

19 July 2023

Dear

ATISN 18639 – CALL IN REQUEST - PROPOSED MCDONALDS DRIVE THRU/RESTAURANT DEVELOPMENT AT TESCO CAR PARK, AMMANFORD APPLICATION NO. PL/05597

Information requested:

Thank you for your request which I received on 23 June 2023. You asked for:

- Confirmation of who has sought to call in planning application No. PL/05597
- Confirmation of on what grounds they have sought for application No. PL/05597 to be called in

Our response

I have enclosed with this letter, some of the information you requested, contained in an e-mail from Joyce Watson MS of 13 June 2023. The e-mail requests that application No. PL/05597 be called in for determination by the Welsh Ministers and sets out the grounds for the call-in request. Information is being withheld, under Regulation 13, as it constitutes personal data. The information being withheld, are a wet signature, e-mail addresses and telephone numbers.

The information caught by your request constitutes environmental information and has been considered for disclosure under the Environmental Information Regulations (“EIRs”). I have decided some of the information described is exempt from disclosure under Regulation 13 of the EIRs. The reason for applying this exemption is set out in full at Annex 1 to this letter.

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: Freedomofinformation@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(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 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 FOIA 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; and
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

1. Legitimate interests

We have been unable to identify a legitimate interest the requester may have in accessing the personal data of the Member of the Senedd.

2. Necessity test

We do not believe it is necessary to release the personal data for the reasons submitted for Requesting call-in to be understood.

3. Balancing test

As we don't believe there is neither a legitimate interest, nor is it necessary to release the personal data, we are of the view that disclosure would breach the GDPRs and, as such, should be withheld under Reg 13.