

Section 31(3) – Law Enforcement

Section 31 provides an exemption from the release of information to protect a variety of law enforcement interests, where its release would make the public authority susceptible to crime.

Section 31(3) has been engaged in this instance, because confirming or denying whether the information requested is held, would prejudice the prevention of crime by facilitating the possibility of a criminal offence being carried out. Specifically, confirming whether information is, or is not held, would compromise safety and security, whilst facilitating the intentional targeting or disturbance of a given location. This intentional targeting or disturbance would also increase the likelihood of criminal activity, damage to land and injury to persons.

Section 31(3) is a prejudice based exemption and there is therefore a requirement to articulate the harm that would be caused in confirming or denying whether relevant information is held. In keeping with the Act, we are also required to carry out a public interest test. Please refer to the link below for further guidance on the legislation:

<http://www.legislation.gov.uk/ukpga/2000/36/section/31>

Harm

Exact details of security measures which do or do not take place at a given location are not widely publicised by HS2 Ltd. HS2 Ltd has a duty to protect the security and safety of staff working at such locations as well as to protect the general public at large. Information about security measures can be pieced together with other detailed information and used by external groups/ individuals to map out potential strengths and weaknesses in security measures at specific locations.

Confirming or denying whether information is held regarding the use of drones at Jones Hill Wood as part of the HS2 Project, would reveal the capacity and tactical abilities of HS2 Ltd to criminals and protesters. This would allow specific locational points to be targeted for the purpose of carrying out criminal activities. This information would also enable individuals to gain a greater understanding of the methods and techniques employed or not employed by HS2 Ltd; highlighting vulnerabilities, which would enable criminals to take steps to counter any law enforcement or security efforts. HS2 Ltd believes this would prejudice the prevention and detection of crime.

Factors for disclosure

- Where public funds are being spent, there is a public interest in accountability and transparency. There is a legitimate public interest in knowing that HS2 Ltd's resources are used appropriately and effectively, this would lead to a better-informed public.

Factors against disclosure

- Confirming or denying whether the information is held would compromise the safety and security of specific locational areas as well as placing staff who work in such areas at risk. As articulated in the “harm” section above, disclosure would allow for planned disruptive behaviour, which will result in harm to property and persons.
- HS2 Ltd has common law and statutory responsibilities to protect the health, safety and welfare of members of the public and their staff; this duty would be undermined by confirming or denying whether this information is held.
- Confirming or denying whether the information is held would encourage protesters to target areas used as part of the HS2 Project, thereby compromising safety and security and this is not in the public interest.
- The negative impact of the increased criminal activity and disturbances would not only be directed towards staff working at such locations, but also the surrounding community, and the other public authorities involved.
- Confirming or denying whether any information is held regarding the use of drones would compromise law enforcement tactics, hinder future investigations and render security measure ineffective. In addition, confirming or denying methods used to gather intelligence for an investigation or operation would prejudice that investigation or operation and any possible future proceedings.

Conclusion

HS2 Ltd recognises that there is a public interest in the disclosure of information which promotes accountability and transparency of public authorities. However, taking the above issues into consideration, we have found that, while release would promote transparency, confirming or denying whether the requested information is held or not, carries a real and significant risk of misuse.

Having undertaken the balancing exercise, HS2 Ltd has concluded that the public interest in maintaining the exemption significantly outweighs any public interest in disclosure. Particular weight has been placed on the severity of the harm which would be caused were we to confirm or deny whether the requested information is held, or not. It is considered that to confirm or deny whether this information is held would highlight our vulnerabilities, making us susceptible to interference by criminals and protester.

We have therefore determined that on this occasion, HS2 Ltd can neither confirm nor deny whether any information relevant to your request is, or is not, held.