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10 July 2018  
Your reference:  
Our reference: IG 00490

Dear Mr Smith

**- DISCLOSURE**

The council has completed its search relating to your request for information about a footpath creation order, which was received on 30 May 2018. I apologise for the delay in response.

The council does hold information within the definition of your request.

**Question 1**

Dan Barton's report submitted to the Chief Executive dated on or just before 26 February 2018 and referred to in Dan Barton's email dated 26 February 2018.

**Answer 1**

This information is held but exempt from disclosure in line with Environmental Information Regulations 2004, Regulation 12(4)(d); Material in the course of completion, unfinished documents and incomplete data. Please see below application and explanation of this exception.

**Question 2**

Notes of joint portfolio holder meetings referred to in Dan Barton's report dated 26 April 2018 para 3.1 second bullet.

**Answer 2**

Please see attached joint portfolio holder minutes. Only part 3(d) relates to the subject matter of your request, the remaining information (which is out of scope) has therefore been redacted.

**Question 3**

Name of the second reviewer referred to by Dan Barton in emails dated 8 March 2018 and 12 March 2018 as the Assistant Director coordinating or Assistant Director overseeing.

**Answer 3**

By 'other reviewer' the report is referring to Paul Robinson. Paul Robinson, Assistant Director - Transformation, was tasked with describing the process to Dan Barton. Paul Robinson did not review the case but did give clarification over what was required. The term 'reviewer' was terminology incorrectly used by Dan Barton. Paul Robinson provided advice on the process and has not reviewed the case.

**Question 4**

Name of the 'reviewer' referred to in Dan Barton's report dated 26 April 2018 para 4.1.

**Answer 4**

The person referred to here is Angela Jones, Assistant Director - Economy and Environment, the original Decision Maker.

**Question 5**

Para 5.1 of Dan Barton's report dated 26 April 2018 refers to the Chief Executive commissioning a review subsequent to Caldbeck Parish Council's letter dated 6 December 2017. Caldbeck Parish Council requests a copy of the Chief Executive's email or letter commissioning that review.

**Answer 5**

Information not held. There was/is no written instruction for this. Dan Barton was asked (verbally) to review the case.

## Question 1 - Regulation 12(4)(d)

Regulation 12(4)(d) of the EIR states that a public authority may refuse to disclose information to the extent that the request relates to material which is still in course of completion, unfinished documents or incomplete data.

The report submitted to the Chief Executive on 21 February 2018 was in draft form and was not complete at that time. The Council therefore considers that regulation 12(4)(d) EIR is engaged in this case. As regulation 12(4)(d) EIR is subject to the public interest test, the Council has gone on to consider the public interest factors in favour of disclosure and the public interest factors in favour of maintaining the exception.

### Public Interest Test

Public interest arguments in favour of disclosing the requested information

- Compliance with The Council's legal obligations to be transparent in allowing access to environmental information.
- Disclosure would contribute to the development of public debate and facilitate public understanding of matters of public concern.
- Disclosure would ensure The Council remains accountable to the public in respect of its operations and decision making, especially where it involves the use of public funds.

Public interest arguments in favour of maintaining the exception

- There is a strong public interest in ensuring that Council officials have a 'safe space' to work candidly and freely without being concerned that information could be released in a form where it is potentially misleading.
- Releasing incomplete information runs the risk of misleading public debate.
- The public interest has already been met with the disclosure of the completed report.

Balance of the public interest arguments

The Council gives weight to the general public interest in operating in an open and accountable manner, and considers that greater transparency leads to a better public understanding, enabling the public to assist in the decision making process where possible. The Council also notes the public interest in its decisions, including the overall environmental impact and cost to the public purse.

The Council considers that effective decision making depends on sound evidence and candid communications that allow a full consideration of all the options without any concern over premature disclosure. Decisions need to be thoroughly evaluated and this can only happen when all parties have the confidence that there is no risk of those exchanges being prematurely disclosed. There is a strong public interest in maintaining the safe space for Council officers to debate live issues and reach decisions away from external interference. The Council also highlights that the report has now been completed and has already been disclosed.

On balance the Council considers that the public interest arguments in favour of disclosure are outweighed by the public interest arguments in favour of maintaining the exception. Regulation 12(4)(d) EIR is therefore correctly applied in this case.

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Yours sincerely,

Bridget Sanderson  
Information Governance Team  
Corporate, Customer and Community Services