

14 February 2024

Dear

Request for Information – ATISN 20018

Thank you for your request for information dated 19 January.

Information requested

You asked for copies of the following documents –

1. The request from the original leaseholder / Land Registry to 'Welsh Government' requesting permission to take out / allow a sub-lease
2. The response from 'Welsh Government' giving permission for the sub-lease. Either to the applicant or the Land Registry.
3. Any other communications between 'Welsh Government', on the one hand, and, on the other hand, Snowdonia Aerospace Estates LLP or Lee John Paul.
4. Any communications between 'Welsh Government' and Putney Investments. Putney has a colourful history, linked with the 'Sark Lark'. Putney Investments is a founding partner in both LLPs involved, the long leaseholder and the short leaseholder.

Our response

I can confirm we hold some information relating to your request. I have concluded that the information requested for question 1&2 is exempt from disclosure under Section 43(commercial interests) of the Freedom of Information Act 2000. Full reasoning for applying these exemptions is given at Annex A to this letter.

For question 3 I have concluded that it will be very time consuming to deal with. Requesting a broad scope of information without a timeframe as described makes the search very difficult and time consuming. There are many different teams and departments within the Welsh Government, which have had correspondence with Snowdonia Aerospace Estates LLP or Lee John Paul for over 20 years.

I have undertaken an initial search using the term 'Snowdonia Aerospace', which yielded more than 10,000 results. At an average estimate of one minute per result to check whether it is relevant to your request and then extracting the relevant information, it would take one official well in excess of 24 hours to complete the exercise.

I have therefore concluded that it will cost more than the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 to deal with your request. I have therefore decided to refuse your request under Section 12 of the Act as it would exceed the appropriate limit.

Making your request more specific could narrow the parameters of the scope and time it will take to process the request. If you decide to refine your request in this way, this will be treated as a new request.

For question 4, I have checked our records I can confirm that we have not had any communications with Putney Investments.

Next steps

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

ANNEX A

ATISN 20118 – Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemption identified under Section 43(2), commercial interests, of the Freedom of Information Act 2000 (FOIA).

Section 43 is a qualified (public interest tested) exemption and in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large, as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

Section 43(2) – commercial interests

The exemption states:

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

The Welsh Government(WG) is of the view that revealing the information in relation to the questions 1&2 or other information relating to the lease or leaseholder would be likely to prejudice our commercial interests should it be disclosed at this point in time.

The information requested on whether or not to grant the consent on matters to include sub leases is commercially confidential and not available from the land registry. Public record would compromise our ability to manage our trading property estate as any interested parties that we sell or lease property to would not be able to rely on us keeping matters confidential. It would also affect our ability to negotiate the best possible financial outcome for any deals as competitors would be able to offer terms to undercut our rates. We do not hold this kind of information on our competitors and would prejudice our commercial interests if this information were disclosed.

To reveal this information would likely to prejudice our commercial interests should the information associated with this matter be disclosed. The information would reveal commercially sensitive information not otherwise publically available and which, if disclosed would be likely to prejudice our service offering and future strategy and development .

Disclosing the information would give us a disadvantage in future dealings for any potential future negotiations. It would place WG at a distinct commercial disadvantage when negotiating and therefore prejudice our ability to engage in future commercial activities. It would also allow any other potential competitors an insight into our methodology and proprietary information they would otherwise not have considered. We do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

Public Interest Test For Disclosure

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

Public Interest Against Disclosure

Disclosure of this information would provide competitors to a level of information not otherwise available to them. This would be likely to enable them to obtain an advantage when negotiating with Welsh Government. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest.

For example, disclosure of information would allow competitors to understand previous deals and potentially negotiate a detrimental position for the Welsh Government. To freely disclose the information would give competitors a distinct commercial advantage and stepping stone which would be likely to prejudice our ability to engage in fair and level playing field for our commercial activities. WG do not have access to similar information on its competitors as they do not publish it, so would be at a significant disadvantage. We believe the resultant harm should this information be released, would be substantial.

Whilst the withheld information would be of interest to other competitors, we do not believe it would be of sufficient interest to the wider public. Release of the information would also allow potential competitors access to a level of detail that they otherwise wouldn't have, so as to enable them to obtain a commercial advantage by understanding and potentially copying our methodology and processes. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in prejudicing the commercial interests of the Welsh Government by the release of this information.

I am aware that, as a general rule, the sensitivity of information is likely to reduce over time; therefore the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is very much current information. I believe therefore that the balance of the public interest falls in favour of withholding the information.