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Freedom of Information
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Mr Stephen French

By email: request-750105-3612b6ef@whatdotheyknow.com

24 May 2021

Dear Mr French

Information request

Reference number: FOI2021/00633

Thank you for your email of 24 April 2021, in which you requested the following information:

please provide material relevant to the recent tree felling taking place alongside the track East of the town of Narberth, Pembrokeshire , eg studies and surveys carried out prior to commencement re enviromental impact , future vegetation management policy etc.

I have processed your request under the Environmental Information Regulations 2004 (EIR) as this type of information is environmental according to the definition in regulation 2(1)(a) and (c) of the EIRs; in this case tree reports prior to their removal at a specific location along with information on vegetation management.¹

studies and surveys carried out prior to commencement re enviromental impact

I have consulted our ecologist for the area as well as our off-track team, which carried out the works. I can confirm that we do hold recorded information that meets your request. Please find attached a copy of the preliminary ecological appraisal (PEA) for works on the stretch of line that passes through Narberth. I have also attached two files containing

¹ Section 39 of the Freedom of Information Act 2000 (FOIA) exempts environmental information from the FOIA and requires us to consider it under the EIR. Regulation 2(1)(a) of the EIR includes any information the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements. Regulation 2(1)(c) of the EIR includes measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements.

copies of the tree inspection forms that were carried out for us by our arborists. I will provide further context on both types of document below.

The preliminary ecological appraisal

To provide a bit more background information: PEAs are initial reports carried out to detail all ecological constraints that need to be considered before works can take place along a particular stretch of line (in this case, from Whitland to Tenby.) This PEA was produced in September 2019. Such surveys are usually valid for two to three years and our ecologists will look to survey this section of line again towards the end of this year.

Our ecologists rely on the PEA to determine what further surveys need to be carried out. If an area/group of trees is not specifically mentioned in the report, there is no obligation to carry out any further surveys, although a pre-works check is good practice. To confirm, when carrying out the ecology report, trees are only surveyed for their potential to support bats and other protected species – the surveyors aren't responsible for identifying trees to be felled for safety (or any other) reasons. This work is carried out separately by a qualified arborist and recorded in the tree inspection forms provided.

Pre-works checks are not usually documented unless there are findings that differ from the initial report (for example, if trees have developed bat-roosting potential since the PEA was carried out.)

Our ecologist carried out what are known as walkover surveys at the site in SA67 8TB on 4 February, 11 February and 10 March this year, to assess the trees due to be felled. They were satisfied that no tree to be removed had the potential to support bats and that none of the trees to be felled were in areas of dormouse suitability; as such they did not fill out any further records. On 10 March, the ecologist checked the area for signs of any nesting birds and gave our contractors advice on how to identify birds' nests and report these to Network Rail if found.

As part of Network Rail's commitment to maintain and enhance biodiversity, we have had discussions on what we can do at the sites where we are carrying out works to manage the trees. We are looking to plant a mixture of small understory trees at this location, such as hazel, to improve the suitability of the habitat for dormice. Hopefully this will also have a beneficial impact on birds and invertebrates in the local area. Once we have planted these trees, we will carry out monitoring surveys to determine how successful the approach is and amend our strategy if necessary.

Regulations 13(1) and 12(5)(g) of the EIR

You will see that I have redacted a small amount of information from the appraisal in black. This is where I have withheld personal data (the names, signatures and initials of Network Rail and third party employees) under regulation 13(1) of the EIR.²

I have also withheld some information (in blue) from the document, under regulation 12(5)(g) of the EIR. The withheld information relates to the presence or absence of a protected species.

A public authority may refuse to disclose information under regulation 12(5)(g) *'to the extent that its disclosure would adversely affect the protection of the environment to which the information relates'*.

In this instance, the information in question discusses the presence or absence of protected species within a particular area. To explain in more detail, certain animal species have protection in law under legislation in England and Wales; however, regardless of this legislation there have been many instances of people illegally persecuting and harming protected species. Confirming the presence or absence of any protected species would provide those wishing to mistreat them with information which would allow them to locate and map territory. It is important to bear in mind that any disclosure under FOI or EIR has to be considered as a disclosure to the wider public and not just to the individual making the request.

This exception is subject to a public interest test and I have set the arguments for and against disclosure below.

There is a general presumption in favour of disclosure as it promotes transparency and accountability of public authorities. Disclosure would also raise public awareness of environmental matters and provide an understanding of the process Network Rail follows when reviewing the results of an ecological survey.

However, set against this is the fact that it is in the public interest to avoid harming the environment. In this instance, it is our view that providing information on the presence or absence of protected species would put these species at an increased risk, as it would assist those minded to do so to commit crime and mistreat a protected species.

² Regulation 13(1) allows us to withhold personal data where its disclosure would breach the data protection principles set out at Section 35 of the Data Protection Act 2018 and Article 5 of the General Data Protection Regulations. In this instance, publishing the personal data of our employees and third parties would breach the first principle, which states that data should be processed fairly and lawfully. The individuals in question would have had no reasonable expectation that their details would be provided to the world at large through the EIR and it would therefore not be fair for us to disclose them.

To conclude, information relating to the presence or absence of protected species has a specific sensitivity which requires us to carefully consider the impact if it were to be disclosed to the world at large. In our view disclosure would be likely to lead to an increased risk of disturbance and potential harm, therefore we have reached the conclusion that the public interest lies in us withholding some of the requested information.

The tree inspection forms

I have attached two files, called 'Tree Evaluation Forms_redacted' and 'tef 3077_redacted'. The first of these files contains the majority of the tree evaluation forms (TEFs) that were filled out prior to these works. The second file relates to two beech trees and was completed by a surveyor in digital form, this is different to the forms used on site in the first file but both perform a similar function.

I apologise for the quality of the scanned forms and appreciate that in places they are not clear to read. Unfortunately, the original forms themselves were not very clear and although we have tried scanning these on two separate scanners we have not been able to achieve higher quality copies. Nonetheless, I hope they will be sufficient to provide you with a good idea of the work that was carried out to assess these trees. Again, I am withholding some information from these forms under regulation 13(1) of the EIR as set out above.

Tree evaluation forms are filled out by arborists to determine where trees are damaged or diseased and what risk they pose to safety on the railway. The TEFs note which species of tree were evaluated and score the likelihood of those trees causing a safety risk, together with the reasons for this.

future vegetation management policy

In terms of future vegetation management policy for this location, our staff will be following the Network Rail standards for this area – these are national standards and while not specific to this location, this is the guidance followed for vegetation management across our entire network.

Please find attached the following standards that are relevant to your request:

- *NR_L2_OTK_5201_redacted* – Lineside vegetation management manual; I have redacted a small amount of information under regulation 13(1) as it constitutes personal data, for the same reasons as explained earlier in this response;
- *NR_L2_OTK_5201_01* – Module 1, Lineside vegetation inspection and risk assessment;
- *NR_L2_OTK_5201_02* – Module 2, Lineside vegetation management requirements.

I hope the information and explanations provided in this response are helpful. If you have any enquiries about this response, please contact me in the first instance at FOI@networkrail.co.uk. Details of your appeal rights are below.

Please remember to quote the reference number at the top of this letter in all future communications.

Yours sincerely

Emma Meadows
Information Rights Specialist

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Appeal Rights

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Head of Freedom of Information at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at FOI@networkrail.co.uk. Your request must be submitted within 40 working days of receipt of this letter.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".