



Mr Nick Kempe
nickkempe1@gmail.com
EIR Ref: 2017/039

10th May 2017

Dear Mr Kempe

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

I refer to your request for information, received by email on 11th April 2017.

We have applied the exemption under Section 39(2) of the Freedom of Information (Scotland) Act 2002 as we have determined that the information sought in your request is environmental information. We are therefore handling your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs). In this case the public interest in maintaining this exemption and in dealing with the request in line with the requirements of the EIRs outweighs any public interest in disclosing the information under FOISA.

Your specific requests and the response from the National Park Authority are provided below.

“I would be grateful if you could provide me with all information the Park holds about pre-application discussions with Fergus Wood, both written information relating to PRE/2015/0160 and any subsequent exchange of information between Cllr Wood/his agents and the Park authority relating to this information.”

Correspondence in relation to pre-planning requests for advice typically includes personal information and information that in its nature relates to commercial interests of an individual or business. The provision of a pre-application advice service helps in the delivery of an effective planning system, and it is important that such advice is provided confidentially. The practice of providing confidential pre-application advice to all planning applicants as required is common place across Scottish planning authorities and prospective planning applicants engage in the pre-application advice process with a reasonable and legitimate expectation of confidentiality.

The Park Authority holds correspondence in relation to pre-application discussions concerning case ref PRE/2015/0160.

This information has been withheld from disclosure under Regulation 10(3) and Regulation 11 (3)(a) (i) and (ii) of the EIRs with respect to the first and sixth Data Protection Principles, which relate to the fair and lawful processing of personal data and the processing of personal data in accordance with the rights of the data subject, as well as Regulation 10(5)(f) of the EIRs.

The requested information is the personal information of a third party. This information has been

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N
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processed in accordance with the rights of the data subject, and the information has been given to the Park Authority for the specific lawful purpose of obtaining advice in relation to a proposed planning application. This individual would have had no expectation that correspondence regarding a proposed business development would be released into the public domain. The release of this information is therefore also considered to contravene Section 10 of the Data Protection Act 1998 (Right to prevent processing likely to cause damage or distress).

In addition, this information has been withheld from disclosure under Regulation 10(5)(e) of the EIRs. Regulation 10(5)(e) provides that a Scottish public authority may refuse to make environmental information available to the extent that its disclosure would, or would be likely to, prejudice substantially the confidentiality of commercial or industrial information where such confidentiality is provided for by law to protect a legitimate economic interest.

In this case, the information requested is commercially sensitive as it includes details of development proposals submitted by an external party which were provided to the Park Authority on a commercially confidential basis.

Consideration has been given as to whether there is a greater public interest in the disclosure of the information in this case. It has been concluded that there is a greater public interest in protecting the personal information and the commercial interests of an individual who has now applied for planning permission to the Park Authority for a business development. Details of the actual planning application and resultant decision in this case will be publically available via the online planning portal on our website at: <http://eplanning.lochlomond-trossachs.org/OnlinePlanning/?agree=0>

“I would also be grateful if you could provide me to a reference to the policy/procedure which allows planning staff to deal with Non-Material Variations to planning consents which come from Board Members on a delegated basis.”

The Scheme of Delegation relative to Planning; Part 1 para 4.2.3 provides the delegated authority for the variation of planning consents under Section 64 of the 1997 Act. The provision of Delegated Authority on these types of submission has no exclusions for applications that were submitted by Board Members or any other circumstance. The significant judgement on applications under Section 64 is that where the proposal is non-material to the original permission as granted – whether the applicant is a Board Member - is of no consequence in this judgement. However, the Scheme of Delegation does require that the determination of any planning application by a Board Member would be determined by the Planning and Access Committee.

Yours sincerely

Governance & Legal Team
Loch Lomond & The Trossachs National Park Authority

Review Procedure

If you are dissatisfied with this response, or the way in which the Authority has dealt with your request, you are entitled to ask the Authority to review its decision. Please note that in order for a

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review to take place you must:-

- Lodge a written request for a review within 40 working days of either the date on which you received a response from the Authority or the date by which you should have received a response under the terms of the Environmental Information (Scotland) Regulations 2004, whichever is the later.
- Include your name, address for correspondence, a description of the original request, and the reasons why you are dissatisfied; and

address your review request to:

Governance & Legal Team
Loch Lomond & The Trossachs National Park Authority
National Park Headquarters
Carrochan
Carrochan Road
Balloch
G83 8EG
E-mail: info@lochlomond-trossachs.org

Please note that links provided to information available elsewhere are intended to assist you. Requests for information held by other public authorities, and any complaints regarding access to such information should be addressed to that authority. These review procedures relate only to information which is directly under the control of Loch Lomond & The Trossachs National Park Authority.

The review of your request will be handled by staff who were not involved in the original decision. You will receive notice of the result of your review within 20 working days.

If you are not satisfied with the response to your request for review, you can contact the Scottish Information Commissioner, the independent body which oversees the Environmental Information (Scotland) Regulations 2004, at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01344 464 610
Website: www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info
Online appeal portal: www.itspublicknowledge.info/Appeal

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