



Ein cyf/Our ref ATISN 15887

5 November 2021

Dear

Request for Information – ATISN 15587

I wrote to you 18 October regarding your request for information.

Information Requested

- All documents regarding a property in the SY20 area which includes but is not limited to correspondence, agreements, emails, letters, file notes, memos, documents, meeting minutes and telephone recordings) between the Welsh Government and two individuals and their representative bank, as outlined in my acknowledgement letter of 18 October.

As this letter is being released into the public domain, the names of the individuals and the address provided by you have not been included with this letter.

Our Response

In my letter of 18 October, I explained that your request for ‘all documents’ covers a significant amount of information. I provided you with advice and guidance to submit a more focused request to potentially bring it within scope. I further explained that if such a narrowed request was received, it was likely that much of the information would be withheld as it would be a third party’s personal data. I also offered to discuss your request with you. As I have not heard anything further from you, I have considered your request as submitted above.

In the first instance, I am of the view that the information you want me to search for is environmental information and as such I have considered your request under the Environmental Information Regulations 2004 (EIRs). ‘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’.

Your request is being refused under Reg 12(4)(b) – manifestly unreasonable, of the Environmental Information Regulations. The reasons for refusing your request are given at Annex 1.

You may wish to refine your request by narrowing its scope by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required. If you do refine your request in this way, this will be treated as a new request.

The offer to discuss your request with an official is still available to you. Should you wish to take up this offer, please e-mail FOI.EconomyandInfrastructure@gov.wales.

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

ATISN 15587 - Application of exemptions/exceptions

The Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

This Annex sets out the reasons for the engagement of Regulation 12(4)(b) of the Environmental Information Regulations (EIRs) and our subsequent consideration of the public interest test.

Engagement of Reg 12(4)(b), manifestly unreasonable, of the EIRs

I have concluded that your request is both voluminous and complex and will be very time consuming to deal with it. Under the EIRs, there is no appropriate costs limit above which public authorities are not required to deal with requests for information. However, Reg 12(4)(b), manifestly unreasonable request, can apply if the cost or burden of dealing with a request is too great. This position was confirmed in the Upper Tribunal case of *Craven v The Information Commissioner and the Department of Energy and Climate Change* [2012] UKUT442 (AAC).

“Taking the position under the EIR first, it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as “manifestly unreasonable”, purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent to section 12 of FOIA makes such a conclusion inescapable.”

Public interest arguments in favour of disclosure

The Welsh Government recognises the general public interest in openness and transparency. It also recognises that releasing the information may help some members of the public gain a better understanding about the acquisition of the land in question. The Welsh Government also recognises the public has an interest in how their money is to be, or has been, used to ensure Government gets the best value from the public purse.

Public interest arguments in favour of refusing

As explained in my letter dated 18 October, your request for “all documents” covers a significant amount of information such as correspondence, agreements, emails, etc., some of which are stored in electronic files, others in hard copy files. I also explained that a significant amount of the information would be third party personal data. Sifting through all of the information to extract the personal data would place a substantial and unreasonable burden on the Welsh Government. It would be necessary for a senior Welsh Government official, who is familiar with the documents, to locate and review our electronic and hard copy files. Once the data is located it will need to be extracted and saved in a separate location. The documents will require a large amount of redaction due to the type of data we hold. Data held within Land Acquisition case

files include advice from a number of persons involved in the process, being recommendation and advice on the road scheme, engineers, contractors, designers, internal and external advice as well as correspondence from claimants affected and their representatives. Therefore due to the number of officials/organisations involved the redactions required would be unreasonable.

Unnecessarily expending already overstretched public resources in sifting through such a significant amount of information, which would not necessarily inform the wider public debate or increase people's understanding of the issues under consideration, would not be in the public interest.

Balance of public interest test

The Welsh Government therefore considers the balance of the public interest lies in favour of refusing your request. This is because it is believed your request would place a substantial and unreasonable burden on Welsh Government resources which are already stretched and on balance, it is considered the public interest would be better served by not deploying our resources in undertaking core work. As part of these considerations we have applied the statutory presumption in favour of disclosure under Reg12(2) of the Regulations but our view is that the significant burden that this request would impose outweighs the public interest in releasing this information.