

## Circuit of Wales

28 April 2014

Further to my email of 9 April 2014, I am now in a position to respond to your clarified request for information of 9 April 2014, which was for:

*a copy of the so called due diligence report produced by Grant Thornton*

I am withholding the report for the following reasons:

- a) Disclosure of the report would prejudice the commercial interests of the Heads of the Valleys Development Company. This is because disclosure would reveal commercially sensitive financial information and business development proposals that would provide potential competitors with a commercial advantage were the report to be disclosed. The information therefore falls within the exemption provided by section 43(2) (commercial interests) exemption of the Freedom of Information Act 2000 (FOIA). There is a public interest, for reasons of openness and transparency, in disclosing information in relation to money spent by the Welsh Government. However, companies in receipt of public money, and particularly (as in this case) companies aiming to create a significant amount of jobs in Wales, should not have to fear they will be put at a competitive disadvantage by the untimely disclosure of information that will prejudice their commercial interests. I believe disclosure of this report would be of interest to potential competitors, and it would not be in the public interest to facilitate competitors to have an unfair advantage. This is a live project and as such the premature disclosure of information would be particularly sensitive. I have therefore decided that the balance of the public interest is such that the exemption provided by section 43(2) should be maintained.
- b) Disclosure of the report would prejudice the commercial interests of Grant Thornton. This is because disclosure would reveal Grant Thornton's detailed methods of working which are commercially confidential. The information therefore falls within the exemption provided by section 43(2) (commercial interests) exemption of the FOIA. Disclosure of such information may put Grant Thornton at a competitive disadvantage in future, and it would not be in the public interest to facilitate competitors to have an unfair advantage when bidding for work. I have therefore decided that the balance of the public interest is such that the exemption provided by section 43(2) should be maintained.
- c) Disclosure of the report would be prejudicial to the effective conduct of public affairs, and the information therefore falls within the exemption provided by section 36(2)(c) of the FOIA. We obtained a copy of the report from the Welsh Government in order to respond to correspondence from an Assembly Member. In February 2014, the Welsh Government refused a request for this report as set out on their disclosure log <http://wales.gov.uk/about/foi/responses/dl2014/janmar/culture/atishn8132/?lang=en> Although there is a public interest in projects that involve the expenditure of public money, disclosure of this report could jeopardise our relationship with the Welsh Government, with whom we need an effective working relationship, and it would not be in the public interest to prejudice that relationship by disclosing a report that they provided to us and which they have recently withheld from disclosure. Furthermore, disclosure of this report could adversely affect our ability to obtain documentation voluntarily in order to respond to correspondence. It is not in the public interest to compromise our ability to respond to correspondence efficiently and effectively. The Auditor General for Wales has therefore decided that the balance of public interest is such that the exemption provided by section 36(2)(c) should be maintained.

- d) Disclosure of the information would prejudice the audit functions of the Auditor General for Wales. This is because disclosure would prejudice the effective working relationship that the Auditor General has with the Welsh Government. An effective working relationship is necessary for maintaining efficient and effective audit processes. The information therefore falls within the exemption provided by section 33 (audit functions) of the Freedom of Information Act 2000 (FOIA). There is a public interest in projects that involve the expenditure of public money. However, the public interest in maintaining efficient and effective public audit, and avoiding the potential harm to that relationship that would arise on disclosure, is greater than the public interest that lies in disclosure. I have therefore decided that the balance of the public interest is such that the exemption provided by section 33 should be maintained.

If you wish to complain about my handling of your request, please email or write to me.

I must also refer you to section 50 of the Freedom of Information Act under which you may apply to the Information Commissioner for a decision on whether or not your request has been dealt with in accordance with the Act. The Information Commissioner's contact details are:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
email : [casework@ico.gsi.gov.uk](mailto:casework@ico.gsi.gov.uk)

Tel: 01625 545745

Fax: 01625 524510

You should note, however, that the Information Commissioner would normally expect you to have exhausted our internal complaints procedures before dealing with such an application. Further guidance may be found on the Information Commissioner's website <http://www.informationcommissioner.gov.uk>.

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

Yours sincerely

Ian Phillips