

06 March 2023

Dear

Request for Information – ATISN 17134

I wrote to you on 09 February acknowledging your request for information and informed you I would respond in March.

Your request

1. Specific details of the actual geographic locations of each of the disused coal tips in Wales identified by Local Authority area.
2. Copies of the information provided by each responsible body to the Welsh Government in assembling this summary list.

Our response

As the information requested is environmental, your request has been considered under the Environmental Information Regulations 2004 (EIRs). For question 1, I can confirm Welsh Government holds information of this description. However, after due consideration we believe it should be withheld under the exception contained in Reg 12(4)(d) of the EIRs, which states:

12.—(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data

Guidance from the Information Commissioner has confirmed that:

“Material which is still in the course of completion can include information created as part of the process of formulating and developing policy, where the process is not complete; draft documents are unfinished even if the final version has been produced; data that is being used or relied on at the time of the request is not incomplete, even if it may be modified later”.

I can confirm that the information captured by your first request meets this description.

We informed you in November 2021 that the Welsh Government is developing an information base for disused coal tips to provide robust evidence to enable the assessment of the status of a tip, its required management arrangements and appropriate interim monitoring and maintenance requirements until a new statutory

management regime is introduced. At that time, information on disused coal tips was expected to be published in the first half of 2022.

However, the data mapping exercise has been extremely complex and has taken longer than expected. It has involved an extensive programme of utilising multiple sources to compile the dataset. There was no existing national dataset, records are very old and sometimes not available, and the reclamation of tips has also meant some are not easily identifiable. The sale of assets by the Coal Board has also resulted in a complex ownership landscape, with volumes of private and multiple owners per tip. A key consideration is ensuring this data is as accurate as possible before releasing into the public domain. Currently boundary information remains subject to review and the accuracy of the data is subject to further assurance.

We are committed to publishing the locations of the higher-rated disused coal tips within this dataset as soon as possible.

Regulation 12(4)(d) is a qualified (public interest tested) exception. Even if the exception is engaged, public authorities must go on to apply the public interest test set out in regulation 12(1)(b). A public authority can only withhold the information if the public interest in maintaining the exception outweighs the public interest in disclosing the information. Because of this, consideration has been given to the effects of disclosure to the world at large rather than any personal interest you may have in being provided with the information.

Public Interest Test

The Welsh Government acknowledges the presumption in favour of disclosure under Regulation 12(2) and we acknowledge there is a public interest in openness and transparency within Government, particularly in terms of ensuring transparent and accountable government by disclosing how the Welsh Government utilises its resources, spends public money and that both are invested wisely on behalf of the people of Wales.

As outlined above, the Welsh Government remains committed to publishing the locations of disused coal tips in Wales once the quality assurance processes are complete. At that time, it will be published in a co-ordinated manner, and we will provide supporting information and contextual narrative for tip owners and for communities in the vicinity of tips to ensure we can answer questions and alleviate any concerns. We will also provide the data in accordance with UK data protection laws, with which the Welsh Government must comply.

Disclosing prematurely potentially inaccurate or incomplete information on the location of tips may have negative impacts, such as:

- inaccurately informing people they are an owner/part owner of a tip on their land;
- creating unnecessary anxieties and well-being concerns relating to the impact that this will have on their land/home; and
- inaccurately informing people they will be affected by the planned introduction of legislation on disused tips in Wales, which in some circumstances will place duties on owners of tips.

This could also result in a raised number of public concerns or queries that could delay the full publication.

To that end, the Welsh Government believes it is not in the public interest to release this incomplete data prematurely. Rather, the balance of public interest to withhold the information outweighs the public interest to release it for the reasons outlined above. The information has therefore been withheld under Regulation 12(4)(d) of the EIRs.

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: Freedom.ofinformation@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