

Mr. Ewan Larcombe
Via email
ewan@jubileeriver.co.uk

Our ref: NE29480 BC
Your ref:
Date: 13 December 2011

Dear Mr. Larcombe

RE: Request for information under the Freedom of Information Act 2000 (FOIA) / Environmental Information Regulations 2004 (EIR)

We refer to your request for information about the pollution incident at Kingsmead Quarry, Horton, Berkshire dated 5 December 2011.

Requests for information that is recorded are generally governed by the Freedom of Information Act 2000 (FOIA). The information you have requested is environmental and it is therefore exempted from the provisions of FOIA by FOIA s.39(1). We have therefore considered your request under the provisions of the Environmental Information Regulations 2004 (EIR). EIR regulation 12 allows a public authority to refuse to disclose environmental information if an exception to disclosure applies under paragraphs (4) or (5) and in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. A public authority shall apply a presumption in favour of disclosure.

Information enclosed and notice

The case is still with our Legal Team who are looking into the appropriate form of action. As such, we are still unable to provide you with any information.

Information withheld

We have withheld the following information: The information requested about Kingsmead Quarry, Horton.

Relevant exceptions

The exceptions that apply to this information are:

EIR Regulation 12(5)(b) applies because disclosure would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature, specifically with this information.

The Public Interest Test

We have weighed the public interest factors in favour of maintaining the exceptions and find that they outweigh the public interest factors in disclosing the information. In carrying out the public interest test we have considered:

1. Factors in favour of releasing the information:

The Environment Agency would only withhold information if it is sure that disclosure would cause substantial harm.

2. Factors in favour of withholding the information:

The release of information would be likely to cause a criminal investigation and prosecution to fail, for abuse of process and the inability for there to be a fair trial. Disclosure would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature, specifically with this information. We recognise your particular concerns regarding the pollution incident at Kingsmead Quarry in Horton. We are currently carrying out an investigation on this site. This involves us collecting information and evidence that we may use if we take forward any enforcement action. As such, we are unable to provide you with this information as it may prejudice our investigation.

As indicated, upon assessing the factors in the public interest test, we have assessed that in relation to the requested information that form part of the investigation, the factors in favour of withholding information outweigh the public interest factors in disclosing the information.

Rights of appeal

If you are not satisfied with our response to your request for information, you can contact us to ask for our decision to be reviewed. If you are still not satisfied following this, you can make an appeal to the Information Commissioner, who is the statutory regulator for Freedom of Information. The address is: Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF .

Tel: 01625 545700.

Fax: 01625 524 510.

E-mail: mail@ico.gsi.gov.uk.

Website: <http://www.informationcommissioner.gov.uk>

Yours sincerely

Becki Clark

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