



**IN THE MATTER OF AN APPEAL TO THE FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) UNDER SECTION 58 OF THE FREEDOM OF INFORMATION ACT 2000**

**Appeal No: EA/2011/0294**

**BETWEEN:**

**ADVANTAGE WEST MIDLANDS**

**Appellant**

**and**

**THE INFORMATION COMMISSIONER**

**Respondent**

**and**

**GEORGE MAKIN**

**Second Respondent**

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**CONSENT ORDER APPROVAL**

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**PURSUANT** to Rule 37(1) of the Tribunal Procedure (First-tier) (General Regulatory Chamber) Rules 2009, upon reading the parties' agreed statement dated 23 February 2012:

In accordance with the provisions of the above Rule, the Tribunal approves the consent order in this matter attached hereto.

Signed:

**Melanie Carter**

Judge

Dated: 30 March 2010

**IN THE FIRST TIER TRIBUNAL (INFORMATION RIGHTS)**

**BETWEEN:**

**EA/2011/0294**

**ADVANTAGE WEST MIDLANDS**

**Appellant**

**And**

**THE INFORMATION COMMISSIONER**

**Respondent**

**And**

**Mr GEORGE MAKIN**

**Second Respondent**

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**CONSENT ORDER**

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Pursuant to rule 37(1) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, upon reading the parties' agreed statement (in Annex A),

IT IS ORDERED BY CONSENT THAT:

1. The appeal be dismissed.
2. The Appellant is required to disclose to the Second Respondent within 21 days of the date of this order the following documents concerning the former IMI site in Walsall:-
  - i) Report by Envirocheck dated May 2010.
  - ii) Report by Morrison Construction dated August 2009.
  - iii) Report by Galliford Try Limited (Morrison Construction) dated July 2011 – This is the final report as there is no significant difference between the draft and the final version. The report has been redacted to remove information which is outside the parameters of the request. The report is branded Wardell Armstrong as they were the sub consultant responsible for formulating the report.

- iv) Report by Stanger dated January 2001.
- v) Report by Stanger dated June 2001.
- vi) Report by Casella Stanger dated June 2003.
- vii) Report by BAE Systems Environmental dated August 2004.
- viii) Report by BAE Systems Environmental dated September 2005.
- ix) Report by WSP dated March 2007.
- x) Technical drawings by the Ministry of Transport dated 1960's

3. There be no order for costs.

Dated this 23<sup>rd</sup> day of February 2012

Signed:

**Information Commissioner**

**Advantage West Midlands**

**Mr George Makin**

## **ANNEX A**

### **Statement of reasons for consent order**

1. This appeal concerned the Respondent's Decision Notice FER50395418. That Notice sets out the terms of the original information request at paragraph 5.
2. In its review of 1 February 2011, the Appellant confirmed its decision to withhold the information from disclosure under section 43(2) of the Act. During the Commissioner's investigation, the Appellant subsequently accepted that the information was environmental information under the Environmental Information Regulations 2004 and confirmed that it was withholding information requested under Regulations 12(4)(d), 12(5)(e), and 12(5)(f).
3. In the said Decision Notice, the Respondent decided that the Appellant incorrectly applied the exceptions relied upon and required the Appellant to disclose the withheld information.
4. The Appellant appealed against the Decision Notice.
5. Whilst the Appellant maintains that it was correct to rely upon the exceptions, the Appellant does not wish to continue with its appeal as the Appellant will be closed by 31 March 2012, following the Government's decision to abolish Regional Development Agencies. Accordingly, it will not be in a position to take part in a final hearing which the Tribunal has confirmed will be after this date.
6. In view of all the circumstances and subject to the Tribunal's views, the parties jointly submit that it is appropriate for these proceedings to be concluded by way of consent order, and that it is appropriate for the Tribunal to consider their joint application without holding a hearing (as envisaged by rule 37(2)).
7. The documents listed in section 2 will be provided in hard copy form.