

24 May 2021



D Mudge

request-738187-0e5323f2@whatdotheyknow.com

Mail Hub
Worcester County Hall
Spetchley Road
Worcester
WR5 2NP

Dear D Mudge

Access to Information Request – Internal Review – RFI 5500

Thank you for your letter dated 09 April 2021 asking for an internal review of our handling of your request for information, RFI 5500 under the Environmental Information Regulations 2004 (EIRs). I have now completed that task and have set out in this letter my conclusions.

Decision

My decision is that your internal review is partially successful.

Original Request

The original request can be found in [Annex A](#).

Process

In accordance with Natural England's internal review procedures, your request has been reviewed by myself, a more Senior Officer who was not involved in the original decision and in discussion with colleagues who handled your original request. I have considered your appeal, including your arguments in favour of disclosure and reviewed the public interest arguments for and against disclosure.

Chronology

Date	Activity
19 March 2021	Natural England received request for information.
19 March 2021	Natural England acknowledges receipt of request.
07 April 2021	Natural England responded to your request for information.
09 April 2021	Natural England received your request for internal review.
09 April 2021	Natural England acknowledges receipt of request for internal review.

Regulatory Regime

I have concluded that the Environmental Information Regulations are the applicable information access regime. This is because the information requested and held by Natural England meets the definition of environmental information as stated in Section 2(1)(a-f) of the Regulations.

Timeliness (Regulation 5)

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

Natural England's response to RFI 5500 was sent to you on 07 April 2021, 10 working days after the date of receipt, and therefore complied with the Regulations.

Releases

Natural England works on the principle that any disclosures made under the Environmental Information Regulations 2004 **are in effect a disclosure to the world at large, as any other applicant would be entitled to the same information on request**. As such we take this into consideration when making any decisions as to whether it is in the public interest to disclose or withhold requested information.

I can confirm that following receipt of your email Natural England has re-visited this request. It has considered whether it was correct to apply the exception for not releasing the licensees contact details and check that no information has been missed from the information response. We have taken the opportunity to review this decision in light of your Internal Review.

I have reviewed our original response, the exception that was engaged and an exercise has been carried out for further searches for any additional information we hold. During this exercise the Wildlife Licensing Team have routinely searched their systems and identified further information relating to the granted licence 2017-29917-EPS-MIT. This information is provided in the attached zip file.

The licensees company details which was withheld under Regulation 12(3) – *personal Information* in the documents are now released with the exception of private individuals and Natural England staff details contained within these documents. This will continue to be withheld under Regulation 12(3) – *personal information*. Please see below our reasoning for this. This information is now provided in the attached zip file.

For your information and irrespective of the nature of the person making the request and their appreciation of the sensitivity of the subject, any disclosures made under the Regulations is in effect a disclosure into the public domain, as any other requester would be entitled to the same information on request. As such we take this into consideration when making any decisions as to whether it is in the public interest to disclose or withhold requested information.

Exception in under Regulation 12(3)

The names, signatures, and contact details of private individuals and some staff members are considered by Natural England to be personal information as defined by the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

The First Data Protection Principle says that personal data shall be processed lawfully, fairly and in a transparent manner. Guidance published by the Information Commissioner, states that when considering fairness in relation to disclosing personal information under FOIA [and EIR] it will usually mean considering:

- whether the information is sensitive personal data;
- the possible consequences of disclosure on the individual;
- the reasonable expectations of the individual, taking into account: their expectations both at the time the information was collected and at the time of the request; the nature of the information itself; the circumstances in which the information was obtained; whether the information has been or remains in the public domain; and the FOIA [and EIR] principles of transparency and accountability; and
- any legitimate interests in the public having access to the information and the balance between these and the rights and freedoms of the individuals who are the data subjects.

We believe that names and contact details of individuals involved in this decision should not be disclosed. This is particularly so given the sensitivity surrounding the subject. In our opinion the release of this information would cause unnecessary and unjustified harm or distress to the persons who the information is about, and a risk to the individuals' personal safety.

As a public sector organisation, employees of Natural England have a reasonable expectation that their names and work contact details should be disclosed upon request, and there is a legitimate public interest in accountability. However, the sensitivity surrounding the revocations of the General Licences means that Natural England believes disclosure of the names and work contact details of the staff involved in this decision would cause unnecessary and unjustified harm or distress to the person who the information is about, and a risk to the individuals' personal safety. Natural England has a duty of care towards its staff and this position is consistent with that duty.

Considering all the factors above, Natural England does not believe that the release of names, contact details and work contact details is, in this case, necessary in order to satisfy the legitimate public interest in the accountability of public sector employee.

Conclusion

Having reviewed the exception that was engaged to withhold the licensee's company details we have concluded that we should now release this information with the exemption of some information to continue being withheld under Regulation 12(3) – *personal information* as explained above.

I have concluded also that Natural England didn't respond to your request for information as well as it could have. Please accept my apologies for this.

If you remain dissatisfied with this response you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

<https://ico.org.uk/global/contact-us/> or call on 0303 123 1113 (local rate), www.ico.org.uk

Yours sincerely

Matt Stone
Team Leader
Natural England Wildlife Licensing Service

Enc.

Annex A – Original Request – RFI 5500

From: D Mudge <request-738187-0e5323f2@whatdotheyknow.com>

Sent: 19 March 2021 10:10

To: SM-NE-FOI (NE) <foi@naturalengland.org.uk>

Subject: Freedom of Information request - Kingmoor Park Industrial Estate, Land North of Kings Drive, Carlisle, Cumbria, CA6 4SE

Dear Natural England,

I am requesting information under the Environmental Information Regulations 2004 regarding communications between Natural England and the applicant(s)/holder(s) of great crested newt mitigation licences for the land known as Kingmoor Park Industrial Estate, Land North of Kings Drive, Carlisle, Cumbria, CA6 4SE since 2016. I understand a licence numbered 2017-29917-EPS-MIT-2 was granted (valid from 17 December 2020). I am also aware that a previous licence had been issued but I do not know the licence number.

1. Please provide all records of communications between Natural England and applicant(s)/holder(s) of newt mitigation licence(s) since 2016 including any emails, written correspondence, telephone conversations, video calls, meetings and text messages.

2. Please provide all licence numbers of currently valid newt mitigation licences for the land known as Kingmoor Park Industrial Estate, Land North of Kings Drive, Carlisle, Cumbria, CA6 4SE.

Thank you for your assistance and your time.

D Mudge

