



# Oil & Gas Authority

21 Bloomsbury  
London WC1B 3HF

Ada Zaffina

By email to: [request-397807-e896131d@whatdotheyknow.com](mailto:request-397807-e896131d@whatdotheyknow.com)

Our ref: FOI-2017-0019

25 May 2017

Dear Ms Zaffina,

Thank you for your emails of 28 March and 13 April 2017, in which you request:

*"I'd like to request copies of the consent the OGA issued to Angus Energy for Brockham Oil Wellsite on 14 December 2016, as well as a copy of the corresponding application. Could you please clarify whether the consent authorised drilling and what was the planning permission on the basis of which it was granted.)."*

We have considered your request under the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 (**EIRs**).

Please find attached the documents (including the planning permission documentation) relating to the consents and application.

## **Planning Permission**

On 14 December 2016, the OGA issued consent to Angus Energy Limited having seen evidence that the planning authority had been consulted and planning permission had been granted.

The letter from Surrey County Council is exempt from disclosure under Section 21 FOIA. Section 21 FOIA provides that information which is accessible to an applicant is exempt from disclosure. Section 21 FOIA is an absolute exemption and as such, no consideration of the public interest necessary.

A copy of the letter can be found at  
[https://www.whatdotheyknow.com/request/dec\\_16\\_jan\\_17\\_works\\_at\\_brockham#inc](https://www.whatdotheyknow.com/request/dec_16_jan_17_works_at_brockham#inc)

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# Oil & Gas Authority

oming-952500 - Letter Feltons Farm Dec 2016.pdf. If this link does not work by clicking on it, please copy and paste it into your browser.

## Remaining Documents

You will note that some of the information in the disclosed document has been redacted. While the OGA strives to be as transparent as possible, and our general approach to requests for information is to disclose as much information as we are able, some information is exempt from disclosure under one or more of the exemptions/exceptions in FOIA and/or the EIR. Having considered the information which falls within the scope of your request, we consider the information which has been withheld to be exempt under Sections 21, 22, 38, 40(2), 41(1), 43(2) FOIA and 12(4)(d), 12(5)(d) and (e) and 13(1) EIR. A detailed explanation of the reliance on each of these exemptions is set out below.

### Section 21 FOIA

The information contained in the wellbore synopsis and other things such as drilling plans is routinely made available to well data release agents, who collate it and make it available, on application and for an appropriate fee. Normally interested parties would be from the industry, however anyone can apply for it after the 5 year confidentiality period after the well is completed. For example, some of this can be found at <https://www.ogauthority.co.uk/data-centre/data-downloads-and-publications/well-data/> (if this link does not work by clicking on it, please copy and paste into your browser) and as such is exempt under section 21 FOIA. As set out above, Section 21 provides that information which is accessible to an applicant is exempt from disclosure. Section 21 is an absolute exemption and as such, no consideration of the public interest is necessary.

### Section 22 FOIA and 12(4)(d) EIR

The information contained in the approved work programme submitted with the application was done so in the course of an application for a licence. The OGA has agreed with applicants for licences that information submitted in the course of an application would be made available to well data release agents in the same way as that mentioned under Section 21 in the paragraph above. As such, some of the information requested is intended for future publication, it after the 5 year confidentiality period. Given that the information is intended to future publication; it is exempt from disclosure under Section 22 FOIA. We have considered whether, notwithstanding the fact that the information is intended for future publication it is in the public interest for the information to be disclosed. For the reasons set out in reliance on the exemptions set out at Section 41(1), and 43(2) below, we do not consider it to be in the public interest for the information to be disclosed prior to the publication date.



# Oil & Gas Authority

## **Section 38 FOIA and 12(5)(a) EIR**

In the course of considering your request and in keeping with best practice as recommended by the ICO we have sought the views of Angus as to disclosure of the information requested. In the course of providing their views, Angus have advised that in light of the environmental sensitivities of their work a number of their contractors have been threatened with physical assaults and have also been verbally threatened. Some of the information which has been withheld contains the names of individuals associated with the work programme contained in the application. In light of the threats which have been made against members of Angus staff we consider that disclosure would or would be likely to endanger the physical or mental health or would endanger the safety of one or more of the individuals mentioned in the application. As such we are withholding this information under Section 38 FOIA and 12(5)(a) EIR.

We have considered whether it would be in the public interest for the names of the individuals to be disclosed, however do not consider the public interest in disclosing the information outweighs the risk to the health and safety of those mentioned in the document.

## **Section 40(2) FOIA and 13 EIR**

The names of the individuals mentioned in the document have been withheld pursuant to Section 40(2) FOIA and 13 EIR. Section 40(2) provides that personal data is exempt from disclosure where disclosure would result in a contravention of one or more of the data protection principles or would contravene Section 10 of the Data Protection Act 1998 ("DPA") which prohibits processing likely to cause damage or distress to a data subject. The data protection principles includes that any processing of personal data must be fair and lawful and must comply with one of the conditions either in schedule 2 or 3 of the DPA.

We consider that disclosure of the name of the individuals would breach the principles of fairness and lawfulness. The names of the individuals contained in the work programme and the application are individuals discharging their duties to their employer and are acting in good faith. As set out for the exemption at Section 38 above, we consider that disclosure of their names would or would be likely to endanger the physical and/or mental health and/or safety of the individuals. Such disclosure would breach the principles of fairness and as such this information is exempt pursuant to Section 40(2) FOIA and 13 EIR.

## **Section 41(1) FOIA and 12(5)(d) EIR**

The information provided by Angus in the course of its application and in submitting its work programme was done so on the implicit understanding that this particular



# Oil & Gas Authority

aspect of the information would remain confidential and not be disclosed to third parties.

The information submitted is extremely commercially sensitive as it includes things such as Geological interpretations, proprietary data and exact costs, and as such has the necessary quality of confidence to justify the imposition of an equitable obligation of confidence. In addition the information was provided in circumstances that created an obligation of confidence and disclosure of that information would result in a breach in the obligation of confidence.

To breach this confidence would firstly be “*actionable*” – in that the parties concerned could bring a legal case against the OGA for breach of confidence and we consider that such as action would be likely to succeed. Further we consider that disclosure of the information would have a “*chilling effect*” on the nature and type of information submitted by operators which would inhibit the OGA in the discharge of its principal objective<sup>1</sup> and is statutory functions<sup>2</sup>.

## Section 43(2) FOIA and 12(5)(e) EIR

Some of the information contained in the application contains information which is extremely commercially sensitive in nature. One of the functions of the OGA is to regulate the oil and gas industry. In exercising its regulatory functions the OGA considers applications for licenses for oil and gas exploration. In submitting its application, Angus was required to submit information including its well trajectory, costs reservoir depths, certain test results and dividend information. This information is highly commercially sensitive, the release of which would or would be likely to have a prejudicial and detrimental impact on Angus. This impact includes a negative impact on its commercial revenue and would or would be likely to weaken its position in a competitive environment by revealing market sensitive information and information which would be useful to its competitors.

In addition it should be noted that the information contained in the application and the work programme were provided to the OGA in respect of its application for a licence pursuant to the OGA’s position as regulator with a view to obtaining a licence. But for the OGA’s position as a regulator, the information contained within the application and the work programme would not be provided. As such, the information provided has particular potential to damage the commercial and economic interests of Angus.

In light of the above, the OGA considers that release of the application and the work programme would or would be likely to prejudice the commercial interests of Angus and the public interest in favour of withholding the information outweighs the public interest in favour of disclosing the information.

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<sup>1</sup> To maximise the economic recovery of oil and gas in the UK Continental Shelf.

<sup>2</sup> Including the enforcement powers.

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# Oil & Gas Authority

In applying these exemptions, the OGA has considered whether the public interest in withholding the information is outweighed by the public interest in disclosing the information, as required by section 2(2) of the FOIA and Regulation 12(1)(b) of the EIRs.

The OGA acknowledges that there is a general public interest in the information you have requested, as disclosure leads to greater transparency, which enhances public scrutiny and makes public authorities more accountable. However, there are also public interest considerations in favour of withholding such information in order to for example ensure that the commercial interests of the companies are not prejudiced by disclosure of information that could adversely impact on future business.

## Appeals procedure

If you are unhappy with the way the OGA has handled your request, you may request an internal review. A request for an internal review should be made within 40 working days of the date of receipt of the response to your request and should be addressed to:

Strategy Directorate  
Oil and Gas Authority  
21 Bloomsbury Street  
London  
WC1B 3HF  
Email: [foirequests@ogauthority.co.uk](mailto:foirequests@ogauthority.co.uk)

Please quote the reference number above in any future communications with regard to this request.

If you are unhappy with the outcome of the internal review, you may complain to the Information Commissioner at [www.ico.org.uk](http://www.ico.org.uk) or at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

Strategy Directorate