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23 May 2016

Dear Robert,

We have now carried out our internal review of your request for information.

First, you note your belief that the request should be dealt with under the Environmental Information Regulations 2004 (EIR), rather than the Freedom of Information Act 2000 (FOIA), and refer to the Information Commissioner's Office having made rulings to support your view. We disagree with your analysis, for the reasons already explained. However, we would note that if your request were to be considered under the EIR, it is likely that the request would be refused under:

- regulation 12(4)(d) - where the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; and/or
- regulation 12(5)(c) - where disclosure of the information would adversely affect intellectual property rights.

In relation to the exemptions referred to in our original response, we set out our views below.

#### Section 21

You state that you are requesting the digitised vector information, which is not available through the Ordnance Survey raster products. However, please note that the FOIA gives you a right to request information, rather than information in a particular format (subject to certain exceptions, which are not relevant in this case). Section 21, in particular, refers to "information" being accessible via other means, rather than "information in the same form as that requested by the applicant".

In relation to the requested attribution data, which appears to be of less interest to you than the geometry, we note that this attribution data is not currently accessible from Ordnance Survey. Whereas you acknowledge that the information is available to you by inspection, you contend that this does not constitute its being "reasonably accessible". Whilst we have some sympathy with your position, we would note that it not practicable to separate the attribution from the vectorised geometry, and so if the latter is not released, we would be unable to release the attribution.

Section 21 is an absolute exemption, meaning we are not required to undertake a public interest test in relation to this exemption.



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With regard to section 21, we therefore uphold the decision communicated to you in our original response of 22 April 2016.

## Section 22

Our original response referred to the information being potentially exempt under section 22 (information intended for future publication).

Section 22 exempts information if:

- \* the information is held by the authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not);
- \* the information was already held with a view to such publication at the time of the original request; and
- \* it is reasonable in all the circumstances that the information should be withheld from disclosure until the date of future publication.

Having considered this exemption further, we are satisfied that the requested information does fall within this exemption, as it is held by GeoPlace with a view to its publication at a future date. In relation to the third bullet point above, in particular we consider it is fair that this information is made available to all those who may be interested at the same time.

## Section 43(2)

Whilst we still consider section 43(2) as being potentially valid, for the purpose of this internal review, we are happy to rely solely on sections 21 and 22.

## Public interest test in relation to sections 22

We have considered that there is always a general public interest in transparency. In this case, there could be a public interest in making public rights of way information generally accessible to the public.

On the other hand, as previously noted, the public rights of way data held by GeoPlace are by no means comprehensive, and the key information, namely the geometry, is already available by other means (both from Ordnance Survey and direct from relevant local authorities). The attribution is also available by other means, namely from local authorities. Furthermore, the information in vector format, including the attribution, is held with a view to being released at a future date.

On balance, we consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

I trust that this information is helpful to you, at least in terms of understanding our rationale for not releasing the requested information.

Kind regards

A handwritten signature in black ink, appearing to read "S. Brandwood", with a long horizontal line extending from the end of the signature.

Steven Brandwood  
Executive Head of Engagement  
GeoPlace LLP