|  |  |
| --- | --- |
| Our ref: IR 101288  Joanna Watson  Via email | Jonathan Drysdale  Freedom of Information Officer  Piccadilly Gate  Store Street  Manchester  M1 2WD  14 October 2020 |

Dear Ms Watson,

**Internal Review**

Further to your email dated 15 September 2020 regarding an internal review of our response to your request under the Environmental Information Regulations 2004, it has been passed to me to conduct an internal review of the way in which your request (EIR 101288) was handled.

In your e-mail on 24 July 2020 you made the following request -

**Please could you send me the most recent Appraisal Summary Tables (ASTs) for the following road schemes in RIS2:  
  
C2 A46 Newark Bypass  
C16 M54-M6 Link Road  
C19 A5 Dodwells to Longshoot  
C21 M42 Junction 6  
C23 A46 Coventry Junctions  
E1 A47 North Tuddenham to Easton  
E21 A120 Tendring / Colchester Borders Garden Community (HIF)  
E2 A47 Blofield to North Burlingham  
E22 A12 Colchester / Braintree Borders Garden Community (HIF)  
E4 A47 Great Yarmouth Junctions  
  
I wish to receive these ASTs as attachments. Please could you also supply me with the links to where these ASTs are publicly available.**

On 24 August 2020 Highways England issued a partial response under reference EIR 101288 which provided all but 2 of the ASTs requested and explaining that the final two ASTs A46 Newark Bypass and A5 Dodwells to Longshoot were still being looked into and that a final response would be issued by 1 September 2020.

On the 28 August 2020 Highways England issued a final response in relation to the final two ASTs. These ASTs were withheld under the exception Regulation 12(4)(d) Material in the course of completion, unfinished documents and incomplete data.

Following this response, on the 15 September 2020 you requested an internal review of Highways England’s response, specifically the withholding of the ASTs for A46 Newark Bypass and A5 Dodwells to Longshoot projects.

I have now had the opportunity to review the request and response and discuss it with the team who issued it and I have concluded that the exception Regulation 12(4)(d) of the Environmental Information Regulations has been engaged and that the information has been done so in line with legislation.

To explain this further Regulation 12(4)(d) does cover unfinished documents. The guidance on this is as follows –

**A document may be unfinished because it the authority is still working on it at the time of the request or because work on it ceased before it was finalised and there is no intention to finalise it. Furthermore, draft documents will engage the exception because a draft of a document is by its nature an unfinished form of that document. Furthermore, the Information Tribunal has found, in the Eddington case, that a draft version of a document is still an unfinished document, even if the final version of the document has been published.**

The PIT document provided alongside the response explained the ASTs for these two projects are incomplete, therefore as the ASTs are still being worked on because the data that feeds them is subject to change, they are essentially in draft at this time meaning the part of the exception that covers unfinished documents (as described above) is engaged. Given the incomplete nature of the ASTs providing a draft, unfinished version where data was missing would create an incomplete and misleading picture that would require a disproportionate amount of effort to correct or explain.

In conclusion, as noted above, I am satisfied that Regulation 12(4)(d) has been engaged and allowing the ASTs for the A46 Newark Bypass and A5 Dodwells to Longshoot projects to be withheld. The other eight ASTs were provided to you in the response on the 24 August 2020.

I do find however, that because the final response withholding the two ASTs was not issued until 28 August 2020 that Highways England has breached Regulation 5(2) of the Environmental Information Regulations 2004 which sets out that the timescales of 20 working days to respond to a request. I apologise that this timescale was not met and for any inconvenience it may have caused.

If you are not satisfied with the outcome of this review you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner’s Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Yours sincerely

Jonathan Drysdale

Freedom of Information Officer