



Department
for Environment
Food & Rural Affairs

Nobel House
17 Smith Square
London SW1P 3JR

T: 08459 335577
helpline@defra.gsi.gov.uk
www.defra.gov.uk

Our ref: RFI 5914
Date: 10 December 2013

Dear

REQUEST FOR INFORMATION: NORFOLK WASTE INFRASTRUCTURE PROJECT

Thank you for your request for all correspondence between Defra Officials and Norfolk County Council, together with any attachments, partly or wholly related to the proposed EfW Incinerator at Saddlebow, King's Lynn, between September 1st and October 15th 2013. As you know, we are handling your request under the Environmental Information Regulations 2004 (EIRs).

Following careful consideration, we have decided to disclose a significant proportion of the correspondence between the dates you specify, please see the attached document:

- Defra NCC Correspondence 1 Sept to 15 Oct.pdf

Unfortunately, some specific items of data cannot be released and our reasons for this are explained below.

Regulations 12 (3) and 13(2)(a)(i) - named officials

As regards the names of officials, this personal data is being withheld as the information falls under the exception in regulations 12(3) and 13(2)(a)(i) of the EIRs, which relate to personal data relating to third parties. Regulation 13(2)(a)(i) of the EIRs exempts from disclosure personal data relating to third parties where disclosure would breach the Data Protection Act 1998 (DPA). In this case, we believe that disclosure of the information would breach the first data protection principle in Schedule 1 of the DPA in two ways. First, disclosure would not constitute 'fair' processing of the personal data and, second,



disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 of the DPA. In particular we do not consider that there is a legitimate interest in disclosure in this case. Release of names of junior officials poses a risk to the neutrality of the civil service, the names would add nothing to the public's understanding of this matter and the public authority's accountability does not require release of names. Consequently, we believe that regulations 12(3) and 13(2)(a) (i) of the EIRs exempt the information from disclosure.

Regulation 12(5)(e) – commercial confidentiality

Parts of the correspondence have been withheld under regulation 12(5)(e) of the EIRs because of commercial confidentiality. We are applying this exception as the information is of a sensitive commercial nature and disclosure could be harmful to the relationship between Defra and NCC and would not be in NCC's interests for this information to be disclosed.

In applying this exception we have had to balance the public interest in withholding the information against the public interest in disclosure.

WIDP Programme Office recognises that there is a public interest in disclosing information which would allow individuals to become aware of the machinery of Government as well as become fully informed on how decisions are taken at local and national levels. For this reason we have provided a large amount of the information on our website (as mentioned above).

On the other hand, there is also a strong public interest in withholding information because for their part, those who have dealings with ourselves can do so in the assurance that confidences will be respected where there is no overriding public interest in breaching that confidence. Furthermore, it would not serve the interest of projects if they did not achieve best value for money should investors be deterred from investing with the local authority by misreading contents of correspondence between individuals.

Therefore, we have concluded that, in all the circumstances of the case, some information should be withheld under the exception at regulation 12(5)(e) of the EIRs.

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.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

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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Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

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