



Llywodraeth Cymru  
Welsh Government

Ein Cyf/Our ref: ATISN 13306  
Eich Cyf/Your ref:  
Dyddiad/Date: 25 July 2019

Dear ,

**ATISN 13306**

Thank you for your request which I received on 22 July 2019. You asked for:

A copy of the details of all representations made to the Welsh Government and its agents seeking the Welsh Government to “call-in” the planning application submitted by Carmarthenshire County Council for the development of new school premises for Ysgol Gymraeg Dewi Sant in Llanelli.

I have enclosed with this letter, some of the information in respect of your request, which I believe is what you requested as identified on the disclosure list.

The information caught by your request constitutes environmental information so has been considered for disclosure under the Environmental Information Regulations (EIRs). I have decided some of the information described in the enclosed list is exempt from disclosure under Regulation 13 of the EIRs, where that information constitutes the personal data of third parties. The reasons for applying these exemptions are set out in full at Annex 1 to this letter.

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](mailto: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

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

## Regulation 13– Personal data

Regulation 13 of the EIRs sets out an exception from the right to know if the information requested is personal information, the disclosure of which would breach any of the data protection principles provided by the Data Protection Act 2018 (DPA) and the General Data Protection Regulations (GDPR).

‘Personal data’ is defined in sections 3(2) and (3) of the DPA 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 third party personal data. Your request asked for copies of the representations made to the Welsh Government and its agents seeking the Welsh Government to “call-in” the planning application submitted by Carmarthenshire County Council for the development of new school premises for Ysgol Gymraeg Dewi Sant in Llanelli. This includes the names and addresses of members of the public.

Under Regulation 13(1) of the EIRs, personal data is excepted 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 EIRs 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 EIRs 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;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

### **1. Legitimate interests**

It is not clear to ourselves that there is, in this case, a legitimate interest in you accessing the personal data captured by your request. Whilst we can see those putting forward the scheme having, to a certain degree, a legitimate interest in knowing who has asked for their planning application to be called-in by Welsh Ministers, this, we would suggest, does not extend to just any member of the public.

### **2. Is disclosure necessary?**

We are releasing the text of the correspondence received asking the Minister to call-in the application.

We do not believe the identity of those asking for the planning application to be called-in is relevant to any understanding of the process or the arguments put forward. The identity of any party asking for any planning application to be called-in does not require any knowledge or consideration of who made the request to call-in the application by those considering whether or not to call-in a planning application, or, the subsequent decision of the Minister, should the application be called-in.

### **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

As we do not believe it is necessary to disclose the identity of the correspondents, there is no requirement for us to balancing the rights and interests of those correspondents against the rights, under the EIRs, of the requester. Disclosure of the personal data, we believe, would breach the DPA / GDPR and, as such, is excepted from disclosure under Reg13(1) of the EIRs.

Disclosure List – Request for recorded information - Reference Number (13306)

Item number	Item date	Item title or description	Reason for withholding information
001	25/04/2019	Letter from Lee Waters AM to Lesley Griffiths AM	None
002	Undated	Letter from third party	Regulation 13
003	Undated	Letter from third party to Lesley Griffiths AM	Regulation 13
004	27/04/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
005	27/04/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
006	29/04/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
007	28/04/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
008	01/05/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
009	08/05/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
010	16/05/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
011	16/05/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13
012	16/05/2018	E-mail from third party to Lesley Griffiths AM	Regulation 13