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Eich cyfeirnod
Your reference

Ein cyfeirnod
Our reference

Dyddiad
Date

Llinell uniongyrchol
Direct line

Ebost
Email:

ATISN11879

31st January 2018

0300 025 5839

Dear _____,

Request for Information – reference ATISN-11879; Barclodiad yr Gawres, Anglesey

Thank you for your request which we received on 3rd January 2018 about Barclodiad yr Gawres. You asked for all information held by us relating to:

- (1) the process of identifying the need for, alternatives to, planning of (including any local or other authority consents), design, construction and commissioning of a solar photovoltaic (PV) system atop Barclodiad y Gawres, Anglesey.
- (2) any consultations, whether external or otherwise, on the need for and suitability of the PV system installed.
- (3) site supervision against possible damage or interference.

A copy of the information we have decided to release is enclosed. We have decided that some of the information is exempt from disclosure under section(s) S21 of the Freedom of Information Act and is therefore withheld. The reasons for applying these exemptions are set out in full in Annex 1 at the end of this letter.

We do not hold Application documents – forms, drawings etc. – forming the application for Planning Permission and Approval documents. These documents are held by the relevant planning authority, which is Anglesey County Council. You can contact them at planning@anglesey.gov.uk. I have ascertained for you that the reference number for the planning permission is 10C126

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

Cadw yw gwasanaeth amgylchedd hanesyddol Llywodraeth Cymru. Ein nod yw hyrwyddo gwaith cadwraeth ar gyfer amgylchedd hanesyddol Cymru a gwerthfawrogiad ohono.

Cadw is the Welsh Government's historic environment service. Our aim is to promote 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



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,

ATISN11879-Annex 1 to letter

We have decided to withhold the following information:

Information being withheld	Section number and exemption name
The Welsh Government believes that the personal information of 3 rd parties should be exempt from disclosure	'S40 Personal information'

Section 40(2) – Personal Data

Section 40 of the Freedom of Information Act sets out an exemption 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”.

I have concluded that, in this instance, the withheld information amounts to third party personal data.

Under Section 40(2) of the FOI Act, personal data is exempt from release if disclosure would breach one of the data protection principles. I consider the principle being most relevant in this instance as being the first.

The first data protection principle 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.

I consider that the withheld information in relation to names and contact details 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 1.4) states:

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).

Our analysis of the ICO’s key considerations in assessing ‘fairness’, as set out in the Guidance, are presented below.

The withheld information amounts to the personal data of members of the public. We have consulted with them and received indications that they wish for their personal details to be withheld from disclosure. As they had no expectation that their names or other personal data would be released the public domain, I have concluded that release of these data against their wishes would constitute unfair processing under the first data protection principle.

For that reason, I believe the information should be withheld under section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to the public interest tests.