



14 April 2021

Redgrave Court
Merton Road
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Contact@onr.gov.uk

Unique ref: 2021/29610
Our ref: ICO202008001
Your ref: 06/20

Dear [REDACTED]

ICO Case Reference: IC-47399-H8Q1

Following correspondence from the Information Commissioner's Office (ICO) regarding your request for information in relation to flood risks and Rolls-Royce Submarines Ltd, Raynesway. I can confirm that we have carefully considered your request of 21 February 2020 again and wish to amend our position.

We originally treated your information request under the Freedom of Information Act 2000 (FOIA) as requested. However, the ICO has stated we should have processed it under the Environmental Information Regulations 2004 (EIR), as they consider the information requested is environmental.

We have therefore looked at your request again under the EIR regime. This has resulted in a shift in the balance of the Public Interest Test, and a change in our original position, allowing the release of the attached document entitled 'Rolls-Royce Raynesway Design Basis Flood Characterisation 2018'. A small amount of information within the document has been identified for non-disclosure and has therefore been redacted. Further details of this and our reasoning can be found in Annex A.

We will build the learning from our handling of this request into our future working, specifically to ensure we more carefully consider whether requests received as FOI should be treated as such, or whether another regime would be more appropriate. We apologise for any inconvenience caused.

The ICO's preference is to resolve complaints informally therefore if you are content with the information provided, we would greatly appreciate it if you would let us know as soon as possible, copying in the ICO quoting your case reference IC-47399-H8Q1. This will ensure a prompt resolution to your case.

Email: icocasework@ico.org.uk

Yours sincerely

[REDACTED]
Policy and Communications Directorate

Annex A - Original Information Request (Your ref: 06/20) – 21 February 2020

Please provide me with copies of the following documents which relate to flood risks at the nuclear licensed sites operated by Rolls-Royce Submarines Ltd at Raynesway, Derby:

- [1] A copy of the most recent submission to ONR on the licensee's arrangements for addressing flood risks at the Raynesway site.
- [2] ONR's response to this submission.
- [3] The most recently prepared flood protection study for the site which is held by ONR, including the implementation timetable for flood protection arrangements.

ONR's revised response

Items [1] – [3]

I can confirm that for items [1] and [3], the information requested is held within the document attached entitled '[Rolls-Royce Raynesway Design Basis Flood Characterisation 2018](#)'. Following a review under EIR, we have amended our position and agree the document can be released, subject to minor redactions.

Some information has been withheld because disclosure would have an adverse effect on national security. The information is in relation to a defence site and is relevant to the Security of Nuclear Material and Facilities, as many site security features provide flood mitigation in addition to their security functions. This information has been withheld under exception Reg 12(5)(a) EIR - adverse effect on national security or public safety.

Reg 12(5)(a) EIR - adverse effect on national security or public safety

Under this exception¹, a public authority may refuse to disclose information to the extent that its disclosure would adversely affect international relations, defence, national security or public safety. We consider the "national security or public safety" aspect of this exception is engaged in relation to the following types of information in the attached document relating to the Rolls-Royce Raynesway site:

- Building names, locations and references.
- Site security arrangements.
- Security measures.

As all the exceptions under the EIR are subject to the Public Interest Test, we are required to balance the public interest between disclosure and non-disclosure of the information we have identified above. We have therefore applied the Public Interest Test, as set out below:

Factors in favour of disclosure of the redacted information:

- There is a presumption under both the EIR and ONR's Information Requests policy in favour of disclosure.
- Disclosure of this information would provide further information to the public and would reflect ONR's policy of openness and transparency.

¹ <https://ico.org.uk/media/for-organisations/documents/1633/eir-international-relations-defence-national-security-public-safety.pdf>

- Issues related to the nuclear industry are subject to close scrutiny and debate, there is a public interest in information related to nuclear activities and the release of such information.
- The information may provide reassurance to the public about the safety of nuclear sites. It may also facilitate the accountability and transparency of ONR for decisions taken by them as a regulator and enforcing authority of the nuclear industry.
- We recognise that there is a strong public interest relating to the consideration of flooding risks surrounding a nuclear licensed site. This is particularly significant in the context of increasing public discourse and focus on climate change and its impact on weather patterns, flooding risks, and the environment.

Factors against disclosure

- Releasing building titles, locations and references regarding a defence nuclear site would have an adverse effect on national security and public safety as this information relates to the security of nuclear material and facilities. Providing these specific details would provide an adversary or hostile actor with information that would assist with attack planning, which would help them defeat elements of the security and safety arrangements at the site where nuclear material is held. This factor is given significant weight in the Public Interest Test balancing exercise.
- Disclosing specific details relating to emergency arrangements at a defence nuclear site would have an adverse effect upon national security. Adversaries or hostile actors would be able to use this information to their advantage in creating or planning access to a site where nuclear material is held. This factor is given significant weight in the Public Interest Test balancing exercise.
- Providing details on key specific building locations, in conjunction with releasing information on emergency arrangements, on a nuclear licensed defence site, would also reveal where key actors and professionals would be physically placed in the event of an emergency taking place at the site. Due to the nature of operations on the site, releasing this information would have an adverse effect on national security as it would also disclose the locations of key decision makers in the event of an emergency, and create potential targets for malicious actors. This factor is given significant weight in the Public Interest Test balancing exercise.
- Undermining the security of a licensed nuclear site would increase the likelihood of a hostile actor being able to attempt to successfully steal or sabotage nuclear material. Either scenario would lead to consequences so grave that this weighs heavily in favour of it being in the public interest that the information is withheld.
- Adversaries or hostile actors can be highly motivated and may go to great lengths to gather separate pieces of intelligence to attempt to expose vulnerabilities. A seemingly innocuous piece of information may be the key missing piece of information that an adversary/hostile actor has been seeking. This factor is given significant weight in the Public Interest Test balancing exercise.

Conclusion

After careful consideration of the factors set out above, we have concluded that the information relating to building names, locations and references, site emergency arrangements, and security measures should be withheld as disclosure would have an adverse effect on national security. On balance, the interests of national security outweigh the need for openness in terms of the specific information that has been requested. There is a strong public interest in safeguarding national security.

Therefore, it is our judgement that disclosure of the redacted information would not be in the public interest.

Reg 13(1) EIR – personal information

In addition, some information in the attached document has been withheld because it contains personal data. This includes names, signatures and identifying organisations. This information has been withheld using the exception Reg 13(1) EIR – personal information. In particular, release of the information would breach principle (a) of GDPR (lawfulness, fairness and transparency) on the grounds that there is no lawful basis to process this data. In addition, releasing this personal data would also breach principle (b) of GDPR (purpose limitation) as the data was provided for the purposes of the report approval process.

Item [2]

It is important to clarify that whilst we do hold the documentation on the licensee's arrangements and flood protection study requested, we do not hold an ONR response document as requested under item [2], since one hasn't been issued.

Flooding response arrangements for individual facilities on the site are submitted to ONR at relevant times in those facilities lifecycles. Assessment is dependent on the permission required.

ONR was expecting a submission in summer 2020 that would likely contain elements of flooding response for the facility under consideration, however this submission has been delayed until summer 2021 by the licensee.