



7 February 2019

Dear ,

Request for Information – ATISN 12893

I wrote to you on 18 January regarding your request for information on the Llandeilo bypass. You asked for:

1. Information outlining/explaining the rationale for the “refined protected route”, including reference to those individuals/organisations promoting it.
2. Information explaining precisely how the £50m allocated to this project will be used.
3. Information relating to any contingency fund and what budget this contingency will be taken from should an overspend occur.
4. Information relating to discussions of all potential alternatives to a bypass, and showing the reasoning for not pursuing them – both historically and currently.
5. Information drawn up following the public workshops held in Llandeilo in 2018, showing all points raised and noted by residents and minutes of any WG discussions held after these sessions.
6. Information demonstrating how the proposed bypass sits within the context of The Wellbeing of Future Generations agenda.

I have concluded that the information you have requested is exempt from disclosure under Reg12(4)(d) of the Environmental Information Regulations 2004 (EIRs) - material in the course of completion, unfinished documents and incomplete data. Full reasoning for applying this exception is given at Annex A to this letter.



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding .

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: Freedom.ofinformation@gov.wales. 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

ATISN 12893

This Annex sets out the reasons for the engagement of Reg12(4)(d), material in the course of completion, unfinished documents and incomplete data of the EIRs and our subsequent consideration of the Public Interest Test.

‘Environmental information’ is defined in the Regulations as (inter alia) information on measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, and also factors such as substances, energy, noise, radiation or waste likely to affect the state of the elements of the environment above.

In the recent Court of Appeal decision in *The Department for Business, Energy and Industrial Strategy v The Information Commissioner and Alex Henney*, it was held that the statutory definition of ‘environmental information’ does not mean that the information itself must be intrinsically environmental. They confirmed it is well established that the term “environmental information” in the Directive is to be given a broad meaning and that the intention of the Community’s legislature was to avoid giving that concept a definition which could have had the effect of excluding from the scope of that directive any of the activities engaged in by the public authorities.

As the Llandeilo transport appraisal is a policy/plan likely to affect the environment, and as the information requested relates to the potential implementation of such a measure, then it falls within the definition set out in the Regulations.

The information requested is being withheld under Reg12(4)(d). This states:

12.—(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data

Guidance from the Information Commissioner has confirmed that “*Material which is still in the course of completion can include information created as part of the process of formulating and developing policy, where the process is not complete; draft documents are unfinished even if the final version has been produced; data that is being used or relied on at the time of the request is not incomplete, even if it may be modified later*”. I can confirm that this is the case with the information you have requested. It is the intention to hold a public exhibition to inform the outcome of the studies and publish all of the information after it has been completed on the Welsh Government website. It is expected the information will be published by Spring 2019.

Regulation 12(4)(d) is a qualified (public interest tested) exception. Even if the exception is engaged, public authorities must go on to apply the public interest test set out in regulation 12(1)(b). A public authority can only withhold the information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Because of this, consideration has been given to the effects of

disclosure to the world at large rather than any personal interest you may have in being provided with the information.

The Welsh Government acknowledges the presumption in favour of disclosure under Regulation 12(2) and we acknowledge there is a public interest in openness and transparency within Government, particularly in terms of ensuring transparent and accountable government by disclosing how the Welsh Government utilises its resources, spends public money and that both are invested wisely on behalf of the people of Wales.

As outlined above, the Welsh Government has committed to publishing all of the information on its website, once it is complete. At that time, it will be published in a co-ordinated manner, with supporting contextual narrative, to all people at the same time. An accelerated release of incomplete material will result in inaccurate and incomplete information being disclosed prematurely, thus misleading the public.

I do not think it is in the public interest to release incomplete data prematurely. Rather, I believe the public interest would be best served if the information were released following the public consultation, to all people at the same time, together with supporting contextual narrative following the public exhibition.

To conclude, the Welsh Government believes the balance of public interest to withhold the information outweighs the public interest to release it for the reasons outlined above. The information has therefore been withheld under Regulation 12(4)(d) of the EIRs.