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Eich cyfeirnod
Your reference

Ein cyfeirnod
Our reference ATISN 10188

Dyddiad
Date 10 March 2016

Llinell uniongyrchol
Direct line

Ebost
Email:

Dear ,

Request for Information - ATISN 10188

Thank you for your request which I received on 12 February 2016 about the Old College Building, Splott. You asked for:

- access to all correspondence between Cadw and Ken Skates, Deputy Minister for Culture and Sport in relation to the Old College Building, Courtenay Road, Splott (also known as the Splott University Settlement).

- access to all records Cadw holds on the above building, in particular details of surveys and assessments carried out on the building during the last 20 years.

The information you have asked for is attached. The information provided does not include any documents that have been sent to you previously, or are already publicly available. The correspondence between the Historic Environment Service (Cadw) and the Deputy Minister, identified in the attached list, has already been released and is available on the Welsh Government's website at: http://gov.wales/about/foi/responses/?lang=en. Some names have been redacted under Section 40(2), (third party personal data) of the Freedom of Information Act 2000. The reason for applying this exemption is set out at Annex 1 of this document.

Additionally, I can advise you that advice was sent to the Deputy Minister on 30 September 2015 asking that he agree a decision on the spot-listing request in relation to the Old College Building, Courtney Road, Splott, Cardiff. He was presented with the options to either:

i. To list the Old College Building on the basis of the revised assessment and the list description which affirm its special historic interest. Its future would then be considered in the wider context of an application for listed building consent. You may, for example, consider that a case for listing is supported by:

- the association of the site with the only example of a University Settlement in Wales, illustrating an important aspect of the nation's social history.

- the retention of one purpose-built building associated with the original use of the site, designed by a notable architect and with some architectural character

- the fact that the other main building on the site was the first Catholic boys grammar school in Wales, which also illustrates an important aspect of the nation's social history

Or

ii. Not to list if you consider that there is sufficient detail to support a judgement that the Old College Building is not of special architectural or historic interest, and therefore does not meet the criteria for listing. You may, for example, consider that:

- the case for listing is undermined because what survives is only a tiny fragment of the original complex and cannot therefore be judged to be of definite quality and character from the post 1840 period.

- the lack of the detail that was originally intended critically diminishes the quality and character that is necessary to list buildings on grounds of their architectural and historic interest, as do the alterations associated with its later reuse as part of the school.

- while the former school hall block of 1936 is of historic interest for its association with the first Catholic Boys Grammar School in Wales, it is not of definite quality and character and its significance at the national level is undermined because it does not compare favourably with those other school buildings that have been listed and therefore set the benchmark.

The advice included a summary of the consultation comments received from the owner and the local planning authority, together with a summary of the peer review undertaken by Historic Scotland. The consultee replies and the peer review were included with the submission, and copies are available on the Welsh Government website. The listing criteria was also set out for the Deputy Minister to consider in reaching his decision which is also available at http://cadw.gov.wales/historicenvironment/protection/buildconservation/?lang=en.

On 20 October 2015 The Deputy Minister concluded not to list.

You have also asked for records that Cadw holds on the building, and I have attached copies of the initial assessment and the amended assessment made by the Welsh Government's historic environment service (Cadw) in 2015.

Having checked our records I can confirm that the only other survey in the last 20 years was that of the Splott community which was completed on 8 April 1997. There is no assessment on file from the time. I understand that this is not unusual because such assessments tended to only be produced for those buildings that were proposed for listing. Assessments were not typically produced for those buildings that were not considered to be listable because of the resource intensive nature of the task due to the significant number of buildings involved.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at: Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or Email: FreedomOfInformationOfficer@wales.gsi.gov.uk

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Section 40(2) – Personal Data

Section 40(2) of the Freedom of Information Act 2000 requires third party personal data to be withheld in circumstances where its disclosure would breach any of the data protection principles set out in Schedule 1 of the Data Protection Act 1998 (DPA).

We consider that disclosure of this personal data would breach the first data protection principle. The first data protection principle requires that processing of personal data must be fair and lawful and, in particular, that it should not be processed unless one of the conditions set out in Schedule 2 of the DPA is met.

In determining whether disclosure would contravene the first data protection principle, we have considered whether disclosure would amount to fair and lawful processing of those individuals' personal data. The individuals concerned do not have public facing roles. We consider that those individuals would be under the reasonable expectation that their information would remain confidential and not disclosed to the public at large. As such, we do not consider that disclosure of the redacted personal data would be fair.

Guidance from the Information Commissioner's Office (Personal information (section 40 and regulation 13) v1.0) states:

"The public authority must decide…….whether it would be fair to disclose the personal data. If the public authority concludes that it would not be fair, then it must not disclose the information in response to the FOIA request".

In this instance, because the individuals would have had no expectation that their personal data would be released into the public domain, we believe that release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.