

[REDACTED]

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[www.gov.uk/decc](http://www.gov.uk/decc)

Our ref: 13/1506  
Your ref:[REDACTED]

22 November 2013

Dear [REDACTED]

**Environmental Information Request: 13/1506 – Wayleave Hearings**

Thank you for your letter dated 23 October 2013 in which you have asked for detailed information on requests for wayleave hearings over the last six years.

We have considered your request in accordance with the Environmental Information Regulations 2004 (EIRs) as the information you have sought disclosure of does, in our view, fall within the definition of ‘environmental information’ as stated in the EIRs.

Our responses to your questions are given below. For ease of reference, I have quoted your question, followed by our answer.

**Q1. Please confirm the number of requests which have been made for a Wayleave hearing during the past 6 years**

**and**

**Q2. Please confirm how many of those hearings have been:**

- **Abandoned prior to the hearing**
- **Proceed but the only parties in attendance have been from representatives of energy company**
- **Have resulted in the objector succeeding**

**Our response:** The table below provides answers to questions 1, and 2. It confirms the number of requests which have been made for a wayleave hearing during the past six years and also how many of those hearings have been (i) abandoned prior to the hearing (ii) proceeded but the only parties in attendance have been from representatives of the energy company and (iii) have resulted in the objector succeeding

Year (1 <sup>st</sup> April > 31 <sup>st</sup> March)	Number of requests	Abandoned prior to the hearing	Proceeded but the only parties in attendance have been from representatives of the energy company	Have resulted in the objector succeeding
2007 > 2008	28	22	1	0
2008 > 2009	44	38	1	1
2009 > 2010	53	46	2	0
2010 > 2011	37	33	0	0
2011 > 2012	30	28	0	0
2012 > 2013	46	20	0	0

**Q3. In relation to those hearings where the objector has succeeded, please confirm the following:**

- The period of time passing from the date of the request for a Wayleave hearing and the date of the Inspector's recommendation
- The number of times the Secretary of State has disagreed with the Inspector's recommendation
- The number of times the Secretary of State's decision has led to a different outcome to the Inspector's recommendation
- Please provide copies of all decisions where the Objector has been successful whether as a result of the Inspector's recommendation or as a result of the Secretary of State disagreeing with the Inspector's recommendation

**Our response:** In relation to those hearings where the Objector has succeeded we can confirm the following:

- There has been one hearing where the objector has succeeded during the last six years. The request for a wayleave hearing was received by DECC on 13 October 2008 and the Inspector's recommendation was made to the Secretary of State on 21 April 2009. The period of time passing from the date of the request to the date of the Inspector's recommendation was approximately six months.
- There has been one occasion when the Secretary of State has disagreed with the Inspector's recommendation or his decision has led to a different outcome to the Inspector's recommendation.<sup>1</sup>
- As referenced above, this disagreement with the Inspector's recommendation related to the Secretary of State's decision to reduce the time period granted for a necessary wayleave against that recommended by the Inspector.

<sup>1</sup> The information provided has not included the case involving [REDACTED] (represented by [REDACTED]) and [REDACTED] for a necessary wayleave to keep installed a 132kV electric line at [REDACTED], as this has not yet reached a conclusion

- Enclosed is a copy of the decision where as a result of the Secretary of State disagreeing with the Inspector's recommendation the period of grant of a necessary wayleave was reduced. This case is an application made by then CE Electric Northern for a necessary wayleave at the land south of Field Lane, Heslington in York.

**Q4. Please confirm as a % the number of cases where an Inspector appointed under the Wayleave process has found in favour of an objector during the previous 6 years and if the data is available, the previous 10 years. Please confirm as a % the number of cases where the Secretary of State has disagreed with the recommendation of the Inspector during the same periods**

**Our response:** As you will see from the information above, we confirm, as a percentage, the number of cases when an Inspector appointed under the wayleave process has found in favour of an objector during the previous six years is less than 1%.

You have also asked us to provide you with information in relation to this question for the last ten years. Unfortunately in this case, after a preliminary assessment, it is clear that to determine whether the Department holds the information for the last ten years, and to locate, retrieve and extract that information, would require an extensive search of paper files which are currently located off-site. After careful examination of this part of your request under the EIRs, we have determined that Regulation 12(4)(b) applies. Regulation 12(4)(b) states that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable. In applying the exception, we have considered the public interest test in respect of your request. We have applied a presumption in favour of disclosure as required by Regulation 12(2). We acknowledge that there may be public interest in the information you have requested. Greater transparency makes the government more accountable to the electorate and increases trust. However, gathering the information for this part of your request would be likely to involve a significant cost and diversion of resources from the teams concerned and the Department's other work. Therefore we will not process this part of your request.

Some personal information has also been redacted from the information released. Regulations 12(3) and 13 provide an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act (DPA). Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the DPA. We do not think that it is fair to release the names and contact details of junior members of staff or third parties and do not think that any of the relevant conditions apply.

## **Appeals Procedure**

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within 40 working days of

the date of receipt of the response to your original letter and should be sent to the Information Rights Unit at:

Information Rights Unit  
Department for Business, Innovation & Skills  
1 Victoria Street  
London  
SW1H 0ET  
E-mail: [foi.requests@bis.gsi.gov.uk](mailto:foi.requests@bis.gsi.gov.uk)

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

[REDACTED]