



Loch Lomond & The Trossachs National Park Authority
Carrochan
Carrochan Road
Balloch
G83 8EG

EIR Ref: 2021/015

9th November 2021

RESPONSE TO REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

We refer to your request for information, received by email on 16th October 2021. The information you have requested is environmental information, as defined in Regulation 2 of the Environmental Information (Scotland) Regulations 2004 (EIRs). 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 Park Authority's response are provided below.

“copies of documentation and reports that Loch Lomond and the Trossachs National Park planning department have regarding Station Road Caravan site”

A planning enforcement case was opened on 22nd April 2021, to investigate issues at this site, following a site visit made by the planning monitoring officer. An assessment of the file shows that the following information is held:

- complaints received from external third parties raising concerns about tree felling and ground works
- Email correspondence between the Park Authority and the developer
- Internal email correspondence

Correspondence from external third parties has been withheld from release under Regulation 11(2) of the EIR's. As this information constitutes the personal data of third parties, as a data controller, we must process it in accordance with data protection law. This legal duty is recognised in Regulation 11(2), read together with Regulation 11(3a)(a), which provides that information which is third party personal data and in respect of which disclosure would be likely to breach one or more of the Data Protection Principles, is absolutely exempt from the duty to make it available under Regulation 5(1).

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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We can however confirm that the issues raised in the complaints have been investigated as part of the ongoing planning enforcement case. Site visits have been made to gather information and engage with the owner. The owner has been advised of all necessary planning requirements. The tree felling which has been undertaken is on land outwith the St Fillan's Conservation Area, however the owner was contacted regarding this matter and an investigation was undertaken in conjunction with Scottish Forestry, who have the jurisdiction to take appropriate action if necessary.

The Planning Authority has continued to engage with the owner and agent. The correspondence and associated internal email correspondence has been withheld from release under R10(5)(b) of the EIR's as the information relates to a live enforcement case and the release of this information may adversely affect the ongoing work of the Park Authority to resolve this enforcement matter.

While the intention is to resolve this case without recourse to more formal action, such action remains an option, including the use of a formal enforcement notice. The public interest test in favour and against release of the withheld information has been assessed as follows:

Application of public interest test

In respect of the withheld information under Regulation 10(5)(b) 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 on the National Park Authority's ability to perform its functions effectively.

The Environmental Regulations do not define "public interest", but it has been described as "something which is of serious concern and benefit to the public." The public interest does not mean what is of interest **to** the public, but what is in the interest **of** the public.

Public interest in disclosure

There is a public interest in individuals being able to exercise their rights under the Regulations in order to enhance their understanding of the work of a public authority.

The National Park Authority recognises that it is in the public interest to have openness and transparency in the work of a public authority and to demonstrate its accountability to the public in relation to how public money is spent.

Public interest against disclosure of withheld information

The requested information relates to a live planning enforcement matter. While no formal enforcement notice has been served, the use of such a notice remains an option for the Park Authority if considered necessary and in the public interest. Failure to comply with an enforcement notice is an offence and could result in court action.

It has been concluded that there is a greater public interest in withholding the correspondence between the Park Authority and the landowner and agent in this case to enable the Park Authority to pursue its current approach of dialogue to resolve all planning issues. Release of the planning enforcement correspondence into the public domain may adversely impact both the outcome of these live negotiations and also negatively impact any prosecution, should more formal action become necessary.

While we have concluded that it is not in the public interest to release the requested information, it is noted that concerns have been raised by the local community regarding development at this location, and we would like to provide a further update on the engagement of the planning team with the developer.

The owner has submitted proposals to convert the existing former station building to form three short term accommodation units and convert the existing waiting room into a seasonal shop. An initial application has been made for listed building consent for these alterations, details of which can be found on our planning portal using the planning reference 2020/0297/LBC, Following receipt of the initial application, the views of Historic Environment Scotland were sought, resulting in further information being requested from the developer. The owner's agent has been made aware of this request for further information. This information may be submitted under this current application, or a revised application.

Discussions with the owner and planning agent have continued, towards the intended submission of further applications for both the listed building consent and proposed change of use to the former station building. Operational development at the caravan site has also been checked, and clarification sought from the owner regarding elements which may or may not require planning permission.

The development management planning officer met with the owner and his agent on site in June, and the planning monitoring officer has also been on site, most recently on 17th September.

It is recognised that breaches of planning control can affect members of the public, acknowledging in this case that concerns have been raised in particular regarding work on a listed building of historic value to the local community. We investigate all potential breaches and generally seek to resolve matters informally without recourse to formal action, which is a last resort except where serious amenity, environmental or safety issues are raised. We aim to provide a service that is fair, proportionate, reasonable and responsive to everyone concerned, however this process can be lengthy and time consuming.

The local community will have the opportunity to submit comments on any future live planning applications, details of which will be made available on our planning portal.

Yours sincerely

Information Management

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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:

Information Manager
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