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	Eich cyfeirnod Your reference	
	Ein cyfeirnod Our reference	ATISN 11229
	Dyddiad Date	25 May 2017
	Llinell uniongyrchol Direct line	
	Ebost Email:	

Dear ,

Request for Information – ATISN 11229

We wrote to you on 6 April and 26 April about your request for information under the Environment Information Regulations 2004 concerning the scheduled monument DE246. You asked for any information held by Cadw regarding and associated with a 2015 Scheduled Monument Consent for the scheduled monument.

I have attached the information that we hold in respect of your request for information. Names have been redacted under Regulation 13 of the Environmental Information Regulations 2004. The reason for applying this exemption is set out at Annex 1 of this document.

Similarly, any information captured in the correspondence that is not considered relevant to your request for information has been redacted. In particular, we have redacted the first 2 paragraphs of document 10 and partially redacted the first paragraph of document 9, as this information is not relevant to your request.

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 the Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or 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 the 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.

Mae'r 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's 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



Yours sincerely,

ATISN 11229 – List of Released Information

Number	Document	Date
1	Scheduled Monument Consent Application Form	21/09/2015
2	Email to Suzanne Whiting, Cadw	23/09/2015
3	Email from Nichola Davies, Cadw	25/09/2015
4	Email from Nichola Davies, Cadw to Will Davies, Cadw	02/10/2015
5	Email from Will Davies, Cadw to Nichola Davies, Cadw	24/11/2015
5a	Advice of Cadw Inspector of Ancient Monuments	24/11/2015
6	Email from Nichola Davies, Cadw	27/11/2015
6a	Extract from Annex 1 of Circular 60/96 "Planning And The Historic Environment: Archaeology"	
6b	Cadw Interim Scheduled Monument Consent Letter	27/11/2015
7	Email to Nichola Davies, Cadw	27/11/2015
7a	Acceptance of Conditions Form	27/11/2015
8	Email from Nichola Davies, Cadw	27/11/2015
8a	Final Scheduled Monument Consent Letter	27/11/2015
8b	Note SMC19	
9	Email to Nichola Davies, Cadw	22/01/2016
10	Email to Fiona Grant, Cadw	05/04/2016
11	Email from Fiona Grant, Cadw to Will Davies, Cadw	05/04/2016
12	Email from Helen May, Cadw to Fiona Grant, Cadw	17/05/2016
13	Email from Fiona Grant, Cadw to Helen May, Cadw	19/05/2016
14	Letter from Helen May, Cadw	20/05/2016
15	Site Visit Report Form	08/09/2016
16	Photographic Record Form	08/09/2016

Annex 1 - Regulation 13 Environmental Information Regulations 2004 (EIRs) – Personal Information

Regulation 13 of the Environmental Information Regulations 2004 (EIRs) provides for third party personal data to be withheld in circumstances where its disclosure would breach any of the data protection principles set out in Schedule 1 of the Data Protection Act 1998 (DPA), from the right to know if the information requested is personal information protected by the Data Protection Act 1998 (DPA). Personal data is defined in Section 1(1) of the DPA as:

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

We have concluded that, in this instance, the information requested contains third party personal data. Under Regulation 13 of the EIRs, personal data is exempt from release if disclosure would breach one of the data protection principles. We consider the principle being most relevant in this instance as being the first.

The first data protection principle

This states:

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

We consider that information concerning names of members of the public clearly falls within the description of personal data as defined by the DPA and that its disclosure would breach the first data protection principle. The first data protection principle has two components:

1. Personal data shall be processed fairly and lawfully and
2. Personal data shall not be processed unless at least one of the conditions in DPA schedule 2 is met

Guidance from the Information Commissioner’s Office (Personal information (section 40 and regulation 13) v 1.3) states (at p11):

- The starting point is to consider whether it would be fair to the data subject to disclose their personal data. The key considerations in assessing this are set out in the section on Fairness below.
- If disclosure would not be fair, then the information is exempt from disclosure.

This approach was endorsed by the Court of Appeal in the case of *Deborah Clark v the Information Commissioner and East Hertfordshire District Council* where it was held:

“The first data protection principle entails a consideration of whether it would be fair to disclose the personal data in all the circumstances. The Commissioner determined that it would not be fair to disclose the requested information and thus the first data protection principle would be breached. There was no need in the present case therefore to consider whether any other Schedule 2 condition or conditions could be met because even if such conditions could be established, it would still not be possible to disclose the personal data without breaching the DPA” (paragraph 63).

In this instance, because the individuals are members of the public and would have had no expectation that their personal data would be released into the public domain, we believe that

release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under Regulation 13 of the Environmental Information Regulations.