

From: Data Management Officer <DataManagement.Officer@northyorks.gov.uk>
Date: 23 October 2013 18:05
Subject: RE: Internal review response N7221
To: Owen Boswarva <owen.boswarva@gmail.com>

Dear Mr Boswarva

Thank you for your email. I apologise for the delay but I was on leave when you sent your email. I can confirm that the Council believes both 6(1)(b) and 12(4)(d) apply to your request.

Yours sincerely

Louise

From: Owen Boswarva <owen.boswarva@gmail.com>
Date: 10 October 2013 20:30
Subject: Re: Internal review response N7221
To: Data Management Officer <DataManagement.Officer@northyorks.gov.uk>

Dear Ms Jackson (and/or unnamed Data Management Officer),

Thank you for your e-mail.

I appreciate that the next formal step is to seek a review by the Information Commissioner. However I wonder whether you might be able to confirm for me the exemptions on which the Council is relying in refusing my information request.

The Council's original refusal notice dated 10 September 2013 relied on the exemption in section 21 of the Freedom of Information Act 2000 ("reasonably accessible by other means").

My understanding based on your e-mail of today is that the Council is now treating my request under the Environmental Information Regulations 2004, and relying on the exemption in section 12(4)(d) of EIR ("material which is still in the course of completion").

Are you able to confirm whether the Council is also relying on the exemption in section 6(1)(b) of EIR, which is equivalent to section 21 of FOI?

The fourth paragraph of your e-mail indicates that the Council is still maintaining that I have requested information in a specific format. (As you will know from previous correspondence, I dispute this.) However the remainder of your e-mail seems to concede that the Council does hold information within the scope of my request that is not already reasonably accessible to me.

I would appreciate clarification as to whether the Council is relying on one or both exemptions, as this will likely simplify any further discussions.

Best regards,

Owen Boswarva

From: Data Management Officer <DataManagement.Officer@northyorks.gov.uk>
Date: 10 October 2013 07:57
Subject: Internal review response N7221
To: "owen.boswarva@gmail.com" <owen.boswarva@gmail.com>

Dear Mr Boswarva

Thank you for your request for internal review. I have reviewed your original request, the response you were sent and your request for internal review.

I understand your disappointment at the refusal however I do believe that it was right to refuse your request.

I consider the information you are requesting, namely the locations of public rights of way, is environmental information under section 2(1)(a) and (c) of the Environmental Information Regulations 2004 (EIRs). I do consider that this information is publicly available and therefore exempt under section 21 however I would like to take the opportunity to identify some further reasons why I believe the Council is not obliged to disclose the information you are seeking.

You are exercising your right under Regulation 6 of the EIRs to request information in a specific format by requesting GIS dataset files of public rights of way. The Council is obliged to release information in a specific format only where 'it is reasonable for it to make the information available in another form or format.' In this case the Council does not consider that your request is reasonable. The coordinates in the GIS dataset files have yet to be verified. I appreciate that the Council makes a map available online (NYCC's online mapping system) however the resolution is such that precise coordinates and locations cannot be deduced. The Council itself does not rely on this map and instead refers to the paper copies of the definitive map.

In order to provide the information in the format you have requested the Council would have to complete this verification exercise which given the scale of this job we consider to be unreasonable. The Council does plan to undertake this work as soon as possible however it is a substantial project which the Council envisage completing within the next 18 months due to the vast amount of work involved. Once the Council has completed this verification process we will apply for an ordnance survey licence ourselves and make the definitive map available electronically ourselves but at this stage we consider it to be exempt from disclosure.

I understand that you consider the information you are requesting to be the GIS data files regarding public rights of way which you consider is a set of data distinct from the paper maps. I am afraid that I would still consider this information to be exempt under regulation 12 (4)(d) of the EIRs as information which is still in the course of completion, to unfinished documents or to incomplete data, as explained above as the coordinates need to be verified before an accurate electronic definitive map can be completed. This exception is subject to the public interest test. I appreciate that there is a great deal of interest in an electronic definitive map I consider that this is served by the version already published on the Councils website and I consider that the public interest is best served by the publication of an accurate electronic definitive map, once it is available.

If you remain dissatisfied you have the right to seek an independent review from the Information Commissioner. Requests for a review by the Information Commissioner should be made in writing directly to:

The Information Commissioner

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
casework@ico.org.uk
Tel: 01625 545 700
Fax: 01625 545 510

Data Management Officer
Tel: 01609 533219

Yours sincerely

Louise Jackson, for

Data Management Officer

Tel: 01609 533219

From: Owen Boswarva <owen.boswarva@gmail.com>

Date: 11 September 2013 14:23

Subject: re: FOI/EIR and RPSI request for Public Rights of Way mapping data file/s - request for internal review

To: Penny Noake <Penny.Noake@northyorks.gov.uk>

Cc: datamanagement.officer@northyorks.gov.uk

Dear Ms Noakes,

Thank you for your e-mail.

This is a request for an internal review of the Council's response to my FOI/EIR request, on the basis that the Council has erred in applying the exemption from disclosure under section 21 of the Freedom of Information Act.

I would highlight the following paragraph in my original request:

"It is likely that the Council holds this data as an ESRI shapefile or in a similar format. Please note that the underlying vector-based data file/s I am requesting contain polygon/polyline, coordinates and other technical information that is not accessible via the Council's mapping application and not otherwise 'publicly available and easily accessible' to me within the meaning of the relevant FOI and EIR exemptions."

As noted, the dataset I am requesting contains additional information not available from the PRoW visualisation on the Council's website. I am requesting that information; the difference is not merely a matter of format. The section 21 exemption therefore does not apply to my request.

To clarify, I have not requested the information in a "specific software format". As the dataset contains vector-based spatial information of a technical nature, there are necessarily only a limited number of different file formats in which the Council could hold the information. However any such format would be fine.

I am grateful for the additional comments in your e-mail, as they are useful for background purposes and help me understand the Council's reluctance to release this information. However these comments do not support the section 21 exemption on which the Council has relied in refusing my request.

Best regards,

Owen Boswarva

From: Penny Noake <Penny.Noake@northyorks.gov.uk>
Date: 10 September 2013 15:22
Subject: Re: FOI/EIR and RPSI request for Public Rights of Way mapping data file/s
To: "owen.boswarva@gmail.com" <owen.boswarva@gmail.com>

Dear Mr Boswarva

FOI/EIR AND RPSI REQUEST FOR PUBLIC RIGHTS OF WAY MAPPING DATA FILE/S

Thank you for your dated 14 August 2013 regarding the above.

North Yorkshire County Council (NYCC) does not yet feel that it is in a position to be able to provide the information that you have requested at this time.

As you are aware the information you have requested is already available on the Council's website. This means that the information is exempt from disclosure under section 21 of the Freedom of Information Act 2000 which exempts information which is reasonably accessible by other means.

I appreciate that you have asked for the information in a specific software format, other than the published format. However guidance from the ICO states that the Commissioner's view is that there is a distinction between the form in which a piece of information is communicated e.g. an electronic form, and how the data is arranged within that form i.e. the specific software format. In short although an applicant can ask for an electronic copy they are not entitled to specify down to the next level, the specific software format. Consequently the Council is not obliged to provide the information in specific software format you have requested.

Whilst this exemption is not subject to the public interest test the Council has considered the public interest in this case. We are keen for details of public rights of way to be publicised, however, at this time the Council believes that the greater public interest lies in maintaining the exemption. This is because the current map is not complete. Whilst the Council can ensure that its website it kept as up-to-date as possible this would be more difficult for a third party to maintain. Further as the map is incomplete and has not yet been compiled with the data from the 2 National Parks within our area, to create a complete dataset for the whole county, NYCC has not yet requested the Ordnance Survey Derived Data Exemption. Once this information has been combined and completed, it is our intention that we will apply for the data exemption to allow the information to be more freely available.

I apologise for the disappointment that this response will cause however I hope you can understand the Council's position at this time. Please find attached a copy of the Council's appeals procedure.

Regards,

Penny Noake
Definitive Map Team Leader
North Yorkshire County Council
Waste & Countryside Services
County Hall
Northallerton
DL7 8AH

From: Owen Boswarva <owen.boswarva@gmail.com>
Date: 14 August 2013 17:31
Subject: FOI/EIR and RPSI request for Public Rights of Way mapping data file/s
To: datamanagement.officer@northyorks.gov.uk

Hello,

North Yorkshire County Council currently presents a visualisation of Public Rights of Way (PRoW) information via a web-based mapping application here:

http://maps.northyorks.gov.uk/connect/?mapcfg=Out_and_About

This e-mail is a request under the Freedom of Information Act 2000 and the Environmental Information Act 2004 for a copy of any GIS dataset files used to produce the Public Rights of Way layer/s in the above web-based mapping application.

It is likely that the Council holds this data as an ESRI shapefile or in a similar format. Please note that the underlying vector-based data file/s I am requesting contain polygon/polyline, coordinates and other technical information that is not accessible via the Council's mapping application and not otherwise "publicly available and easily accessible" to me within the meaning of the relevant FOI and EIR exemptions.

I understand that the data file/s I am requesting are updated regularly. For the avoidance of doubt I am requesting a copy of the most up-to-date version of the data held by the Council, and not any historical or deprecated versions.

In addition to the above FOI/EIR request I am also requesting in accordance with the Re-use of Public Sector Information Regulations a licence to re-use any data provided in response to my FOI/EIR request. Please confirm whether the data is available for re-use and if so on what terms.

I am hoping that the Council will release this data for re-use under an open data licence (such as the Open Government Licence or the OS OpenData Licence), in line with Government policy and "best practice" established by the numerous other local authorities that have released PRoW mapping data.

I understand that the data file/s I am requesting may contain Ordnance Survey derived data. As you may be aware, Ordnance Survey have agreed that local authorities may release any such PRoW mapping data under the OS OpenData Licence, per the exemptions process in the Public Sector Mapping Agreement. (If you are not familiar with this initiative for release of PRoW mapping data you may wish to confer with Durham or East Riding of Yorkshire Councils, both of which have already released their PRoW data under the OS OpenData Licence.)

Thank you for your attention to the above requests.

Best regards,

Owen Boswarva