Reference: IR927

Date issued: 15th August 2024

Gilestone Farm business plan

I write in response to your request for information dated 19 July 2024, in which you clarified that you were requesting a copy of the outline business plan submitted to Welsh Government in connection with Green Man and Gilestone Farm.

Following careful consideration and consultation with relevant third parties, I am withholding this information under the exemption from disclosure provided by section 43(2) of the Freedom of Information Act. This section states:

Section 43(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

The information requested contains data that would give insight into the operation and activities of third parties, which would be likely to prejudice their commercial interests. The information that we hold was obtained from the Welsh Government and accordingly we consulted the Welsh Government regarding your request. The Welsh Government has objected to disclosure on grounds including prejudice to its commercial interests also.

The exemption at s43(2) is a qualified exemption, and I have considered whether the necessary prejudice is established and conclude that it is. In order to apply the s43(2) exemption it is necessary to consider whether the public interest in maintaining the exemption overrides the public interest in disclosure, and I have undertaken such consideration as follows:

<u>For disclosure</u>

- Transparency and accountability in Welsh Government decision-making – it is in the public interest that public authorities are as open and transparent as possible in the way that they operate and the way in which decisions are made.

- Promotion of public understanding of the decision-making process and ensuring integrity and value of money in the transactions agreed by the Welsh Government.

Against disclosure

- There is an inherent interest in avoiding the prejudice that would arise in the event of the information being disclosed and used to the advantage of competitors.
- The information whilst not entirely current is sensitive in relation to ongoing events. Whilst its value to third parties may diminish in time, it is currently still relevant.
- There is a framework in place for scrutiny of Welsh Government actions through a statutory audit process, which provides transparency more effectively than ad hoc disclosure. A letter was published by Audit Wales on 31 January 2023 following a review of information including the document being requested. This letter can be accessed here.
- Disclosure seems unlikely to add substantively to public understanding as it would not be disclosure of full information.
- Disclosure of this type of information could reduce the number of businesses willing to engage with Welsh Government in future.

On balance, I consider that it is in the greater public interest to withhold the information at this time. Accordingly, the exemption at section 43(2) of the Freedom of Information Act 2000 is maintained.

I also consider that the information is exempt from disclosure by virtue of section 33(2) of the Freedom of Information Act as it relates to public audit functions. While the Auditor General for Wales (AGW) has statutory access rights to documents and information that relate to the exercise of many of his functions, such rights operate on the basis that the information provided is identified as necessary by the AGW. However, the effective performance of audit functions is dependent not just on obtaining information that the AGW identifies as necessary for an examination but also ongoing co-operation by the audited body, including the free volunteering of potentially relevant information by the audited body, so as to enable, for example, the effective planning of examinations. The disclosure of the requested information at this point in time could lead to reduced voluntary provision of information and also likely resistance, such as through questioning the necessity of access to requested information.

Disclosure of this information would therefore be likely to prejudice the exercise of the AGW's functions in relation to audit by discouraging audited bodies' ready co-operation with auditors. The free and open engagement of audited bodies is critical for maintaining efficient and effective audit processes to enable the AGW to ensure that public bodies can account for public funds allocated to them, and that their work delivers value for money. This applies particularly in relation to commercially sensitive information, as has been requested in this case.

This exemption is also subject to the public interest test, and due to the considerations against disclosure set out in respect of the s43 exemption above, together with the likely prejudice to audit functions also set out above, I have concluded that the balance of public interest lies against disclosure, and the s33 exemption is maintained.

If you have any queries, please do not hesitate to contact me.

Yours sincerely,

Information Officer