



Department for Transport

S D Cross
[By email: request-520088-
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Our Ref: F0016491

12 October 2018

Dear Mr Cross,

Freedom of Information Act Request – F0016491 - Northern Loop

Thank you for your request for information to the Department for Transport (DfT) received on the 16th September 2018. You asked for the following:

'Please provide copies or details of the appraisals that have been undertaken by the DfT, HS2, Transport for the North, Network Rail or others in respect of the feasibility, impact and cost of constructing the HS2 proposed 'northern loop' between Sheffield Midland Station and Clayton junction.'

You then listed a number of areas / topics relating to the project that you were interested in receiving information on.

I would like to start by clarifying that HS2 Ltd, Transport for the North and Network Rail are separate statutory bodies. I can confirm that DfT does not hold any recorded information on appraisals undertaken by these bodies with regard to the proposed Northern Loop. If you wish to contact these organisations in order to determine what, if any, recorded information they may hold then to be helpful I enclose links to their contact details:

HS2enquiries@hs2.org.uk

<https://www.networkrail.co.uk/who-we-are/transparency-and-ethics/freedom-information-foi/>

<https://transportforthenorth.com/about-transport-for-the-north/contact-us/>

With regards to DfT, I can confirm that the Department does not hold any appraisals nor the following information regarding the track between Sheffield Mainland and the proposed Clayton Junction:

- The impact on existing passenger services
- Impact on stations at Meadowhall, Swinton, Bolton-upon-Deane, Goldthorpe and Thurnscoe;
- Impact on rail franchises
- Impact on the local road network
- An assessment of the flood risk
- An assessment of the number of residential and commercial demolitions and associated compensation costs

The Department does not hold this information as the northern loop that you refer to in your letter (Sheffield Midland to Clayton junction) does not form part of HS2 Ltd's scope. Although the loop proposition was put forward by Sir David Higgins, it was done so to highlight how the HS2 M18 route could help support the delivery of Transport for the North's Northern Powerhouse aspiration to deliver higher frequency and faster services between Leeds-Sheffield.

To ensure that the synergy between these two programmes can be exploited, HS2 will deliver Clayton junction as part of HS2 Phase 2b to ensure that the HS2 network is future proofed for the arrival of NPR services. Therefore, the infrastructure costs associated with running services north of Sheffield are expected to be delivered and funded by a third party, most likely Transport for the North.

I can confirm that the Department does hold cost and construction information relating to the section of track between Sheffield Midland and Clayton junction. Your request for this information has been considered under both the Freedom of Information Act (FOI Act) 2000 and also the Environmental Information Regulations 2004 (EIRs) as some of the information requested is also environmental in nature according to the definition in regulation 2(c)¹ of the EIRs.

The Department has decided to withhold this information under section 35(1)(a) of the FOI Act and also Regulation 12(4)(d) of the EIRs. I will explain these exemptions / exceptions in more detail below.

Regulation 12(4)(d) - Material in the course of completion

Regulation 12(4)(d) of the EIRs allows us to withhold information in response to a request if the material is still in the course of completion, unfinished documents or incomplete data.

The Information Commissioner's Office (ICO) has provided the following guidance on the application of Regulation 12(4)(d).

Regulation 12(4)(d) is engaged when the request relates to material that is still in the course of completion, unfinished documents or incomplete data...

¹ The requested information relates to a programme to develop and build the rail network.

[M]aterial which is still in the course of completion can include information created as part of the process of formulating and developing policy, where the process is not complete... ²

In this case, our work with HS2, Network Rail and Transport for the North regarding the Northern Loop (Sheffield Midland to Clayton Junction) constitutes material still in the course of completion. This is because at this point no final decision has been made regarding the Northern Loop.

Section 35(1)(a) - formulation or development of 'live' government policy

Section 35(1)(a) relates to the formulation or development of 'live' government policy and is concerned with ensuring that there remains a 'safe space' within which the formulation or development of government policy and government decision-making can proceed, balanced with proper public participation in policy debates.

In applying these qualified exemption / exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure, a breakdown of this decision has been provided at Annex A.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's FOI Advice Team at:

Zone D/04
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please send or copy any follow-up correspondence relating to this request to the FOI Advice Team to help ensure that it receives prompt attention. Please also remember to quote the reference number above in any future communications.

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

Yours sincerely,

Alastair Down
High Speed and Major Rail Projects Group

² Paragraph 4 of the ICO's guidance on Regulation 12(4)(d) of the EIRs. See https://ico.org.uk/media/for-organisations/documents/1637/eir_material_in_the_course_of_completion.pdf for the full text.

Your right to complain to DfT and the Information Commissioner

You have the right to complain 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. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

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

Annex A

| Relevant Extracts of FOI Exemption / EIR Exception | |
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| <p>35 Formulation of government policy, etc.</p> <p>(1) Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to—</p> <p>(a) the formulation or development of government policy,</p> <p>12(4)(d) – A public authority may refuse to disclose information to the extent that the request relates to material which is still in the course of completion.</p> | |
| Public interest test factors for disclosure | Public interest test factors against disclosure |
| <p>Both HS2 and NPR are major proposed rail projects, and are of significant public interest. The cost information we hold is part of the decision making process, and disclosing this information would satisfy a legitimate interest in the project, as well as in development of the local railway and impacts on passengers and the environment.</p> <p>Disclosure of the cost information would contribute to the Government's wider transparency agenda.</p> | <p>This is 'live' Government policy. A decision on the Northern Loop scheme has yet to be taken. To ensure we reach the right decision regarding the future of the Northern Loop, Government and the organisations providing advice on the scheme need a safe space in which to develop policies.</p> <p>In this instance, the policy making process around the Northern Loop is ongoing. The information that we hold is in draft form and may change over the development process. The information which we hold (on costs) is also only one aspect of the decision making process. There is a significant risk that releasing the information at this stage would be misleading with regard to any final decisions, and would in turn inadvertently influence the decision making process.</p> <p>Releasing information at this stage would be likely to lead to reluctance on the part of the organisations carrying out the work to engage in open, frank discussions with Government – due to concerns that their advice and views would be subject to routine disclosure before they have been considered and evaluated.</p> |

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| | As such, disclosing the information at this stage, before a decision has been taken or all the relevant evidence is available, has the potential to jeopardise the safe space and inadvertently influence the decision making process. This would clearly not be in the wider public interest. |
| <p><u>Decision</u></p> <p>Not to release. On balance the public interest in releasing the cost information is outweighed by the public interest in withholding it at this time.</p> | |