



Ein Cyf/Our ref: ATISN 18709
Dyddiad/Date: 1 August 2023

Dear ,

ATISN 18709 – CALL IN REQUEST - PROPOSED CHANGE OF USE OF SURPLUS PUBLIC TOILETS TO TAKEAWAY ICE CREAM PARLOUR/COFFEE BAR & BEACH THEMED RETAIL AT LAND ADJACENT TO NEWGALE CAMPSITE, NEWGALE, HAVERFORDWEST, PEMBROKESHIRE

Information requested:

Thank you for your request which I received on 10 July 2023. You asked for:

- Copy of the request to the Welsh Ministers, to call in planning application NP/23/0124/FUL at Pembrokeshire Coast National Park Authority (PCNPA), including personal information and all written correspondence relating to the call-in request.

Our response

I have enclosed the information you requested, contained in a letter from The National Trust of 27 June 2023 and an email from The National Trust of 29 June 2023. The letter requests that application no. NP/23/0124/FUL be called in for determination by the Welsh Ministers and sets out the grounds for the call-in request. Information is being withheld, under Regulation 13, as it constitutes personal data. The information being withheld, is the name and e-mail address of an officer at the National Trust.

The information caught by your request constitutes environmental information and has been considered for disclosure under the Environmental Information Regulations (“EIRs”). I have decided some of the information described is exempt from disclosure under Regulation 13 of the EIRs. The reason for applying this exemption is set out in full at Annex 1 to this letter.

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.

Next steps

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: Freedomofinformation@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

Regulation 13– Personal data

Regulation 13(1) together with the conditions in Regulation 13(2)(a)(i) and 13(2)(a)(ii) provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

‘Personal data’ is defined in sections 3(2) and (3) of the Data Protection Act 2018 (‘the DPA 2018’) 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 personal data.

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

1. Legitimate interests

We have been unable to identify a legitimate interest the requester may have in accessing the personal data of the person requesting call-in of the application.

2. Necessity test

We do not believe it is necessary to release the personal data for the reasons submitted for requesting call-in to be understood.

3. Balancing test

As we don't believe there is neither a legitimate interest, nor is it necessary to release the

personal data, we are of the view that disclosure would breach the GDPRs and, as such, should be withheld under Reg 13.