

Regulation 12(5)(g) – Protection of the environment

Regulation 12(5)(g) provides an exception from the duty to make environmental information available if it would harm the protection of the environment to do so. The purpose of this exception is to increase the protection of the environment by ensuring greater access to environmental information, whilst ensuring that disclosure of information does not lead to damage of the environment. Disclosure which could have this effect includes information relating to sites of protected species, nesting sites of rare birds, and/or the location of vulnerable archaeological sites.

Please refer to the below link for an explanation of the legislation applied.

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>

Factors for supporting disclosure

- Making environmental information available to the public ultimately contributes to a better environment, by increasing people's awareness and understanding of environmental issues.
- General public interest in the disclosure of information to ensure transparency and visibility of public bodies being held to account regarding decisions made.

Factors supporting non-disclosure

- It is in the public interest to avoid harming or causing any adverse effect to the environment and protected species.
- Release of this information could result in people disturbing protected species through desire to observe such an animal in its natural environment.
- If information regarding the locations of protected species, were to be disclosed, then disclosure would adversely affect the ability to protect the sites, because of the risk that campaigners or members of the public could enter on to areas of land and disrupt the mitigation works.

Balance Test

The decision to withhold the information is upheld in the light of the arguments against disclosure. We have concluded that the protection of the species, and the environment in this situation, outweighs the public interest for transparency on environmental issues. Therefore, we are withholding the requested information.

Regulation 13 (Personal information)

Third party personal data is exempt from disclosure by virtue of Regulation 13. Further information on Regulation 13 is available via the following link:

<http://www.legislation.gov.uk/uksi/2004/3391/regulation/13>

The information you have requested is the personal data of another person. Regulation 13 provides that information relating to third parties is exempt information, if among other things, the release of the information requested would breach the requirements contained under the first data protection principle. In this case release of the information would not be lawful or fair.

There is a wider legitimate interest for transparency but placing this information in the public domain would lead to an unwarranted level of interference with the person's privacy. It is not needed for us to consider the necessity for disclosure and, in this case, there is no pressing need for us to disclose the information. Therefore, a further balancing test is not required.