



EIR Ref: 2018/028

20th November 2018

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

We refer to your email of 25th September 2018 and clarification of 23rd October 2018. 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 consider that the public interest in dealing with your request solely under the EIRs outweighs the public interest in also dealing with your request under FOISA, on the basis that the public interest is not served by duplicating consideration of your request under both regimes. We have therefore applied the exemption in section 39(2) of FOISA and dealt with your request under the EIRs alone.

The part of your request which required clarification and the response from the National Park Authority are provided below:

“3) What communication has taken place between the LLTNPA and Drummond Estates/Campbell of Doune about the Keltie Water hydro scheme since an application was first approved in 2016? Please provide all correspondence, notes of telephone conversations and meetings and any other information the LLTNPA holds.”

Clarification of 23rd October 2018:

2016 should have read 2013 so I was asking for the information, as listed in my original request, from the date the application was approved in 2013.

As stated in our response letter of 22nd October 2018, planning permission for the Keltie Water hydro was first granted on 24th December 2013, planning reference 2013/0225/DET. A subsequent amendment to this application was granted on 7th October 2014, planning reference 2014/0196/DET.

The decision notices for both planning cases can be accessed on our online planning portal:

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
t: 01389 722600 f: 01389 722633 e: info@lochlomond-trossachs.org w: lochlomond-trossachs.org

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<https://eplanning.lochlomond-trossachs.org/OnlinePlanning/?agree=0>

we can therefore advise under R6(1)(b) of the EIRs that this information is already publically available and easily accessible.

Additional information including all communication that has taken place between the LLTNPA and Drummond Estates/Campbell of Doune about the Keltie Water hydro scheme is attached:

- Correspondence
- Ecology reports x2
- Inspection reports
- Maps
- Construction & conditions
- Additional documents

Some information has been redacted from the email correspondence, namely the names and contact details of external third parties, the names and contact details of Park Authority staff below manager grade and some information from the content of emails that is unrelated to the request. This information has been withheld from release in accordance with Regulation 11(2) of the EIRs and the second and third Data Protection Principles.

The release of this information redacted would contravene the second and third Data Protection Principles as it was processed for one specific purpose and has been processed in accordance with the rights of the individuals who have provided their contact details. 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

Some information has been removed from maps and ecology reports. This information has been withheld from release in accordance with R10(5)(g) of the EIRs as it relates to the habitats of protected species, namely otter and black grouse.

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(5)(g) of the EIRs is invoked. The 'public interest' has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean 'of interest to the public' but 'in the interests of the public'.

The following public interest factors favour the release of the information in relation to the habitats of otter and black grouse

- the public interest in individuals being able to exercise their rights under the EIRs 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, particularly in a context where a planning application may have consequences for the environment
- 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 avoiding the destruction of the habitats of endangered and protected species

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- the public interest in the Park Authority protecting the habitats of endangered and protected species
- the potential harm to protected and endangered species, namely otter and black grouse should information about the location of black grouse leks and otter holts be released into the public domain.

The public interest factors are considered in more detail below.

The European otter is the only native UK otter species. It's a European protected species (EPS) and is also fully protected under Schedule 5 of the Wildlife and Countryside Act 1981.

It is a criminal offence to:

- capture, kill, disturb or injure otters (on purpose or by not taking enough care)
- damage or destroy a breeding or resting place (deliberately or by not taking enough care)
- obstruct access to their resting or sheltering places (deliberately or by not taking enough care)
- possess, sell, control or transport live or dead otters, or parts of otters

The black grouse is the fastest declining bird in the UK. It's on the Red List of most endangered species, habitat fragmentation and destruction are serious threats. On a local scale, other threats include hunting and disturbance at leks.

Given the protected status of both species it has been concluded that there is a greater public interest in withholding information about the location of black grouse leks and otter Holts in this case.

Yours sincerely

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

[Attachments available on request](#)

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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 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:

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

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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