

July 29 2013

Our ref: RFI#1913 IR

Your ref:



Via WhatDoTheyKnow.com

Electra Way  
Crewe  
Cheshire  
CW1 6GJ

Dear Mr Fisher

### **Internal Review – Response – RFI#1913**

Thank you for your email of 2 July 2013 asking for an internal review of our handling of your request for information RFI#1913 under the Environmental Information Regulations 2004 (the Regulations).

In accordance with Natural England's internal review procedures, your case has been reviewed by a more Senior Officer in discussion with colleagues who handled your original request.

I have concluded that Natural England provided all the information it held that was appropriate to release in relation to your questions.

### **Chronology**

In your email via WhatDoTheyKnow.com dated 14 March 2013, and which we received on 14 March 2013, you requested that Natural England "...send me the Application, Agreement, Farm Environment Plan and 10-year management plan for Higher Level Stewardship AG00426104.

Can you also send me any correspondence and emails you have about the HLS agreement on Sound Common, particularly with Sound and District Parish Council, for the three years prior to the signing of the agreement."

On 22 April 2013, Rob Arden sent you a response letter advising you that some of the information you requested was being withheld under Regulation 12(3) of the Regulations, as it constituted personal data as defined in Section 1(1) of the Data Protection Act 1998. On the same date, Ben Heathcote emailed you asking you to provide a postal address for the information to be sent to, as it was too large to upload to WhatDoTheyKnow.com. This information was sent Special Delivery, and was delivered on 25 April 2013.

### **Regulatory Regime**

We have concluded that the Regulations are the applicable information access regime. This is because any such information held by Natural England would meet the definition of environmental information in the Regulations, being information on measures affecting or likely to affect the state of the elements of the environment and natural site. This request therefore falls within the definition of environmental information in the Regulations.

### **Timeliness (Regulation 5)**

We have considered whether Natural England complied with the requirement in the Regulations to respond to a requester within legal deadlines after the date of receipt of the request.

Natural England's response to RFI#1913 was emailed to you on 22 April 2013, 24 working days after the date of receipt. Natural England extended the deadline for the request by a further 20 working days on 16 April due to the voluminous nature of the request, and therefore complied with the Regulations.



**Exception in Regulation 12(3) – information requested includes personal data of which the applicant is not the data subject.**

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?

Under the Data Protection Act 1998, the presumption is in favour of protecting the privacy of the individual, and so the release of personal data will only be found to be fair if there is a genuine reason for disclosure. This involves a three-stage test:

- there is a legitimate interest in disclosure;
- the legitimate interest can only be met, or fully met, by the disclosure of information which identifies individuals (i.e. the disclosure is necessary to that purpose); and
- the disclosure would not involve unwarranted detriment to the individual's privacy or other rights and legitimate interests.

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 and 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.

Your request for an Internal Review of this request specifically stated:

"I requested the Farm Environment Plan for the application for HLS at Sound Common, and received only a one page print out that contained very limited detail in Part 2 Environmental Features Data Sheet, and there was no copy of Part 3: FEP farm overview and opportunities. I cannot believe an application succeeded on the basis of so little supportive information."

The HLS agreement for Sound Common was processed through our fast-track application process, for which a more limited set of FEP information is required, and this is why there is only a limited amount of data in Part 2 of the FEP and Part 3 Farm Overview.

Please refer to the links below as these provide details of the basis of HLS Fast Track selection,

<http://www.naturalengland.org.uk/ourwork/farming/funding/es/hls/3-tierfaq.aspx>

[http://www.naturalengland.org.uk/Images/holdingcomplexitycriteria-0112\\_tcm6-26685.pdf](http://www.naturalengland.org.uk/Images/holdingcomplexitycriteria-0112_tcm6-26685.pdf)

The guidance in the second link explains that there is a requirement for mandatory information to be available sufficient to enable only a single visit to the holding during preparation of the application.

In order to facilitate this an NE Adviser records the details for the FEP and whilst the entire holding may be visited, data should only be collected and recorded for the features to be managed under HLS options.

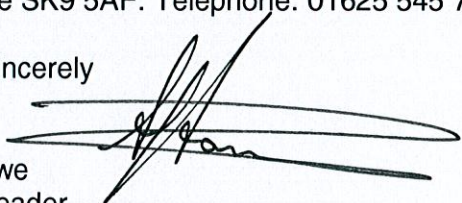


**Conclusion**

In my view Rob has processed your requests in line with Natural England's obligations under the Regulations and has provided all the information held in relation to your request.

I hope that the above answers your questions satisfactorily. However, if you remain dissatisfied, you have the right to apply directly to the Information Commissioner for a decision. 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](http://www.ico.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alex Lowe', is written over a horizontal line.

Alex Lowe  
Team Leader  
Customers and Land Management  
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