

5th July 2010

Our ref: RFI #750

Your ref:



request-28444-e91da4b9@whatdotheyknow.com

Colt Park Barn
Chapel-le-Dale
Via Carnforth
Lancashire
LA6 3JF

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Dear Ms Davis

Request for information – Partial Release – RFI #750

Thank you for your request to receive copies of the Cypripedium Wild Site reports, which we received on the 5th May 2010. Your request has been considered under the Environmental Information Regulations 2010.

A copy of the information is enclosed in the format you requested.

Excluded are the reports from 1983 to 1986, and 2002 to 2005, as these cannot be located. Natural England is therefore applying the exception in Regulation 12(4)(a) of the Environmental Information Regulations 2004, where the public body does not hold the information at the time that the request is received.

Some of information you requested is being withheld as it falls under the exceptions in Regulation 12(5)(g) and Regulation 13 of the Environmental Information Regulations 2004.

Regulation 12(5)(g)

Regulation 12(5)(g) states that:

*a "...public authority may refuse to disclose information to the extent that its disclosure would adversely affect..
(g) the protection of the environment to which the information relates."*

The Information Commissioner's Office guidance on this exception states that:

"The ultimate aim of the EIR, and the EU Directive and Aarhus Convention upon which it is based, is to increase the protection of the environment by ensuring greater access to environmental information. It would clearly be contradictory if disclosure of information would lead to damage to the environment."

This exception applies in relation to any information that would identify the location of the protected species.

This species is a Critically Endangered orchid in the UK and is known to be vulnerable to collectors. Any disturbance to or collection from its wild or re-introduction sites would represent a major set-back to its recovery and could jeopardise its existence as a wild plant in this country.

I have considered whether it is in the public interest to disclose the information covered by these exceptions, as is required by the Regulations. On balance I am of the view that it would not be in the public interest to disclose this information. By releasing any information that would identify the location or locations of the protected species, it would place the species at risk.

The Information Commissioner's Office guidance can be accessed below:

http://www.ico.gov.uk/upload/documents/library/environmental_info_reg/introductory/introduction_to_eir_exceptions.pdf

Regulation 13

The names and contact details of private individuals are considered by Natural England to be personal information as defined by the Data Protection Act 1998.

The First Data Protection Principle says that personal data 'shall be processed fairly and lawfully'. Guidance published by the Information Commissioner, 'Freedom of Information Act 2000, Awareness Guidance No 1', states that when considering fairness the following questions should be taken into account:

- Would the disclosure cause unnecessary or unjustified distress or damage to the person who the information is about?
- Would the third party expect that his or her information might be disclosed to others?
- Had the person been led to believe that his or her information would be kept secret?
- Has the third party expressly refused consent to disclosure of the information?

When names and contact details are collected from individuals by Natural England we do not inform them that the information will remain confidential or that it may be released, however, we believe that there is an expectation of confidentiality.

The release of names or contact details and any subsequent contact may cause unnecessary or unjustified distress or damage to the individuals if released, and they have a reasonable expectation of confidence. Natural England is therefore satisfied that the information requested fits the definition of personal data and that its release would be 'unfair' under the meaning of the first Data Protection Principle and should not be released.

Please note that the information we have supplied to you is subject to copyright protection under the Copyright Designs and Patents Act 1988. You may re-use this information (not including logos) free of charge in any format or medium, for the purposes of research for non-commercial purposes, private study, criticism, review and news reporting. You must re-use it accurately and not in a misleading context. The material must be acknowledged as Natural England copyright and you must give the title of the source document/publication. However, if you wish to re-use all or part of this information for commercial purposes, including publishing you will need to apply for a licence. Applications can be sent to Enquiry Service, Natural England, Northminster House, Peterborough, PE1 1UA.

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If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, please contact Julian Small, Natural England, 4th Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX. Under Regulation 11(2) this needs to be done no later than 40 working days after the date of this letter.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by Natural England. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700, www.ico.gov.uk.

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

Yours

Colin Newlands (pp Ben Heathcote)
National Nature Reserve Manager