



EIR Ref: REVIEW 2017-041

18th July 2017

REQUEST FOR REVIEW OF DECISION UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (the “Regulations”)

Loch Lomond & The Trossachs National Park Authority received your request for review on 21st June 2017 relating to your request for information about Cononish gold mine which was made on 4th May 2017.

Your original request asked for any information held on two specific meetings in 2010 and 2011 and for all monthly reports required under the conditions of the planning consent and any other reports provided by Scotgold Ltd since the trial at Cononish commenced earlier in 2017.

Basis of Request for Review

It is noted that your request for review concerns the second part of the request, for the monthly reports the Park Authority holds from Scotgold Resources Ltd which have been submitted under Condition 11 of planning consent in relation to case with the reference of 2016/0064/DET and any other reports provided since the start of the trial in 2017. These reports were withheld from release under R10(5)(e) of the Regulations as the requested information included specific details of the ongoing operational activities of a private company and which was deemed to be commercially sensitive.

The response also advised that release of this information was likely to have a negative impact on the ability of planning officers to perform an effective role in working with Scotgold Resources Ltd, which was stated as essential for identifying any problems with compliance with planning conditions and ensuring that all aspects of these conditions are adhered to for the duration of the approved works.

Decision

For this review your original request and the Park Authority’s response, including the exemption and exception applied, and the public interest in withholding the information, have been considered.

The Park Authority’s response stated that it holds reports from Scotgold Resources Ltd which have been submitted under Condition 11 of planning consent in relation to case Ref 2016/0064/DET. The information was withheld from release under R10(5)(e) of the Regulations due to the commercially sensitive nature of the information. The regulation was applied as the

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Park Authority has a duty of confidence to protect a legitimate economic interest, in this case the commercial interests of Scotgold Resources Ltd, which operates in a global market. The public interest in releasing or withholding the information has also been reviewed and it is confirmed that the public interest in withholding the information outweighs the public interest in releasing it. Therefore the decision is upheld.

Reports are also held for the later related planning application with the reference 2016/0366/DET which cover the period from February 2017 onwards. This information was also withheld in the Park Authority's response, but was not separately listed in the letter.

As part of the review a further exception has also been considered and, even if the review had shown that R10(5)(e) had been incorrectly applied, the information would also fall to be withheld under R 10(5)(b) as disclosure of the information in the monitoring reports would be likely to substantially prejudice the course of justice. The public interest in the release of the information has been considered and it has been concluded that there is a greater public interest in allowing planning officers to monitor and record compliance with conditions as the information, if disclosed, could prejudice any subsequent enforcement action should this become necessary. Therefore the public interest in withholding the information outweighs the public interest in its release while the development is underway.

Review Procedure

If you are not satisfied with this decision you are entitled to appeal to the Scottish Information Commissioner. Please note that in order for an appeal to take place you must lodge your appeal within six months of the date of receipt of this letter.

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KY16 9DS
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Yours sincerely,

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