

IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL (INFORMATION RIGHTS)
UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000 BETWEEN:

OWEN BOSWARVA

Appellant

- and-

(1) THE INFORMATION COMMISSIONER

Respondents

(2) ENVIRONMENT AGENCY

FURTHER SUBMISSION OF THE APPELLANT

1. This is my reply as appellant to the Environment Agency's response of 16 August 2021 to the directions issued by Tribunal Judge Hazel Oliver on 19 July 2021.
2. The Environment Agency is correct that the simplified data on flood depth and speed that it publishes via a Web Map Service is in a fixed format and not manipulable – while in that format. However, the fixed images can be downloaded in bulk from the service and then traced programmatically to derive new feature data in a vector format that can be manipulated.
3. I documented a working method for that process in a blog post published in April 2021, and have provided a copy with this reply. The feature data derived by this method is functionally equivalent to the simplified feature data used to render the Environment Agency's WMS layers.
4. As the WMS layers are available for re-use under the Open Government Licence, I argue that the Environment Agency has already enabled recipients of that data to “query and modify the data, integrating and analysing it alongside other published datasets.” Release

of the simplified feature data used to render the WMS layers would provide equivalent information in a more accessible format from the canonical source, but would not increase any prejudice to national security and public safety.

5. The Environment Agency gives its basis for asserting that disclosure of this specific data would endanger national security and public safety, in paragraph 9 of its response, as follows: “Combining the requested data with other data that is publicly available could be prejudicial to national security and public safety by enabling those intent on doing harm to target sites where inundation could do most harm to both human life and the infrastructure of the country.”
6. I agree the requested data could be used to produce a statistical analysis of the relative potential for harm from inundation from reservoirs in different locations. Such an analysis would support wider public understand and awareness of flood risk from reservoirs, and potentially be useful for other lawful purposes. For example, a property insurer might use the data to estimate its accumulated exposure to inundation events in different areas of the country and arrange reinsurance cover to cap its maximum loss.
7. To the extent that any such high-level analysis might enable those intent on doing harm to target sites where inundation could do most harm, I argue that those risks already exist as a result of information already available and that disclosure of the requested data would not make much difference. In particular, I draw to the Tribunal’s attention the Environment Agency’s published flood risk maps for river basin districts which include maps that mark locations where the risk to people is greatest and other maps that highlight risks to economic activity and to the natural and historic environment: <https://www.gov.uk/government/collections/river-basin-districts-flood-risk-maps>. I have provided an example with this reply.
8. I am puzzled by the additional information in paragraphs 11 and 12 of the Environment Agency’s response. I had understood from the submission of 19 March 2021 that the Environment Agency was “seeking to publish the derived data in reusable format” by the end of 2021. The Environment Agency now says it will be publishing updated Reservoir Flood Maps, reflecting a recent national modelling exercise, and that it “no longer considers there is a statutory obligation to share information on depth and velocity under

the Flood Risk Regulations.”

9. I am naturally disappointed that the Environment Agency is taking that stance. I do not think that any of the arguments in this appeal depend on interpretation of the Flood Risk Regulations or on the Environment Agency’s plans for future publication of other data related to reservoir flood maps. However, if the Environment Agency considers that the requested data will soon become obsolete, that would seem to further reduce any potential that disclosure of the information would adversely affect national security or public safety.

OWEN BOSWARVA
30 August 2021