

From: ESNR-Planning
Sent: 11 November 2016 16:22
To:
Cc:
Subject: RE: 10852 Freedom of Information Request Acknowledgement

Dear ,

ATISN 10852 – Powys LDP

Thank you for your request which I received on 14 October for copies of all information, we hold, relating to the production of the proposed further focused changes of the Powys County Council Local Development Plan (LDP) items on Green Energy.

I have decided that some of the information described in the enclosed list is exempt from disclosure under Regulation(s) 12(4)(d) and 12(5)(e) of the Environmental Information Regulations (EIRs) and is therefore withheld. The reasons for applying these exemptions are set out in full at Annex A to this letter. The remaining information is attached.

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: FreedomOfInformationOfficer@wales.gsi.gov.uk

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

I have decided to withhold the following information:

Information being withheld	Regulation number and exception name
Draft Documentation attached to Email correspondence between Welsh Government officials and the local authority and/or their consultants. This includes reports, draft information for comment, progress reports and technical data	Regulation 12(4)(d) “...material in the course of completion, unfinished documents or to incomplete data” of the Environmental Information Regulations
Copies of the data purchased by Powys CC from the Met Office.	Regulation 12(5)(e)“.. the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate commercial interest.” of the Environmental Information Regulations

This Annex sets out the reasons for the engagement of Regulation(s) 12 (4)(d) and 12 (5)(e) of the EIRs and our subsequent consideration of the Public Interest Test.

Engagement of Regulation 12(4)(d) of the EIRs

This Regulation provides an exception from the obligation to provide requested information where that information is, or relates to, unfinished material.

The information caught by this request relates to the development of the local authorities amended LDP on green energy. As the correspondence relates to the discussions on the development of the amended LDP the correspondence naturally contains drafts and incomplete documentation, provided to inform the discussion between ourselves and the local authority.

We believe that putting this unfinished material into the public arena would result in confusion, particularly where the final, published, version differs. We also believe that disclosure could delay the finalisation of the plans.

In order to properly apply this exception we need to consider whether the wider public interest outweighs any harm that may arise from disclosure or whether the wider public interest favours the application of the exemption.

Public Interest in disclosure

Green energy production, and in particular, Windfarm generation is of high interest throughout Powys, as well as the rest of the UK, the siting of windfarms, being particularly contentious. There is a very strong local interest in understanding how sites for these windfarms are selected and how the plans governing their siting are developed. Whilst disclosure will not answer all of these it would allow the local communities to understand how the plans are developed.

There have been claims in the past that the Welsh Government has imposed windfarms on rural areas. Disclosure would show the limitations of the Welsh Governments influence in the development of such plans, both in Powys and across the rest of Wales

Public interest in maintaining the exemption

We believe that it is in the wider public interest that the plans are finalised in a timely fashion. Delaying that process as a result of having to deal with enquiries resulting from the publication of draft documents does not, we believe, best serve the public interest. We believe that what the plan for consultation says is of greater public interest than earlier versions which have been superseded.

Engagement of Regulation 12(5)(e) of the EIRs

This Regulation provides an exception from the obligation to provide requested information where disclosure of that information would harm a bodies legitimate commercial interest.

The data provided by the Met Office was purchased by Welsh Government and supplied to Powys CC specifically for the development of the Local Development Plan.

The Met Office is a trading fund and must attempt to maximise revenue and it does this by operating a commercial business which produces value added products and services in competition with a wide range of organisations in various different markets.

The weather data information relates to the analysis of specific environmental information, which was prepared for commercial sales in relation to the Met Office's commercial business. The release of this information would undermine the confidentiality of this commercial information. Confidentiality of commercial business activities (particularly from competitors) is essential to protect Met Office commercial business

In particular, disclosure may adversely affect the Met Office's commercial interests or its ability to participate in commercial activities or its ability to trade in the marketplace. This would adversely affect the ability of the Met Office to maximise commercial revenue based upon the use of environmental information to create commercial products and services in order to provide a return on capital employed back to government and offset the need for taxpayer sourced public investment in the Met Office.

I believe that the release of this information would harm the ability of the Met Office to engage in its legitimate commercial activities.

Public Interest in disclosure

As indicated above, there is a strong local, and national interest in understanding how sites for green energy production are identified. Information provided by the Met Office is a key factor in identifying potential sites.

Public interest in maintaining the exemption

In order to fully function the Met Office needs to maximise the revenue it can generate from the sale of data to a wide variety of customers. It is not in the public interest to harm the ability of the Met Office to raise funds in such a way by releasing data that has been purchased by a public body only for someone else get that same information for free as a result of a FoI/EIR request.

It is not in the public interest to allow this information to be released as this would impact on the commercial viability of the Met Office.