



Mr Nick Kempe
nickkempe1@gmail.com
EIR Ref 2019/002

6th February 2019

Dear Mr Kempe

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

We refer to your request for information, received by email on 9th December 2018. Some of the information you have requested is environmental information, as defined in Regulation 2 of the Environmental Information (Scotland) Regulations 2004 (EIRs). The Park Authority has an obligation to deal with your request under the EIRs and an option to also deal with your request under the Freedom of Information (Scotland) Act 2002 (FOISA), unless the public interest lies in dealing with your request solely under the EIRs. We have examined each of the documents you have requested. Where we consider that the requested information is covered under the EIR's we have applied the exemption in section 39(2) of FOISA. Details are provided in relation to each document.

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

"I have welcomed the increased transparency about how the National Park works and note that among the Board Groups the Chairs group is now listed and papers available. I believe the same should be the same for the Delivery Group and reports, such as those listed in the Board Papers for tomorrow should be made public.

I would be grateful if you could consider this and if you wish time to do so happy to suspend this information request until after Xmas. If not, however, I would be grateful if you could treat this as an Information Request for all the reports listed below:

4.3. The Delivery Group received more detailed reports on priority projects. The Delivery Group considered updates on the following priority projects:

- *Callander's Landscape*
- *Camping Development Strategy*
- *Litter*
- *Car Park Charging*

The Delivery Group also received an end of project report and lessons learned report in respect of the Gateway Centre; a priority project that has recently completed."

The Delivery Group is a standing advisory group of the Park Authority Board. The purpose of the

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Group is to provide scrutiny and oversee delivery of the Park Authority's high priority projects and provide robust assurance of project progress and management to the Park Authority Board. The Group does not make decisions, but provides an opportunity for key projects to be discussed.

The requested papers are as follows:

1. Callander's Landscape – paper and appendix
This paper states that the Park Authority is the 'accountable body' for the project, insofar as the Park Authority is the accountable body to Heritage Lottery Fund for this project.
2. Camping Development Strategy paper
3. Litter – paper and appendix. Please note that additional papers referred to in the litter paper are publically available on our website: <https://www.lochlomond-trossachs.org/park-authority/our-board-committees/meetings/strategicdevelopment-board-session-17-september-2018/>

We consider that the information in the above three papers is covered under the EIR's, and we have applied the exemption in section 39(2) of FOISA, in relation to this information, which has been provided in full and is attached.

4. Car Park Charging paper
5. end of project report and lessons learned report in respect of the Gateway Centre

These papers have been considered for release under FOISA. In the case of car park charging, the information relates to a commercial proposal to introduce a financial charge for parking. The reports in relation to the Gateway Centre have also been considered for release under FOISA as the information primarily relates to project management and resourcing issues.

Some information has been withheld from the Gateway Centre end of project report and the Lessons Learned report. The names of staff below the grade of manager have been withheld from release under S38 (1)(b) of FOISA as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the first, second and seventh Data Protection Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.

Therefore the disclosure of this information, which is not the personal data of the requester, would contravene the Data Protection Act 2018. This means that there is no requirement to consider the public interest in the disclosure of this information.

In addition, some information has been redacted from the end of project report, in relation to communications with the tenant and our work on an exit strategy, which have been withheld under S33(1)(b) as its release would, or would be likely to, prejudice substantially, the commercial interests of both the tenant and the Park Authority.

The application of S33(1)(b) requires consideration of the public interest test. This means assessing whether, in all the circumstances of this case, the public interest is better serviced by disclosing or withholding the information. The 'public interest' has been described as something which is of serious concern and benefit to the public.' It has also been said that the public interest does not mean what is of interest to the public, but what is in the interest of the public.

The following public interest factors favour the release of the information in this case:

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- the public interest in individuals being able to exercise their rights under FOISA in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, in this case, recording information about the completion of a high priority project.
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

- The public interest in protecting the commercial interests of a commercial tenant
- The public interest in the Park Authority managing its business relationship with a commercial client
- The public interest in effectively managing relationships between the tenant, landlord and contractors involved in the project.

The public interest factors are considered in more detail below:

The management of this project was complex due to the work involved in negotiations between the landlord, tenant and contractor. The commercial interests in this case are those of prospective tenants, in relation to the current and future rental of the Gateway Centre as well as the commercial interests of the Park Authority as landlord, seeking to rent out the property on a commercial basis.

Disclosure of the details of our negotiations with the tenant would allow future tenants to tailor their negotiations with the Park Authority, thereby putting the existing tenant at a competitive disadvantage, as well as adversely impacting on the Park Authority's ability to negotiate an economically advantageous tenancy agreement, securing best value for public funds.

It has therefore been concluded that the public interest in learning about specific commercial aspects of the negotiations with the tenant and contractor in this case, are outweighed by the public interest in withholding this information. Minor sections of the report have been redacted, the report has not been withheld in its entirety.

Additional information has been withheld from the Gateway Centre Lessons Learned Report, under Section 30(c) of FOISA as the release of this information is likely to prejudice substantially the effective conduct of public affairs.

The application of S30(c) requires consideration of the public interest test. This means assessing whether, in all the circumstances of this case, the public interest is better serviced by disclosing or withholding the information. The 'public interest' has been described as something which is of serious concern and benefit to the public.' It has also been said that the public interest does not mean what is of interest to the public, but what is in the interest of the public.

The following public interest factors favour the release of the information in this case:

- the public interest in individuals being able to exercise their rights under FOISA in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, in this case, assessing the lessons learned from the Gateway Centre project.
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

- The public interest in permitting all staff involved to deliver an honest assessment of the successes and challenges of the project

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- The public interest in allowing this assessment to encourage full disclosure of all issues relating to the delivery of the project, so that lessons can be learned for the delivery of future projects, as appropriate
- The public interest in effectively managing relationships between the tenant, landlord and contractors involved in the project.

The public interest factors are considered in more detail below:

The Gateway Centre project presented a range of commercially sensitive opportunities and challenges, and the completion of a lessons learned report was considered appropriate as a means of identifying good practice and areas for development which may inform the handling of future projects.

Aspects of the project involved working with external contractors, tenants and funding partners. The Lessons Learned report was created following a meeting held with all staff involved, with the intention of seeking honest feedback, positive and negative, on all aspects of the project. The specific areas for discussion are provided in the report, however the specific feedback has been withheld.

While there is a public interest in members of the public knowing how a public body performs its functions, it has been considered that there is a greater public interest in encouraging the proper evaluation of a high priority project, with input from all staff, who would otherwise be inhibited from contributing to such an evaluation if they knew that all of their feedback would be released into the public domain. There is also a public interest in maintaining long term, effective working relationships with stakeholders and partners.

The Park Authority is not applying this exemption to the process of conducting a lessons learned assessment, rather it has been concluded that the evaluation of this particular project should be withheld from release, as it identifies feedback in respect of contractors, tenants and other agencies. As well as the risk of a chilling effect on Park Authority staff caused by the release of this information, which would discourage full and honest feedback for further lesson learned assessments, there is the additional impact of releasing feedback in relation to partners that the Park Authority continues to work with, which may adversely affect ongoing working relationships with these organisations. In addition, aspects of the procurement process were evaluated and the release of this information may impact current and future contract management relationships with contractors.

It has therefore been concluded that in this case the public interest in withholding details of the lessons learned report outweighs the public interest in the release of this information.

Yours sincerely

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

Review Procedure

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

- Send your request for review in writing, setting out in full the reasons why you are requesting a review.
- Submit your review request within 40 working days of either the date on which you

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received a response from the Authority or the date by which you should have received a response under the terms of the Freedom of Information (Scotland) Act 2002, whichever is the later.

- address your review request to:

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Loch Lomond & The Trossachs National Park Authority
National Park Headquarters
Carrochan
Carrochan Road
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The review 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 Freedom of Information (Scotland) Act 2002, at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01334 464610
Website: www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info

Online appeal portal: www.itspublicknowledge.info/Appeal

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