



5 June 2018
EIR Reference: E0003703

Dear 

I am writing in respect of your recent request, of 3 May 2018, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

I would be grateful if you could provide the following information in respect of the proposed Great Yarmouth Air Show planned for 16-17 June 2018.

- 1. The most recent and up to date version of the Habitats Regulations Assessment prepared for the proposed air show, produced in accordance with the Conservation of Species and Habitats Regulations 2017.*
- 2. Any other assessments that have been completed to understand the ecological impact of the air show on Scroby Sands and other protected sites and wildlife within the Borough.*
- 3. All communication between Great Yarmouth Borough Council, the Civil Aviation Authority, Natural England and the Greater Yarmouth Tourism & Business Improvement Area regarding the regulatory process governing the air show, in particular any discussions regarding the role of Great Yarmouth Borough Council and the Civil Aviation Authority as Competent Authorities in accordance with the Conservation of Species and Habitats Regulations 2017, and as Public Bodies under the Wildlife and Countryside Act 1981.*

We have considered your request in line with the provisions of the Environmental Information Regulations 2004 (EIR). While we do hold information within the scope of your request, we are unable to provide it for the reasons explained below.

Permissions for civil flying displays

The regulation of civil flying displays is governed by Article 86 of the Air Navigation Order (ANO) 2016, which, amongst other things, requires the organiser of a flying display to obtain permission from the CAA.

Civil Aviation Authority

Aviation House Gatwick Airport South Gatwick RH6 0YR www.caa.co.uk
Telephone 01293 768512 foi.requests@caa.co.uk

Under Section 23 of the Civil Aviation Act 1982, information which relates to a particular person (which includes a company or organisation), and has been supplied to the CAA pursuant to a provision of the ANO, is prohibited from disclosure. As the information we hold was supplied to the CAA for the purposes of a decision pursuant to Article 86 of the ANO 2016, Section 23 of the Civil Aviation Act 1982 prohibits its disclosure by the CAA. The disclosure of information in breach of Section 23 is a criminal offence.

Regulation 5(6) of the EIR provides that any law that prohibits disclosure of environmental information shall not apply if the effect would be to prevent disclosure otherwise than in accordance with the EIR. However, Section 23 of the Civil Aviation Act 1982 means that the information we hold in scope of your request is confidential within the meaning of Regulation 12(5)(e) of the EIR.

Regulation 12(5)(e)

Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In the CAA's view, information provided to the CAA relating to a decision by the CAA, pursuant to Article 86 of the ANO 2016, falls within this exception from disclosure.

Having reached the view that the exception is engaged, we have considered whether the public interest in withholding the information is outweighed by the public interest in disclosing it. In doing so, we have kept in mind that Regulation 12(2) requires a presumption in favour of disclosure.

There is a general public interest in the disclosure of environmental information because, as the ICO guidance states, "*it supports the right of everyone to live in an adequate environment and ultimately contributes to a better environment*". The disclosure of environmental information promotes the transparency and accountability of public bodies and their decision making, and can allow the public to be informed and involved in such decisions.

The CAA is aware of the specific concerns about the potential impact of the Great Yarmouth Air Show on local bird habitats and recognises the public interest in the protection of rare species and wildlife habitats. However, the public interest in maintaining the exception will protect the legitimate economic interests of the organisers of the proposed Great Yarmouth Air Show, whilst the application process is ongoing. The CAA considers that the interests of the event organisers may be adversely affected by disclosure.

It is also important to note that in addition to conservation objectives, this information was provided to the CAA pursuant to its role as the UK's aviation safety regulator (there is an overlap between conservation requirements and safety requirements in this case). The purpose of requiring air display organisers to obtain permission from the CAA is to satisfy the CAA that the organisation and conduct of the flying display will be carried out in accordance with the relevant safety requirements and best practice. As well as adversely affecting the economic interests of the event organisers, disclosure is, in the CAA's view, also likely to make air display organisers more reluctant to share their commercial information with the CAA in the future. It is imperative that the CAA does not place at risk the free and unconstrained exchange of safety information or future engagement with event organisers and participants.

Having considered the factors on both sides, on balance, the CAA concluded that, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosure. A copy of this exception can be found below.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Caroline Chalk
Head of External Information Services
Civil Aviation Authority
Aviation House
Gatwick Airport South
Gatwick
RH6 0YR

caroline.chalk@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with requests under the Environmental Information Regulations. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

<https://ico.org.uk/concerns/>

If you wish to request further information from the CAA, please use the form on the CAA website at <http://publicapps.caa.co.uk/modalapplication.aspx?appid=24>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Stevens', written in a cursive style.

Mark Stevens
External Response Manager

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Regulation 12 of the Environmental Information Regulations 2004

- (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—
- (a) an exception to disclosure applies under paragraphs (4) or (5); and
 - (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
- (2) A public authority shall apply a presumption in favour of disclosure.
- (3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.
- (4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—
- (a) it does not hold that information when an applicant's request is received;
 - (b) the request for information is manifestly unreasonable;
 - (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
 - (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
 - (e) the request involves the disclosure of internal communications
- 5) For the purposes of paragraph (1)(a), 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;
 - (b) 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;
 - (c) intellectual property rights;
 - (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
 - (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
 - (f) the interests of the person who provided the information where that person—
 - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
 - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
 - (iii) has not consented to its disclosure; or
 - (g) the protection of the environment to which the information relates.