

10 December 2018

Our ref: RFI 4405



Legal Services
Access to Information
Sterling House
Dix's Field
Exeter
Devon EX1 1QA

Dear [REDACTED]

Access to Information Request – Request No RFI 4405

Thank you for your request for information which we received on 12 October 2018 and extended on the 8 November 2018. Your request has been carefully considered under the Environmental Information Regulations 2004 ("EIR's").

You specifically asked for:-

In relation to Angram Moor South, Angram and Scar House Moor North and Hanging Moor, a copy of bird survey data for each of the years 1990, 2005 and 2014.

Following a comprehensive search of our paper and electronic records, please find enclosed the information we hold in scope of your request saved in the attached zipfile.

The information saved in the attached zipfile are copies of the survey data for 2005-07 but unfortunately we have not been able to locate any data of the bird survey for the years 1990 and 2014. For your reference we have located an email trail which relates to the bird surveys for the North Pennine Moors in 1990.

Please note any disclosure made under the Regulations is 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.

We have withheld this information in accordance with the following exceptions in the Environmental Information Regulations 2004:

- Regulation 12(3) – Personal information and
- Regulation 12(5)(a) – Public Safety

I have set out below our reasons for relying on these exceptions.

Regulation 12(3) – Personal Information

The names, signatures, and contact details of private individuals 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.

When names and contact details are collected from individuals by Natural England we do not inform them that the information will remain confidential or that it may be released, however, we believe that there is an expectation of confidentiality.

The release of names or contact details and any subsequent contact may cause unnecessary or unjustified distress or damage to the individuals if released, and they have a reasonable expectation of confidence.

Regulation 12(5)(a) – Public Safety

Location information is being withheld in accordance with the exemption set out in Regulation 12(5)(a) which states:

“...a public authority may refuse to disclose information to the extent that its disclosure would adversely affect...

(a) international relations, defence, national security or public safety;”

Harm Test

Any disclosure made under the Regulations is in effect a disclosure to the world at large, as any other applicant would be entitled to the same information on request. To release and subsequently place into the public domain the location of the licensed activity would adversely affect public safety. We believe that the release of the exact site locations and the names of the applicants and licensees would impact adversely upon the protection of these individuals and the health and safety of those individuals at the licence activity sites.

Public Interest Test

In applying this exception, we have had to balance the public interest in withholding the information against the public interest in disclosure. Whilst Natural England believes in openness and transparency, as a public body, we also have a duty to safe-guard people who undertaken who apply to undertake or who are licenced to undertake certain activities.

While we believe that the public do have the right to know that licence activity is being undertaken we feel that this should not extend to providing the precise location of the proposed activity, given the possible threat to those locations and those involved if that information is released.

We feel there is little additional public interest in knowing the locations and which organisation and /or individuals are involved aside from the opportunity to target the sites, organisations or person for the purposes of objection.

As such, while it is a public right to object and make their views known, that right has to be balanced against issues of security and safety of the personnel involved. We believe that these are legitimate concerns sufficient to allow Natural England to engage this exception and withhold the information.

If you have any queries about this letter, please contact me. As you may be aware, under the legislation should you have any concerns with the service you have received in relation to your requests and wish to make complaint or request a review of our decision, please contact me and I'll arrange for a colleague to conduct an internal review.

Under Regulation 11(2) this needs to be done no later than 40 working days after the date of this letter.

If you are not content with the outcome of that complaint or the internal review, you may apply directly to the Information Commissioner for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted the internal review procedure provided by Natural England. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 0303 123 1113 (local rate), www.ico.org.uk

Yours sincerely



Adviser – Access to Information
Legal & Governance Team

From: [REDACTED] (NE)
Sent: 22 October 2018 15:52
To: [REDACTED] (NE)
Subject: FW: FOI North Pennines SPA

[REDACTED]

Central Delivery Team
Yorkshire and North Lincolnshire

Natural England
Foss House
Kings Pool
1-2 Peasholme Green
York
[REDACTED]

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- the [Discretionary Advice Service \(DAS\)](#) which can provide advice on planning/licensing proposals
- the [Pre-submission Screening Service \(PSS\)](#) for European Protected Species mitigation licence applications.

To: [REDACTED]@naturalengland.org.uk>
Subject: RE: FOI North Pennines SPA

Hi [REDACTED]

Thank you so much for this info. I agree there may be a bit of confusion, I'll make sure to check on Trim for the 1989 data for the North Pennines though.

All the Best,

[REDACTED]
Central Delivery Team
Yorkshire and North Lincolnshire

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Tel: [REDACTED]

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From: [REDACTED] (NE)

Sent: 15 August 2018 12:14

To: [REDACTED]@naturalengland.org.uk>; [REDACTED]
[REDACTED]@naturalengland.org.uk>

Subject: RE: FOI North Pennines SPA

Hi both – is it possible there is some confusion here between north and south Pennines here ? For example, and as far as I can recall (and readily check), there were no surveys of the North Pennines in 1990 (there definitely were in 1989). There was a major survey of the south Pennines though in 1990 (and its written up as Brown, AF and Shepherd, KB 1991. Breeding birds of the south Pennine Moors. Joint Nature Conservation Committee Report No.7, which ought to be in our library, with some additional elements published in refereed journals). The data for all the older Moorland Bird Surveys are with BTO as far as I know (they went, with the Moorland Bird survey staff) staff to JNCC and I recall that JNCC handed over the maps and information for curation by BTO.

Much use has been made of the 1990 south Pennines data and Moors for the Future, RSPB, presumably our Area Team and other organisations hold full digital copies. It may be best for those seeking the information to be precise as to what they need, so we can best direct them.

[REDACTED]

From: [REDACTED] (NE)
Sent: 13 August 2018 10:18
To: [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>
Cc: [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>
Subject: RE: FOI North Pennines SPA

Hi [REDACTED]

I have a report and data for the 2005 survey (included in the wider 2005-2007 survey of the North Pennine Moors SPA), which I attach. This should all be held locally as well as I think the 2005 work was commissioned from the Newcastle office.

<< File: North Pennines SPA - 2005 survey grid refs.xls >> << File: North Pennine SPA survey 2005_07.doc >>

The 1990 data were collected under the original Moorland Bird Survey (MBS) work. I am not sure where the data reside now but I suggest you check with the library to see if we still have them in our archive. I have copied to [REDACTED] in case he has any other information.

I am not aware of any 2014 survey in the north Pennines. There was a moorland survey in the south Pennines in 2014 by Keystone but I do not recall any overlap with the north Pennines. You could check with [REDACTED].

All the best
[REDACTED]

[REDACTED] | Senior Ornithologist | Specialist Services and Programme Team
Chief Scientist Directorate | [REDACTED]

[REDACTED]

From: [REDACTED] (NE)
Sent: 13 August 2018 09:39
To: [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>
Subject: FOI North Pennines SPA

Hi [REDACTED]

Hope all is well with you. I've had a request for information regarding Bird Surveys in the North Pennines SPA, in relation to the following years: 1990 (Brown and Shepherd), 2005 (Shepherd) and 2014 (Keystone Ecology). Do you know if this data exists, or if similar data exists, and if so, where is it stored?

All the Best,
[REDACTED]
[REDACTED]

Central Delivery Team
Yorkshire and North Lincolnshire

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