

27 April 2023

Dear

Complaint in respect of Request for Information – reference ATISN 17217

Thank you for your email of 28 March 2023 in which you asked us to review our decision to withhold a business plan with respect to Gilestone Farm under Section 43 of the Freedom of Information Act (Commercial Interests).

In your request you accept the argument made with respect to commercial information and harm, but you believe we have interpreted the exemption too widely to cover the whole business plan. You state:

I understand the general justification not to release some commercial information, but I would have thought it improbable that would prevent the release of an entire business plan. I was anticipating the release of a redacted version.

I have reviewed the information withheld, the business plan submitted to Welsh Government by Green Man, and the reasons for withholding it. I am of the view that release of any portion of this business plan at this time, when there are a high number of active commercial negotiations and live assessments still ongoing on many intertwined aspects of the document, would prejudice the process and would be likely to influence the outcome of the assessments. This, therefore, would be likely to be detrimental to the commercial interests of Green Man.

As explained in our response to you, Section 43(2) of the FOIA states that:

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Although you have not asked us to review our public interest consideration, I have done so. I note that we made the point in that consideration that:

As a general rule, the sensitivity of information is likely to reduce over time; therefore the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is very much current information. I believe therefore that the balance of the public interest falls in favour of withholding the information.

As I have said above, the sensitivity of this information and the likelihood of commercial loss arises out of the active commercial negotiations and live assessments. When these are settled, the commercial interest in withholding will subsequently decline, but at this stage I find that the exemption was correctly applied.

You further state in your request for a review that:

Welsh Government has rather undermined its own argument and has in fact released (at a meeting with the Talybont on Usk Community Council on 17 March) significant information from the business plan.

However, this statement is incorrect. Welsh Government has not shared the Business Plan externally, and the business plan was not shared in the above referenced meeting. I am aware that Green Man shared a press release after the meeting that contains high level information that was shared with the meeting. That information is in the public domain and can be read here:

- [Green Man organiser's £23m vision for Gilestone Farm, Powys | South Wales Argus](#)

Nevertheless, the business plan itself has not been shared nor discussed.

If you remain dissatisfied with this response you also have the right to complain to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745
Fax: 01625 524 510
Email: casework@ico.gsi.gov.uk

Also, if you think that there has been maladministration in dealing with your request, you have the option to make a complaint to the Public Services Ombudsman for Wales who can be contacted at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
Bridgend
CF35 5LJ

Telephone: 0845 6010987 (local rate)
Email: ask@ombudsman-wales.org.uk

Yours sincerely

Jason Thomas
Director of Culture, Sport and Tourism