



Llywodraeth Cymru
Welsh Government

Eich cyfeirnod Your reference	ATISN 14480
Ein cyfeirnod Our reference	
Dyddiad Date	19 November 2020
Llinell uniongyrchol Direct line	
Ebost Email:	

Dear

ATISN 14480 - Neath Mission Hall

Thank you for your request which I received on Monday 26 October. You asked for a copy of the application requesting the listing of Neath Mission Hall.

I have consulted the individual who submitted the listing request to Cadw and consent to disclose a copy has been refused. Release of the information would constitute unfair processing of the personal information (the first data protection principle being fairness), so I have decided that this information is an exception under section 12(5)(f) and section 13 of the Environmental Information Regulations 2004 and is therefore withheld. The reasons for applying this exemption are set out in full at Annex A 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
FreedomOfInformationOfficer@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

Mae Gwasanaeth Amgylchedd Hanesyddol Llywodraeth Cymru (Cadw) yn hyrwyddo gwaith cadwraeth ar gyfer amgylchedd hanesyddol Cymru a gwerthfawrogiad ohono.

The Welsh Government Historic Environment Service (Cadw) promotes the conservation and appreciation of Wales' historic environment.

Rydym yn croesawu gohebiaeth yn Gymraeg ac yn Saesneg.
We welcome correspondence in both English and Welsh.



BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE



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 14480 – 12(5)(f) and 13 of the Environmental Information Regulations 2004

I have decided to withhold the following information:

Information being withheld	Section number and exception name
Correspondence from an individual to Cadw requesting that Neath Mission Hall be considered for listing.	Section 12(5)f of the Environmental Information Regulations: “Interests of the person who provided information to the public authority.”
Personal information of members of the public engaging with Cadw over the listing process.	Regulation (13) of the Environmental Information Regulations: the information requested includes personal data of which the applicant is not the data subject.

Engagement of Regulation 12(5)(f)

ICO guidance states that: to refuse environmental information under the exception in regulation 12(5)(f), public authorities will need to establish that:

- the information is not on emissions;
- the interests of the person providing the information to the public authority will be adversely affected by disclosure;
- the person providing information was not under any legal duty to provide it;
- the public authority is not entitled to disclose the information provided;
- the person providing the information has not consented to disclosure; and
- the public interest in maintaining the exception outweighs the public interest in disclosing the information.

The intention behind this exemption is to prevent the disclosure of any information that would, on the balance of probabilities, cause harm to the supplier of the information.

The subject matter associated with the request appears to be a contentious and therefore the possibility of one party taking action, of whatever kind, within this contentious environment cannot be discounted. I am also mindful that the release of information under the Environmental Information Regulations is not just release to an individual, but publishing of information to the world.

As the request for listing is a voluntary process, and we would not normally release this information, and as the person (or persons) making the representation to Cadw has / have not consented to disclosure, I find that the exception is engaged.

Public interest arguments in favour of disclosure

The release of information relating to the work of Cadw and Welsh Government is important within the context of ensuring transparency and openness in Government and ensuring that information is placed in the public domain that allows for public scrutiny of Government decisions and trust in the working of Government.

Public Interest arguments in favour of withholding

It is necessary to ensure public engagement in the process by which buildings of special architectural or historic interest are identified, that the process be protective of those who choose to engage with Government and make applications for listing. In the event that this were not so, fewer individuals would be willing to engage with the process and the public benefit of that engagement would be damaged. This would damage trust in Government and the process of engagement and potentially lead to the loss of significant sites that might have met the criteria for listing.

Public Interest conclusion

With this in mind, on balance I believe that the public interest lies in favour of withholding the information due to the need to ensure that the individual involved is protected from harm.

Engagement of Regulation 13

Regulation 13 of the EIRs sets out an exception from the duty to disclose if the information requested is personal data protected by the General Data Protection Regulations (GDPR).

Personal data means information which relates to a living individual who can be identified from that data; or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

I consider that information regarding names and addresses of members of the public, as well as information relating to their private lives to be personal information.

Guidance from the Information Commissioner's Office states:

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data;
- If disclosure would not be fair, then the information is exempt from disclosure.

I have assessed that the individual concerned would have a reasonable expectation that their personal data would be kept confidential and not disclosed to the world at large. It would be unfair to the individual concerned to release their personal data. Disclosure would give rise to unfair and unwarranted intrusion on the individual's privacy in the circumstances of this case, and has the potential to cause unnecessary and unjustified harm to the individual in this case.

Release of this information may also breach article 8 of the European Convention on Human Rights – a right to respect for one’s “private and family life, home and correspondence.”

I have thus concluded that in in this case, disclosure would not have been within the reasonable expectation of the individual and the loss of privacy would cause unwarranted distress. It is my view that disclosure of would breach the first data protection principle, and thus are exempt from release under regulation 13 of the Environmental Information Regulations 2004.