

Mr J Marriott

By email: request-367122-6acoef4e@whatdotheyknow.com

22 December 2016

Dear Mr Marriott

FOI16-1611

I am writing further to our letter dated 21 November in response to your information request dated 23 October, which we received on 24 October.

As confirmed to you in our response, HS2 Ltd holds information which falls within the scope of your request for the following report: **Design Triangle. Train Parameters Study, Design Triangle. eB. Po3. [HS2-HS2-OP-REP-000-000002]**.

We advised you that we were considering the request under the Freedom of Information (FOI) Act (2000) and that we needed more time to consider the balance of the public interest in disclosing the information that you have requested under section 43 of the FOI Act.

Decision

While we have reached the decision to release some of the information, we consider that it is not in the public interest to release part of the requested information.

The Train Parameters Study and Annexes are attached in a series of pdf files. Please be advised that this study was conducted in 2013 and was used to explore ideas and inform thinking and there are many elements which are not being taken forwards. The intellectual property in this design is owned by HS2 Ltd. The document cannot be published or copied without our permission. HS2 Ltd publishes information on the Proposed Scheme only when the design is at a stage of sufficient maturity. This ensures that early-stage designs are not acted upon in circumstances where they may change at a later date.

We are withholding some of the information contained in the attached documents on the following grounds:

FOI Act, Section 43(2) - Commercial Information

Section 43(2), Commercial Information allows public authorities to refuse a request for information if it is likely to prejudice the commercial interests of any person. (A person maybe an individual, a company, the public authority itself or any other legal entity). The legislation is available via the following link: <http://www.legislation.gov.uk/ukpga/2000/36/section/43>.

Part of the information in the Train Parameters Study is commercial information which could prejudice future negotiations that HS2 Ltd may be subject to. HS2 Ltd will be taking formal steps towards procurement of the trains for HS2 in early 2017. Releasing this information before the tendering process is completed could inhibit HS2 Ltd's ability to make robust decisions regarding its supply of goods and services, including ensuring that HS2 Ltd obtains the best value for money outcome.

Disclosure of early design information that may not be required for the passenger trains before the pre-qualification questionnaires are issued to potential suppliers would damage the trust such companies place in HS2 Ltd as a client and may discourage them from tendering in the future. In addition, some of the withheld information has been provided to HS2 Ltd on a commercially confidential basis. Disclosure of the information would be likely to cause actual prejudice to the commercial interests of suppliers. Losing the trust of potential suppliers could damage HS2 Ltd's reputation with suppliers within the infrastructure industry and therefore undermine HS2 Ltd's ability to procure specialised services. This would be to the detriment of the project and public interest in seeing that HS2 is developed with the best advice and services, and at favourable rates.

Under the FOI Act, Section 43, is subject to a Public Interest Test (PIT) which means that we need to consider whether "*in all circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information*". We have weighed up the benefits to the public of releasing the information against the factors for not releasing it. We consider that the factors for not releasing the information outweighs that for disclosure. Please see [Annex A](#) for full details of our consideration.

FOI Act, Section 40(2) – Personal data

Please be advised that we have redacted names of HS2 Ltd staff below Executive Director level as we consider that disclosure will identify individuals or disclose their personal data and is therefore exempt from disclosure under section 40(2) of the FOI Act.

Section 40(2) of the FOI Act provides an exception to the disclosure of information where it is:

- the personal data of someone other than you; and
- the disclosure of that personal data would put us in breach of the principles of the Data Protection Act 1998 ("DPA"), with which we are obliged to comply.

The personal data within the withheld information is not public and disclosure of this information would be unwarranted, unfair and in breach of the first DPA principle and, as such, is exempt from disclosure under section 40(2) of the FOI Act. No public interest test applies in this case. Further information on section 40 is available via the following link: <http://www.legislation.gov.uk/ukpga/2000/36/section/40>.

Conclusion

If you are unhappy with the way we have handled your request or with the decisions made in relation to your request, you may complain in writing to HS2 Ltd at the above address. Please also see attached details of HS2 Ltd's complaints procedure and your right to complain to the Information Commissioner.

Please remember to quote reference number **FOI16-1611** in any future communication relating to this request.

Yours sincerely

Jane Ivey

Freedom of Information Manager
High Speed Two (HS2) Limited

Your right to complain to HS2 Ltd and the Information Commissioner

You have the right to complain to HS2 Ltd within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal 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