

From: [Foi Enquiries](#)
To: [REDACTED]
Subject: EIR-17-1671 - Provost Skene's House
Date: 18 December 2017 14:38:21
Attachments: [Further Information - Right to Review & Appeal.pdf](#)

Dear [REDACTED]

Thank you for your information request of 17 November 2017. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

Please would you provide me with a copy of any and all reports relating to Provost Skene's House for the period 1st April 2015 to date. I wish to see only documents and related information specified in items 1-5.

e.g.

1. A list of the dates for which a site inspection was carried out on Provost Skene's House.

A condition/site inspection report was carried out on 23 November 2016 and subsequently on 17 May 2017.

2. A copy of the associated site visit/inspection reports that document the interior and exterior condition of Provost Skene's House. The report should include the names of those who conducted the site visit and prepared the reports.

The site visits were conducted by Adams Napier Partnership, Chartered building Surveyors and Heritage Consultants.

ACC is unable to provide you with **a copy of the conditions survey report** as it is excepted from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 10(5)(e) – Confidentiality of Commercial Information - of the EIRs.

In making this decision, ACC considered the following points:

Do commercial interests exist in relation to the information?

ACC is of the view that the commercial interests of all the contractors involved would be damaged by the release of the information. ACC is also of the view that its own commercial interests would be damaged.

Please describe how disclosure of the requested information would cause the level of harm required for this exception:

Given that the report contains costings for the various work elements, disclosure of this information could weaken ACC's position to receive a competitive pricing when works are tendered (the tender process will be starting soon). Release of this information could also give a competitive advantage over other potential contractors who have not seen the information. The release of this information would also prejudice the Council's position in any future negotiations.

Where does the public interest lie in relation to the information?

ACC recognises that there is a clear public interest in maintaining a level of transparency around the condition of Provost Skene's House. However, ACC also believes that there is public interest in allowing normal market forces to operate in a competitive environment and engage in a fair and transparent process. ACC believes that disclosure of the requested information could prejudice commercial relationships and the trading activities of the contractors involved.

Therefore, on balance, ACC believes that in this case, the public interest is best met by applying the exception and that the associated site visit/inspection reports should not be disclosed.

3. The name of the recipients of the reports (committee or named person).

This report was submitted to Aberdeen City Council's Design Team.

4. The terms of reference for the project to refurbish Provost Skene's House and create a Hall of Heroes.

This project was approved and established following a committee report to the Finance, Policy and Resources Committee in September 2016 and a subsequent report to Education & Children's Services in November 2016:

Finance, Policy and Resources Committee:

<https://committees.aberdeencity.gov.uk/documents/g3866/Printed%20minutes%2020th-Sep-2016%2014.00%20Finance%20Policy%20and%20Resources%20Committee.pdf?T=1>

Education and Children's Services Committee:

<https://committees.aberdeencity.gov.uk/documents/g3885/Printed%20minutes%2017th-Nov-2016%2014.00%20Education%20and%20Childrens%20Services%20Committee.pdf?T=1>

Education and Children's Services Report:

<https://committees.aberdeencity.gov.uk/documents/g3885/Public%20reports%20pack%2017th-Nov-2016%2014.00%20Education%20and%20Childrens%20Services%20Committee.pdf?T=10>

As **the terms of reference for the project to refurbish Provost Skene's House and create a Hall of Heroes** is otherwise accessible at the above weblinks, it is exempt from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 6(1)(b) - Information Already Publicly Available - of the EIRs.

5. Progress reports on the project to refurbish Provost Skene's House and create a Hall of Heroes.

ACC is unable to provide you with **the progress report on the project to refurbish Provost Skene's House and create a Hall of Heroes** as it is excepted from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 10(5)(e) – Confidentiality of Commercial Information - of the EIRs.

In making this decision, ACC considered the following points:

Do commercial interests exist in relation to the information?

ACC is of the view that the commercial interests of the artists involved would be damaged by the release of this information (their interests are with regards to artistic production).

Please describe how disclosure of the requested information would cause the level of harm required for this exception?

The document produced is intended for internal review only as an update report of work in progress. The images and information contained within the document are subject to copyright, and at this stage, while negotiations are taking place with artists involved and clearance is being sought for usage of images and other content, it would not be appropriate to release the document into the public domain until clearance has been secured. By releasing this information ACC would adversely affect the ability of the artists mentioned to sell their intellectual property.

Where does the public interest lie in relation to the information?

ACC recognises that there is a clear public interest in maintaining a level of transparency around the refurbishment of Provost Skene's House and the Hall of Heroes. To this end, ACC has published some information on the Hall of Heroes on its website at: <https://news.aberdeencity.gov.uk/hall-of-heroes-line-up-unveiled-for-new-aberdeen-visitor-attraction/>. However, ACC also believes that there is public interest in allowing normal market forces to operate in a competitive environment and engage in a fair and transparent process. ACC believes that disclosure of the requested information could prejudice commercial relationships and the trading activities of the artists involved.

Therefore, on balance, ACC believes that in this case, the public interest is best met by applying the exception and that the information should not be disclosed.

We hope this helps with your request.

Yours sincerely,

Anna Buchan
Information Compliance Officer

INFORMATION ABOUT THE HANDLING OF YOUR REQUEST

As the information which you requested is environmental information, as defined under Regulation 2(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs), ACC considered that it was exempt from release through FOISA, and must therefore give you notice that we are refusing your request under Section 39(2) of FOISA (Freedom of Information (Scotland) Act 2002). However, you have a separate right to access the information which you have requested under Regulation 5 of the EIRs, under which ACC has handled your request. Please refer to the attached PDF for more information about your rights under the EIRs.

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*03000 numbers are free to call if you have 'free minutes' included in your mobile call plan.
Calls from BT landlines will be charged at the local call rate of 10.24p per minute (the same as 01224s).

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