



Llywodraeth Cymru  
Welsh Government

By email:

Ein Cyf/Our ref: ATISN 14286  
Eich Cyf/Your refs: A190750; A190803;  
A190831 and A200243  
Dyddiad/Date 01 October 2020

Dear

**ATISN 14286**

Thank you for your request which I received on 3 September 2020. You requested a copy of the request received by the Welsh Ministers, to call in planning applications A190750; A190803; A190831 and A200243

I have enclosed with this letter a copy of the letter you have requested.

We are withholding information in regards to the individual requesting call-in under Regulation 13, as it constitutes the personal data of third parties. The information caught by your request constitutes environmental information so has been considered for disclosure under the Environmental Information Regulations 2004 (EIRs). I have decided some of the information described in the enclosed list is exempt from disclosure under regulation 13 of the EIRs. The reasons for applying this exemption is set out in full at Annex 1 to this letter.

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](mailto: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

## Regulation 13– Personal data

Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 2018 (‘the DPA 2018’) and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

Under Regulation 13(1) of the EIRs, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

“processed lawfully, fairly and in a transparent manner in relation to the data subject”  
The lawful basis that is most relevant in relation to a request for information under the EIRs is Article 6(1)(f). This states:

“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- The Legitimate interest test: Whether a legitimate interest is being pursued in the request for information;
- The Necessity test: Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- The Balancing test: Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

### 1. Legitimate interests

Welsh Government understands the broad legitimate interest in openness and transparency of decision making, and that in some cases, when representations come

from professional lobbyists or those in public life, that there would be legitimate interest in release of their personal details.

## 2. Is disclosure necessary?

In this case, as the representation does not come from such a person in public life, we believe that our duty of transparency and openness in decision making is adequately met by release of the information with the personal details redacted. For this reason, disclosure of their personal details is not necessary.

## 3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms

In balancing the legitimate interests in disclosure against the data subjects' interests, fundamental rights or freedoms, I note that the data subject would not reasonably expect that the information would be disclosed to the public under EIR. As there is no stronger overriding legitimate interest in disclosure, I have decided that, on balance, the data subjects fundamental rights and freedoms outweigh the legitimate interests in disclosure of their personal information.