organisation providing the information rather than to the public authority that holds the information.
38. With regards to engaging the exception, as recognised by the Information Rights Tribunal, a four stage test has to be considered, namely:
- Would disclosure adversely affect the interests of the person who provided the information to the public authority?
 - Was the person under, or could they have been put under, any legal obligation to supply the information to the public authority?
 - Did the person supply the information in circumstances where the recipient public authority, or any other public authority, was entitled to disclose it apart from under the EIR?
 - Has the person supplying the information consented to its disclosure?³
39. Where the first four stages of the test are satisfied a public authority will owe the person that supplied the information a duty of confidence.

Adverse effects on the interests of the person who voluntarily provided the information

³ [John Kuschnir v Information Commissioner and Shropshire Council \(EA/2011/0273; 25 April 2012\)](#)

40. As with all the exceptions in regulation 12(5), the threshold necessary to justify non-disclosure, because of adverse effect, is a high one. The effect must be on the interests of the person who voluntarily provided the information and it must be adverse.
41. In considering whether there would be an adverse effect in the context of this exception, a public authority needs to identify harm to the third party's interests which is real, actual and of substance (i.e. more than trivial), and to explain why disclosure **would**, on the balance of probabilities, directly cause the harm.
42. As the Tribunal in the case referenced above noted, there is no requirement for the adverse effect to be significant – the extent of the adverse effect would be reflected in the strength of arguments when considering the public interest test. However, the public authority must be able to explain the causal link between disclosure and the adverse effect, as well as why it would occur. The need to point to specific harm and to explain why it is more probable than not that it would occur reflects the fact that this is a higher test than 'might adversely affect', which is why it requires a greater degree of certainty. It also means that it is not sufficient for a public authority to speculate on possible harm to a third party's interests.
43. In its refusal notice the Council explained to the complainant that it had consulted the College regarding the harm that it believed would occur if the requested information was disclosed. The refusal notice quoted the College directly as follows:

'All of the documentation submitted as part of the pre-application submission should remain confidential at this stage. The information is now out of date and any release into the public domain would make unrepresentative and inaccurate information available. Providing information that is incorrect would be misleading and would undermine the College's position. The information submitted to date is work in progress and represents an early iteration of evolving plans. The exact form of these plans is as yet unknown and therefore an information release at this stage is premature'.

44. In its submissions to the Commissioner the Council explained that in applying regulation 12(5)(f) it had consulted planning agents who were acting for the College in order to assess the harm that would allegedly occur to the Council's interests. (It was in fact the agent's response to the Council which the Council quoted in its refusal notice. The Commissioner was given a copy of the agent's full letter.) In its submissions to the Commissioner the Council expanded slightly on the

position as set out in the stated in the refusal notice. It (i.e. the Council) explained that:

'It was considered that the disclosure of the pre-planning documents would adversely affect the interests of the City College because, in accordance with the letter from [the College's agents] referred to above, the information was out of date and disclosure would make unrepresentative and inaccurate information available which would undermine the college's position, particularly as the issue of funding was unresolved and it was likely that a full planning application with finalised proposals would be submitted in due course. Disclosure of the proposals at this stage would raise public expectations about the scheme's potential for education and housing which, if ultimately unfulfilled, or only partially fulfilled, would damage public relations. It would also lead to concern on the part of adjacent occupants about the potential impact of the development which would again damage public relations.'

45. In general, in the Commissioner's opinion, arguments that information should not be disclosed because it would be misleading, taken out of context or otherwise misunderstood should be rejected for two reasons. Firstly, because FOIA and the EIR only give a right to information, not to accurate, complete or easily comprehensible information. Secondly, a public authority can usually provide an explanation of other background information to set the disclosure into context. However, such arguments may be relevant in small number of cases where strong and persuasive arguments are presented which are specifically tied to the exemption / exception.
46. In the circumstances of this case the Commissioner recognises that the submissions provided to him regarding the harm to the College's interests go beyond simply arguing that the withheld information should not be disclosed because it is out of date and thus would be unrepresentative and inaccurate. Rather the submissions argue that the disclosure of information that is out of date would undermine the College's position and damage public relations.
47. However, the Commissioner is not persuaded that he has been provided with sufficiently compelling evidence to conclude that the likelihood of damage to the College's interests because of these consequences of disclosure is one that 'would' occur. The Commissioner has reached this conclusion for the following reasons:
48. With regards to how the College's position may be 'undermined' by disclosure of the withheld information, the Commissioner is not entirely clear what is meant by this term or how this would directly impact on

the College's interests. In any event, in relation to the uncertainty regarding the funding of the development, the Commissioner would assume that any potential investors would have been fully briefed on past, current and potential future plans for the site. In terms of the public relations consequences of disclosure because interested parties would be disappointed if the proposed development was not built, in the Commissioner's opinion the College could set the disclosure of the requested information into context. For example, it could explain that the information related simply to the pre-planning stage and that securing funding for such developments was difficult in the current economic climate, two reasons why the final development, if built, may vary significantly from the proposals set out in the withheld information. Furthermore, in the Commissioner's opinion the College has not been at all specific as to why there is such a presumably significant expectation about the development and thus why the disclosure of out of date information would be so disappointing to interested parties so as to create these public relations concerns for the College.

49. With regards to the public relations consequences of disclosure in terms of local residents, the Commissioner does not dispute the fact some of these interested parties are likely to be unhappy with the proposals discussed in the withheld information. However, to a very limited extent the newspaper article referenced in the request had already revealed the plans for a proposal to build 600 bed accommodation. Furthermore, the Commissioner understands that the complainant had been in contact with the College during 2012 regarding the planned development. The College would appear to have been managing the complainant's interest in this matter without any undue harm, and if even such harm had occurred, the Commissioner has not been informed of this or provided with any evidence to support this line of argument.
50. The Commissioner recognises that a parallel could be potentially drawn between the 'safe space' in which the Council needed to conduct its internal deliberations and the harm that would be caused to the College's interests because of the public relations consequences of disclosing the withheld information. Furthermore, the Commissioner recognises that he has accepted that the safe space argument in the context of regulation 12(4)(e) attracts significant weight, whilst in contrast he has not been persuaded by the latter argument on the context of regulation 12(5)(f). However, the Commissioner believes that this apparent contradiction is explained by the fact that the safe space arguments in relation to 12(4)(e) have, in his opinion, been clearly enunciated and linked to the withheld information in question.
51. In contrast the Commissioner believes that the College has failed to clearly explain why disclosure of the withheld information would harm its interests because of the public relations considerations or provide any

compelling evidence to support this line of argument. In other words, the Commissioner is not rejecting the idea that due to the consequences of disclosure a public authority's interests would be harmed because of the damage to its public relations, simply that in this case, the College has failed to make a compelling case to support this position. Therefore, the Commissioner is not persuaded that he has been presented with evidence which demonstrates that disclosure of the withheld information would harm the College's interests. Consequently, the Commissioner believes that the first limb of the four part test set out above is not met and thus the withheld information is not exempt from disclosure on the basis of regulation 12(5)(f).

Right of appeal

52. 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

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

53. 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.
54. 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 A

Text of request submitted to Council on 2 May 2012:

'A description of the information requested:

(a) City College Brighton and Hove ['the College'] wishes to redevelop the site it calls "Pelham Street". For the purposes of clarification and for the avoidance of doubt the area to be redeveloped includes the area bounded by Whitecross Street, Trafalgar Street, Pelham Street and Cheapside.

(b) In an article in the Argus Newspaper of 20th March 2012 the plans are spoken of in glowing "done deal" terms by local MPs, the plans are almost ready to be released, and include inter alia a 600 bed "student hostel". The article also states the redevelopment will take 26 months to complete. In an email to me dated 15th March 2012 the College claims plans are "not available" and has failed to return any further calls since. It makes no sense to state the development will take 26 months to build and then claim that we don't know what we are building in terms of, for example the size, massing and location of individual buildings and the proposed use of each individual building, for example which will be used as the student hostel.

(c) My enquiries of Brighton and Hove City Council ['the Council'] reveal the Council is engaged in giving the College Pre Planning Advice.

(d) Guidelines indicate that in order for the Council to give advice to a developer, in this case the College, on a major development it requires, inter alia the following:

- *A description of the proposed development and schedule of proposed uses*
- *A site location plan (example scale 1:1250 or 1:2500) marked with the footprint of the proposed development and the limit of the land in the applicant's ownership / control*
- *Photographs and sketch drawings showing the site, buildings and trees as existing, together with the schedule of uses*
- *Outline of proposal (on plans example scale 1:200)*
- *Sketch drawings showing height / scale of development*
- *Drawings / plans showing potential constraints e.g. trees, other vegetation, overhead wires, listed buildings etc*
- *Information on affordable housing where appropriate*
- *Information on sustainability measures*
- *Available information on traffic generation, servicing, access arrangements and parking. This should normally include as a minimum the initial scoping report on transport issues*
- *For larger sites other information may be required, including potentially EIA related information or a draft environmental statement*

- *Information on the length of time the development will take to complete and what the effect on surrounding properties will be in terms of factors such as noise or structural risk.*

(e) The process between Council and Developer on such a major development would include activities such as, inter alia:

- *A series of meetings between Council and Developer*
- *Joint site visits*
- *The Council issuing "Pre-Application Advice". This form will include information on the planning issues associated to the scheme, constraints, opportunities, requirements and specify the information that should be included in the planning application. As this proposal is likely to be one of the largest in the City this "advice" stage is more likely to be an ongoing process with plans and advice refined at ongoing meetings.*

(f) The advice given by the Council to the Developer will include:

- *Whether the proposed type of development is acceptable in principle*
- *Local knowledge of planning policies, guidance and previous history.*
- *Relevant planning history of the site*
- *The surrounding context of the site*
- *Relevant policies and constraints*
- *Recommended consultations before the application is submitted*
- *Issues relevant to the type and scale of proposed development, such as: urban design (encapsulates design and its surroundings), amenity, transport and environmental issues including noise, contamination, flooding, drainage and biodiversity*
- *Likely developer contributions (where necessary)*
- *Case Officer conclusions*
- *For growth site projects, a Planning Performance Agreement approach will be set out with project management details and a community engagement strategy outlined*
- *Growth site projects will be taken to the Design Quality Panel and detailed feedback provided as part of the Council's response*

THEREFORE

I require copies of all documents in the Council's possession, properly collated, related or dealing with the College's proposed redevelopment of its Pelham Street site whether specifically referred to in sections (a) to (f) above or not, whether forming part of Pre Planning Discussions or not.

Please note further:

- *Enquirer (me) agrees to collect, therefore no postage is applicable.*

- *I am happy to receive information electronically and can provide you with a memory stick or similar for the purpose.*
- *In order to pass on charges you need to send me a Fees Notice which I will need to agree.'*

Annex B – Schedule of requested information⁴

Document number	Council claimed 12(4)(e)?	Commissioner's view on 12(4)(e)	Does the document need to be disclosed?
1	No	N/A	Yes, including attachment
2	No	N/A	Yes, including attachment
3	Yes	Engaged	No
4	Yes	Engaged	No
5	Yes	Engaged	No
6	Yes	Engaged	No
7A	Yes	Engaged	No
7B	Yes	Not engaged	Yes
8	Yes	Engaged	No
9	No	N/A	Yes, including attachment
10	Yes	Engaged	No
11	Yes	Engaged	No
12	Yes	Engaged	No
13 A to D	Yes	Engaged	No
13 E	Yes	Not engaged	Yes
14 A - C	Yes	Engaged	No

⁴ As the Council argued the all of the requested information was exempt on the basis of 12(5)(f), and the Commissioner has concluded that that none of the information is exempt from disclosure under this exception, the schedule does not refer to the application or Commissioner's decision in relation to regulation 12(5)(f).

14 D	Yes	Not engaged	Yes
15	Yes	Engaged	No
16	Yes	Engaged	No
17	Yes	Engaged	No
18	Yes	Engaged	No
19 A	Yes	Engaged, but not for attachments.	The email itself does not need to be disclosed, but its attachment does.
19 B	No	N/A	Yes
20 A to B	Yes	Engaged	No
20 C	Yes	Not engaged	Yes
21	Yes	Engaged	No
22	No	N/A	Yes
23 A	Yes	Engaged for email A but not for attachment	The email itself does not need to be disclosed, but its attachment does.
23 B & C	Yes	No	Yes
24	Yes	Engaged	No
25	No	N/A	Yes, including attachment
26	No	N/A	Yes
27	No	N/A	Yes
28	No	N/A	Yes
29	No	N/A	Yes
30	No	N/A	Yes, including attachment

31	No	N/A	Yes, including attachment
32	No	N/A	Yes
33	No	N/A	Yes
34 A	Yes	Engaged	No
34 B	Yes	Not engaged	Yes
35	No	N/A	Yes
36 A & B	Yes	Engaged	No
36 C	Yes	Not engaged	Yes
37 A	Yes	Engaged	No
37 B	Yes	Not engaged	Yes
38	No	N/A	Yes
39	No	N/A	Yes
40	No	N/A	Yes
41	No	N/A	Yes
42	Yes	Engaged	No
43	Yes	Engaged	No
44	Yes	Engaged	No
45	Yes	Engaged	No
46	No	N/A	Yes
47 A & B	Yes	Engaged	No
47 C	Yes	Not engaged	Yes
48 A	Yes	Engaged	No
48 B	Yes	Not engaged	Yes
49 A & B	Yes	Engaged	No

49 C	Yes	Not engaged	Yes
50 A	Yes	Email is engaged; attachments are not	The email itself does not need to be disclosed, but its attachment does.
50 B	Yes	Not engaged	Yes
51	No	N/A	Yes
52 A & B	Yes	Engaged	No
52 C to F	Yes	Not engaged	Yes
53	Yes	Engaged	No
54	No	N/A	Yes
55	No	N/A	Yes
56	No	N/A	Yes
57	No	N/A	Yes
58	No	N/A	Yes
59	No	N/A	Yes
60	No	N/A	Yes