

30 January 2023

Dear

### **Complaint in respect of ATISN 19360: Acquisition of Gilestone Farm**

I am responding to your email which was received on 2 January 2024 in which you asked us to review the response issued to your request for information under the Freedom of Information Act 2000 (FOIA). This letter is to inform you of the outcome.

In your email dated 30 November 2023 you asked for three items of information, namely:

- 1. The rationale to purchase;**
- 2. Monies paid and ongoing funding, annual costs for management**
- 3. The forward strategy**

This was processed under the Freedom of Information Act 2000 and we responded to you on 2 January 2024. In response to your request for the rationale to purchase, you were sent the following information:

*The Welsh Government (WG) purchased the property to support the growth ambitions of the Green Man festival and the potential additional positive contribution of the festival to local businesses, the community and the Welsh economy.*

*This information is publicly available on the Welsh Government website on the Gilestone Farm FAQs page which is available to view online at - <https://www.gov.wales/gilestone-farm-frequently-asked-questions>*

You have stated that you believe this information is insufficient and have asked a further set of more detailed questions about the rationale to purchase. Although these questions were not included in the original request, I believe the information supplied complied with our duty under the FOIA. The additional information you have requested is contained in the publicly available Frequently Asked Questions document. I am therefore satisfied that it was a sufficient and correct response to your original request.

On the requests for information on monies paid and annual costs for management, in the response, officials explained that this information is exempt from disclosure under sections 43 of the Freedom of Information Act and is therefore withheld. The reasons for applying this exemption were set out in full at Annex A and relate to the commercial sensitivity of the information. You have subsequently stated that you believe this response is not acceptable.

Following my review, I have concluded that this information remains exempt for the reasons previously set out in the original response and the fact that commercial discussions regarding the site are still ongoing. The original response is clear that whilst discussions are still underway, disclosure of this information would prejudice

that process and place Welsh Government and the company at an unfair disadvantage during current and potentially future negotiations. This is still the case and I am therefore satisfied that the decision to withhold this information remains the correct response.

On the future strategy, there is information already in the public domain on plans for the site which is available at <https://gilestonefarmproject.co.uk>

This website includes information on the project including how the project intends to support local farming, sustainable tourism, the food and drink sector and the creative industries. On reflection, it may have been more helpful if officials had stated this more clearly in the original response and sign-posted you to the availability of this information. This information has however been in the public domain since early 2023 and therefore would be exempt information under FOI as information accessible by another means.

### **Next steps**

I have considered your complaint in accordance with the procedure outlined in the [Welsh Government's Practical Guide for Making Requests for Information](#) which is available by post on request or via the internet. I have also set out at Annex A the appropriate exemptions which have been applied to each part of your request again, for reference.

Following my review of your FOI, I uphold the decisions set out in the original response but as previously stated, recognise that the response could have been clearer in pointing you to information in the public domain on the future strategy. This has now been rectified.

If you remain dissatisfied with this response you 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.

Yours sincerely

Deputy Director, Welsh Government

## **Annex A**

### **Application of exemptions/exceptions**

The Freedom of information Act/Environmental Information Regulations provide a right for anyone to ask a public authority to make requested information available to the wider public. As the release of requested information is to the world, not just the requester, public authorities need to consider the effects of making the information freely available to everybody. Any personal interest the requester has for accessing the information cannot override those wider considerations.

I have decided to withhold the following information:

Copies of the below under Section 43 – Commercial interests:-

- Monies paid and ongoing funding;
- The annual costs for management; and
- The Forward strategy

This Annex sets out the reasons for the engagement of sections 43 and 40(2) of the Freedom of Information Act and our subsequent consideration of the Public Interest Test.

### **Section 43(2) – commercial interests**

The exemption states:

- (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).

The Welsh Government (WG) is of the view that revealing the information whilst commercial and legal discussions regarding the future of the property continue would place WG under a disadvantage in the ongoing negotiations surrounding the site. The Welsh Government would like to emphasise that this is a time limited exemption until the conclusion of commercial discussions around the future of the property. Disclosure of this information at this time would be likely to prejudice the ongoing negotiations and as such, the commercial interests of Welsh Government. The information would reveal commercially sensitive information not otherwise publicly available.

### **Public Interest Test For Disclosure**

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

### **Public Interest Against Disclosure**

Disclosure of this information would prejudice ongoing commercial negotiations as release would reveal commercially sensitive information not otherwise publicly available. Disclosure of this information would provide competitors and potential interested parties access to a level of information not otherwise available to them. This would be likely to enable them to obtain an advantage when negotiating with Welsh Government. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest. This is a time limited exemption until the conclusion of commercial discussions around the future of the property.

To freely disclose the information would give private entities negotiating with Welsh Government a distinct commercial advantage and stepping stone which would be likely to prejudice the ability of WG to engage in fair and level playing field for commercial activities. We believe the resultant harm should this information be released, to be substantial and would disadvantage Welsh Government, and as such the public purse, during commercial negotiations.

Whilst the withheld information would be of interest to other commercial entities, we do not believe it would be of sufficient interest to the wider public to countervail the public interest in withholding the information. Release of the information would also allow potential competitors access to a level of detail that they otherwise wouldn't have, so as to enable them to obtain a commercial advantage by understanding and potentially copying the methodology, their processes and business case. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in prejudicing the commercial interests of the Welsh Government or the company by the release of this information.

I am aware 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 and is relevant to ongoing commercial negotiations. I believe therefore that the balance of the public interest falls in favour of withholding the information.