



Department for
Communities and
Local Government

**Department for Communities and Local
Government**

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Ms Giggins

Date: **23 November 2017**

Dear Ms Giggins

Environmental Information Regulations 2004 - 3543987

Thank you for your request for information which was received on 7 November 2017.

You requested:

"All documentation relating to the refused call-in request of application no 16/03061/OUTMAJ - Land to the South of Priory Road, Hungerford.

I am looking for any representations made to the Minister(s) {consideration of the matter crossing two Administrations due to the General Election} or to the DCLG/ NPCU by members of the Public, other Organisations, West Berkshire Council Officers & possibly Councillors, the Developers and possibly our MP Richard Benyon who I copied in to my own call-in request, plus any internal notes/evaluations etc made by DCLG staff before advising the Minister not to call-in the application. If the evaluation is carried out electronically on a case work system then please provide print-outs."

This request has been considered under the Environmental Information Regulations 2004 (EIR). The EIR offers the same parallel access to information as the Freedom of Information Act.

Some of the information you have requested is held by Department for Communities and Local Government and I am able to provide you with this information with certain redactions as detailed below.

I have enclosed a copy of the consideration template dated 21 April 2017 and the representations received. No other information is held within scope of your request.

The issue before the Secretary of State was not whether the application should have been granted planning permission but whether it should be called-in for public inquiry and his own decision, in his quasi-judicial role. Some information has been redacted from the copies of the information provided to you as it is "personal data" for the purposes of the Data Protection Act 1998 (DPA) and falls within the absolute

exception to disclosure at regulation 12(3) of the EIR, by virtue of regulation 13, as its disclosure would breach one or more of the data protection principles in the DPA.

The information consists of third party names and names of more junior officials as well as the more sensitive personal data such as signatures and direct line phone numbers. Whilst more senior officials, generally, should have an expectation that they will be publicly identifiable and accountable in connection with their official role, the same should not apply to more junior officials. As such, disclosure of the information in this case would not be within individuals' reasonable expectations and would breach one or more of the data protection principles and the exception at 12(3) applies.

The Department is also withholding some information in the consideration template. While the factual elements of the consideration have been provided, aspects relating to the consideration and recommendations have been redacted under the exception at regulation 12(4)(e) of the EIR which applies to the disclosure of internal communications. This exception encompasses information in whatever form it may take and includes advice and communications within central government between officials as well as advice to Ministers.

The exception at 12(4)(e) is, however, qualified which means information falling within it must still be disclosed unless the public interest is better served by not doing so.

The Department is committed to openness, transparency and accountability and recognises the principle embodied by the EIR that the public interest is served, in general, by information held by public authorities being made publicly available. The Department also recognises that there is presumption in the EIR that information should be released wherever possible. There is a public interest in the release of information where this leads to a better understanding of how Government makes decisions. This allows for the public to be more informed and better able to engage in the implementation of policies, delivery of services or decisions that affect them. In turn this serves to increase public trust and confidence in government.

However, as each case is considered on its own facts, the Department must also consider that there is a very strong public interest in ensuring that on sensitive planning matters, officials are able to give considerations to matters within an appropriate degree of private thinking space. The specific concern in this case is that a disclosure of the information would affect the frankness with which officials can provide advice to Ministers. The argument is that disclosure would inhibit discussions and deliberation and consequently undermine and degrade the decision making process

On the basis of all the above, I have concluded that the public interest served by redacting some information in the consideration template with regard to this case outweighs that of disclosure. Accordingly, I am withholding that information.

Complaints procedure

If you are unhappy with this response, we will review it and report back to you. (This is called an internal review.) If you want us to do this, let us know by return email within two months of receiving this response. You can also ask by letter addressed to:

Department for Communities and Local Government
Knowledge and Information Access Team
1st Floor NW, Fry Building
2 Marsham Street
London, SW1P 4DF

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

John Pierce