



EIR Ref 2019/009

4th July 2019

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

We refer to your request for information, received by email on 6th June 2019. 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.

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

“communications relevant to the current planning application and Scottish Enterprise's Exclusivity Agreement under which it may sell the Riverside Site to Flamingo Land”

The Park Authority does not hold communications relevant to the current planning application and Scottish Enterprise's Exclusivity Agreement under which it may sell land to Flamingo Land. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

“copy of leases the Park Authority holds from Scottish Enterprise”

The Park Authority has a 150 year lease for the Orientation Area, hatched blue and green on Appendix 2 of the Board papers from December 2018 and marked as leased from Scottish Enterprise on the plan, attached again for reference. The lease of the Orientation Area is registered and is therefore in the public domain, however we have attached a copy for you in Appendix A (available on request) of the Lease between Scottish Enterprise and the Park Authority, registered in the Books of Council and Session on 21st March 2014.

For the other area of land marked as leased from Scottish Enterprise in the map included in papers for the Park Authority Board meeting of 18th December 2018, we have an unregistered Licence to Occupy agreement. The terms of this licence are under negotiation with Scottish

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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Page 1 of 3

Enterprise, and this information has been withheld from release under Regulation 10(5)(e) of the EIRs as the requested information is currently the subject of discussions with an external third party which are commercially confidential.

Regulation 10(5)(e)

The information that has been withheld from release under Regulation 10(5)(e) of the EIRs is information whose disclosure would, or would be likely to, prejudice substantially commercially confidential negotiations between the Park Authority and Scottish Enterprise.

Application of public interest test

In respect of the withheld information under Regulation 10(5)(f), we have considered the public interest test, i.e. the public interest in favour of disclosure balanced against the public interest in maintaining the exemption. In considering the public interest, we have given careful consideration to the content of the information, the current context, and the effect of disclosure, not only for the applicants and their agent, but also for the Park Authority's ability to perform its functions effectively and for the wider general public.

In considering the public interest, we have considered matters that are of serious concern or benefit to the public and not merely someone's individual interest.

Public interest in disclosure

We recognise that there is a public interest in relation to transparency of decision-making procedures on matters such as the one to which this information request relates. There is a 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 and ensure openness and accountability in relation to the planning process.

Public interest against disclosure of withheld information

Whilst acknowledging the public benefit in encouraging debate about environmental matters, the Park Authority does not consider there to be a public interest in affecting the ability of the Park Authority to complete negotiations with Scottish Enterprise relating to the licence to occupy agreement

The Park Authority is aware of the public interest in the land occupied by the Park Authority which is included in a proposed major planning development currently under consideration. However it has been concluded that there is a greater importance in maintaining confidentiality while discussions regarding the licence to occupy are underway. It is also considered that the disclosure of this information would prejudice the ability of the parties concerned to fully consider all relevant issues required for the successful conclusion of the current discussions, which will be of broader public interest in achieving the most positive outcome for this area of land.

It has therefore been concluded that in this case the public interest in releasing the information is outweighed by the public interest in withholding it.

Yours sincerely

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

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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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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