



Department
for Environment
Food & Rural Affairs

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www.defra.gov.uk

Your ref:

Our ref: RFI 6014

Date: 16 January 2014

Dear

**REQUEST FOR INFORMATION: NORFOLK COUNTY COUNCIL WASTE
INFRASTRUCTURE PROJECT**

Thank you for your request for information, which is copied below:

“Lord de Mauley’s letter to George Nobbs, Leader of Norfolk County Council, dated 18 October 2013 says that the ‘full range of relevant factors’ was considered in the review of the Waste Infrastructure Credits allocated to Norfolk County Council’s residual waste infrastructure project.

Under the provisions of the Freedom of Information Act 2000 and/or the Environmental Information Regulations, please provide copies of information relating to these factors and how they were considered as part of this review, including:-

- *A list of the ‘full range of relevant factors’;*
- *Copies of any information or evidence reviewed or considered to review these factors;*
- *Copies of any information relating to the outcome of this review or consideration for each of these factors.”*



We have considered your request under the Environmental Information Regulations 2004 (EIRs). The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Having carefully considered your request and determined its full scope, we are not able to give a comprehensive response to it because it is formulated in too wide a manner. At its broadest, your request includes within its scope everything that was reviewed or considered as part of the review and all of the material produced from that review or consideration. The review took place over many months and it generated a high volume of correspondence and documents. While we could have asked you to narrow down your request (and/or rejected it), in the interests of being helpful and of avoiding further delay, we are providing some of the information within the scope of your request now. If you wish to submit a narrowed down request, you may of course do so.

Responding to the three bullet points of your request in the order in which they appear:-

1. list of the 'full range of relevant factors'

We can confirm that we do not hold a "list of the 'full range of relevant factors'" within the terms of your request.

Our consideration of the range of factors relevant to the decision is contained in the written submissions that civil servants provided to Defra Ministers during the period of the review. These submissions are within the scope of Regulation 12(4)(e) of the EIRs, which relates to the disclosure of internal communications. In accordance with the EIRs, we have had to consider carefully the fact that this information, if released, will have to be put in the public domain (and published on the Government website).

We recognise that there is a strong public interest in making people aware of internal discussions so as to inform people of the process by which decisions are made in government. This is a high profile area, and it is important that the Department is transparent in the decisions taken, particularly where these decisions affect funding for

local waste infrastructure projects (for this reason we have provided a large amount of information on our website).

However, this has to be balanced with the need to provide a safe space where officials are free to consider all views and ask what are at times uncomfortable questions with no repercussions should that approach not be adopted. This retains the impartiality of the civil service, which might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making, which would not be in the public interest.

Whilst we recognise the public interest in releasing briefings made to Ministers, again, it is essential to maintain the rules and convention on the impartiality of civil servants' advice to Ministers, to ensure that both can have full and frank discussions.

It is for these reasons that submissions are not routinely published or released, and it is particularly important in relation to waste, where the decisions made affect the funding of waste infrastructure projects.

We therefore consider, taking all the circumstances of this case into account, and applying a presumption in favour of disclosure as required under the EIRs, that the public interest test under EIRs balances in favour of withholding the submissions in their entirety.

2. copies of any information or evidence reviewed or considered to review these factors

Some of the information or evidence reviewed or considered to review these factors is set out in the various pieces of correspondence – mostly letters and emails - that we received from officers at your Authority. We are not providing copies of these pieces of correspondence with this letter because you already have access to these.

Enclosed with this letter is a list of projects that was used in the forecasting analysis to predict infrastructure capacity. This reflects project information up to 21 August 2013.

In addition, we set out in the table below a description of some of the material in the public domain that we reviewed or considered within the terms of your request. We also include a

hyperlink to the location of that material. Please note this is not intended to be comprehensive.

Material	Location
Agendas, reports and minutes of the meetings of the Norfolk County Council and its Cabinet	http://www.norfolk.gov.uk/Council_and_democracy/Your_Council/Committees/index.htm
Documents relevant to the King's Lynn Energy from Waste and Recycling Facility Public Inquiry	http://www.persona.uk.com/kings_lynn/index.htm
HMT Managing Public Money Guidance	https://www.gov.uk/government/publications/managing-public-money

You may also find it helpful to consider the material included in the References section of Defra's publication "*Forecasting 2020 waste arisings and treatment capacity: Norfolk county council residual waste treatment project*" (page 19), available at the following location: <https://www.gov.uk/government/publications/forecasting-2020-waste-arisings-and-treatment-capacity-norfolk-county-council-residual-waste-treatment-project>. We are directing you to this particular material because it informed Defra's assessment.

3. any information relating to the outcome of this review or consideration for each of these factors

The written submissions that we provided to Defra Ministers during the period of the review do contain information relating to the outcome of Defra's review / consideration for each of the relevant factors. However, as discussed at paragraph 1 above, we consider that these submissions are within the scope of Regulation 12(4)(e) of the EIRs, which relates to the disclosure of internal communications, and that the public interest test is met.

Please note that the information contained in Defra's published analysis "*Forecasting 2020 waste arisings and treatment capacity: Norfolk county council residual waste treatment project*" referred to above is also within the scope of this part of your request.

In keeping with the spirit and effect of the EIRs, all information is assumed to be releasable to the public unless exempt. The information released to you may now be published on

our website together with any related information that will provide a key to its wider context.

Attached below are two annexes. Annex A explains the copyright that applies to the information being released to you. Annex B gives contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact the WIDP Programme Office at the address below.

Yours sincerely

WIDP Programme Office

Email: widp.programmeoffice@defra.gsi.gov.uk

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF