



Department for Transport

Rail Network Outcomes
Department for Transport

Great Minister House
33 Horseferry Road
London
SW1P 4DR

Mr Rupert Moss-Eccardt
[By email: request-300044-
30083cd2@whatdotheyknow.com]

Web Site: www.dft.gov.uk

26th November 2015

Dear Mr Moss-Eccardt,

Freedom of Information Act Request – F0012971

Thank you for your information request of 31/10/2015. You requested the following information:

‘There has been a lot of coverage for several years about the upgrade of Ely North Junction.

In the last year there has been mention by local politicians and MPs of challenges around level crossings in the area, particularly those in Queen Adelaide (there are three in the village itself).

Please could you provide any correspondence, plans and emails that mention these crossings and, particularly, what the problems are and any proposals being considered? Note I have already made a similar request of Network Rail. I am trying to find out what might happen to our village.’

Your request has been considered under the Freedom of Information Act 2000.

The Department for transport does hold information that is relevant to your request consisting of:

- Email exchanges in regards of Ely North junction and level crossings.
- Ministerial correspondence in regards of Ely North Junction.
- Draft Letter from Principal Strategic Planner, London and South East Network Rail to DfT dated 21 August 2015.
- Draft Letter to Principle Route Planner, Network Rail from DfT dated 25th August 2015.

- Letter from Principal Strategic Planner, London and South East Network Rail to DfT dated 22nd September 2015.

Presentations:

- Ely CP5 Control Delivery Request change form dated February 2015.

Ely North Junction Capacity Improvement dated February 2015. Within this presentation there is information which has been updated (hence the text has been stricken) it displays previous dates to updated proposed delivery dates.

The information that can be released is attached in Annex A. This consists of the relevant extracts of emails, within the scope of the request.

Redacted copies of Ministerial correspondence, letters and presentations are enclosed as additional attachments with this reply.

The names of departmental junior officials, that is staff below the senior civil service, those of some external stakeholders and a constituent's personal data have been withheld in reliance on the third party personal information exemption at section 40(2)&(3) of the FOI Act. With regard to the officials they are not in public facing roles and therefore have a reasonable expectation that their names will not be placed into the public domain. To do so would be unfair and would contravene the first data protection principle. The full text of the exemption is attached at Annex C.

We have redacted, where indicated in Annex A, a section of one of the emails entitled:

'Sent: 24 October 2014 12:57

To: DfT official

From: Network Rail official

Subject: Ely North Junction meeting'

This is in reliance on the exemption at section 43(2) of the FOI Act covering commercial interests. Please see attached Annex B for the relevant text of the exemption. As the exemption is qualified we are required to weigh the public interest arguments for and against disclosure and on balance the public interest in withholding the information outweighs that for disclosure at this time.

I hope you find the information enclosed helpful.

In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. A copy of this response and the information provided may now be published on the www.gov.uk web-site, together with any related information that will provide a key to its wider context.

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,

Rail Network Outcomes
Department for Transport

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 from emails in relation to the FOI request

There are two emails subjects:

- Ely North Junction meeting
- CP5 Delivery Plan Change - A001 Ely North Junction (there are two attachment's enclosed in this email, which is included in the documents forwarded- Ely CP5 Delivery Change request form and A001 Ely North Junction capacity Improvement February 2015.)

Ely North Junction meeting

Sent: 20 February 2015 09:07

To: Network Rail Official [name redacted under s40]

From: DfT Official [name redacted under s40]

Subject: FW: Ely North Junction meeting

Let's have a meeting in April and its OK to share our correspondence with ORR. Note, though, that we still want the 2tph Kings Lynn and F2N capacity delivered in CP5, largely through Ely North Junction. Strong passenger growth in both peak and off-peak being reported by the TOC, and good economic reasons why 2tph Kings Lynn is required asap. The freight paths is a TT issue that looks capable of resolution; the level crossing issue Ely – Kings Lynn concerns me as it is counter-intuitive that increasing from 1tph to 2tph should engender such risk as to make current arrangements unacceptable. We're prepared to consider change control so long as we get the funded and specified outcome in as short a time as practicable.

I've just had an interesting discussion with our TSGN expert – on an emerging TOC proposal to strengthen the Kings Lynn – London services at Ely and not at Cambridge. Requires some minor signal adjustment work at Ely but seems sound. You should be getting feedback on this and we need to add it into the swirl of schemes for the area.

I am concerned at the amount of delay examining the Ely level crossing issues has now injected into the development of Ely North scheme. The milestone for single option selection was December 2014 and has now been missed. I know it's complex; is there anything more we can do to help and speed the process towards a single option?

Sent: 19 February 2015 17:18

To: Dft Official [name redacted under s40]

From Network Rail Official [name redacted under s40]

Subject: FW: Ely North Junction meeting

Re: below meeting we had in October – we agreed a follow up meeting this year – unless you disagree I will ask our TO to set something up for April.

Related to that we met with ORR yesterday to discuss the change control request for Ely NJ. They indicated the reason they were not yet supportive of it was that DfT have yet to respond to it themselves.

Documentation should be self-explanatory but let us know if you want to discuss further.

The doubt in ORR's mind I think hinges around the link between the scheme and the Kings Lynn 2tph off peak. We have said to ORR same as we have said to you that that specific service aspiration is contingent on a number of other things including TCRA review of Level Crossings and in a few hours resolution of the freight path conflicts and not solely dependent on the junction scheme.

If you can indicate your position on the Change Control, ORR then requested if we can meet in April all together to discuss further – which we are happy to do if you think it is a good idea.

Also are you ok if we share the note of previous meeting with ORR from below? They seemed concerned that we were not communicating with you on the scheme and associated issues. I don't mind either way, if you can indicate position on Change Control I think that is enough.

Ely North Junction meeting

Sent: 24 October 2014 12:57

To: DfT official [name redacted under s40]

From: Network Rail official [name redacted under s40]

Subject: FW: Ely North Junction meeting

Ely North Junction scheme timing:

- Despite the current situation with CP5 overspends elsewhere and the proposal as part of the affordability review that Ely North Junction scheme could be moved back to CP6 for affordability reasons, DfT would like to see the scheme positioned so it could be delivered in CP5
- Network Rail has put scheme development on hold since the summer to allow for an initial assessment of the options for major works to nearby level crossings. Current risk assessments on nearby AHB's and recent guidance issued for AHBs suggest it is sensible to develop the Ely North Junction scheme alongside developing an understanding of what may be required in terms of alterations to nearby crossings – in particular given the impact of F2N growth on those crossings.
- This delay to the scheme development is likely to mean the end delivery date for the Ely North Junction project moves backwards but Network Rail will update this position at the next meeting in the new year

Level Crossings:

- Network Rail presented some initial options for resolution of the Level Crossing issues at the 3 level crossings immediately North of the Junction (the 3 Queen Adelaide crossings) and at Kiln Lane just south.
- **[Information redacted under section 43(2)].**
- The level crossing solutions – at least on the Peterborough line area sizeable undertakings and it is not yet possible to say when they could be delivered. It is too early to say whether they can or indeed should be delivered at the same time as the junction redoubling scheme. This needs to be discussed further at the next meeting.
- Funding for the crossing development work needs to be agreed. The main driver is F2N traffic.

- It was noted that operation of a 2nd off peak train in most hours to Kings Lynn – which is a GTR franchise commitment - has always required an assessment of level crossings on the full line of route through to Kings Lynn. NR commenced that assessment on receipt of the winning bidder timetable. It was noted necessary works could be identified as part of that process and at this point NR does not have funding to deliver such works. NR has highlighted this as part of the re-franchising process pre ITT and as part of bid review. It was agreed this matter will be discussed further at the next meeting in the new year when more information is available.

Timetable work on DfT CP5 & CP6 service spec samples

- Following the previous meeting DfT provided a sample service spec for the above time periods to test the medium term fit of the doubled junction with aspirations. NR have completed this work and will provide a copy of the report.[name redacted under s40]

The 2nd off peak train to Kings Lynn – train planning issues

- It was noted without the doubling of the single leads at Ely NJ this franchise commitment will not be operable in CP5
- Even with the doubling - train planning work to support the original scheme development in 2011/12 – and NR's bid review on the TSGN process highlighted that the service was not operable in all off peak hours due to the presence of freight paths on the Kings Lynn branch in some hours that conflict with the new paths – as a result of the single line sections on the branch (not as a result of the alterations to Ely NJ). The Route Study will set out the longer term solutions to these conflicts but it was noted in the meantime careful messaging is required re: the outputs of the North Junction scheme in isolation so that expectations are not raised – and the scheme is understood as a building block. The Route Study will set out this message – and set out the other building blocks that would help deliver a good service pattern alongside the Ely NJ scheme.
- Consistent with the above Network Rail's bid review of the 5 TSGN bids highlights that a compliant TT has not yet been produced by the winning bidder for this service increment. These reports were provided to team in February 2014 and the points were highlighted in the pre ITT letters from NR in 2013.

These latter points are quite important and you'll note our SBP was also carefully worded with respect to the above.

CP5 Delivery Plan Change - A001 Ely North Junction

Sent: 20th February 2015 14:06

To: DfT official [name redacted under s40]

From Network Rail official [name redacted under s40]

Subject: CP5 Delivery Plan Change - A001 Ely North Junction

I write to consult you with details of a change to the CP5 delivery plan in relation to the Ely North Junction Project (A001) and as part of the Change Control process for CP5 projects.

Owing to the reasons stated below, it has been necessary to make changes to the regulated milestone dates for the Ely North Junction Capacity Improvement Project in CP5.

1. Additional development work being necessary. This is linked with changes to the regulations around AHB level crossings and also the introduction of Common Safety Method. A focus going forward will be on the interface with the 4 level crossings adjacent to Ely North Junction in light of the findings of GRIP 3 development stage and also the introduction of Common Safety Method regulations.
2. Alignment of the Ely North Junction project with the Felixstowe to Nuneaton work package.

The Delivery Plan entry for Ely North Junction Capacity Improvement project has been changed to reflect the updated programme as a result of the additional work required for development of this scheme. As a result we wish to consult key project stakeholders on these changes. A summary of the proposed changes in the CP5 Delivery Plan are shown below:

1. Change to the Regulated Milestone date for GRIP 3
2. Change to the indicative Project Milestones for GRIP stages beyond GRIP 3
3. Updated assumptions list to reflect the present position that Ely West Curve Project has been delivered, removal of the reference to the closure of Ely North Level Crossing as this is not linked to the CP5 scheme and also reference included regarding the access and resource availability during CP5 to deliver the scheme.

The milestones for delivery of this project now read as:

Milestone	Description	Date	Status
GRIP 3 completion	Single option selection	December 2014 May 2016	Regulated Output
GRIP 4 completion	Single option scope defined	July 2015 January 2017	Indicative
GRIP 6 start	Start on site	April 2016 August 2017	Indicative
GRIP 6 completion	Infrastructure ready for use	May 2017 September 2018	Indicative

The GRIP 3 milestone is subject to further review of the schedule and is to be confirmed by May 2015 Enhancements Delivery Plan update.

Annex B

Section 43(2): commercial interests

Information is exempt information if its disclosure under this Act would be likely to prejudice the commercial interests of any person (including the public authority holding it).

The duty to disclose information does not apply if, in all the circumstances of the case, the public interest in withholding the information in reliance on that exemption outweighs the public interest in disclosure.

Public Interest Test

Factors in favour of disclosure	<i>Factors in favour of withholding</i>

<p>There is a general public interest in the Ely North junction and in particular any possible initial options put forward by Network Rail for resolution of the level Crossing issues at the 3 level crossings immediately North of the Junction.</p> <p>Disclosure of the information would contribute to the Government's wider transparency agenda.</p>	<p>The Department has consulted with Network Rail. Ely North Junction' is in very early optioneering/ feasibility stage.</p> <p>If the Department were to disclose the information provided to it by Network rail it would be likely to prejudice the commercial interests of the individuals living in homes immediately adjacent to the crossings in question. Specifically suffering prejudice in terms of "planning blight" on their homes long before there is any certainty over a given option or even that once a given option is chosen it would be funded.</p> <p>Disclosure would be likely to mislead the public into thinking that decisions have been made when in fact they have not.</p> <p>Disclosure would also be likely to prejudice the Department for Transport's commercial interests as Network Rail would be reluctant to share future information with the Department that it wasn't required to if it felt that it would be routinely disclosed. The Department relies upon Network Rail to provide information in order to carry out its daily business.</p>

On balance the public interest in withholding the information outweighs that for disclosure.

Annex C

40 Personal information.

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) It constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3)The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

(i)any of the data protection principles, or

(ii)section 10 of that Act (right to prevent processing likely to cause damage or distress),
and

(b)in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4)The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

(5)The duty to confirm or deny—

(a)does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and

(b)does not arise in relation to other information if or to the extent that either—

(i)the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or

(ii)by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject’s right to be informed whether personal data being processed).

(6)In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

(7)In this section—

“the data protection principles” means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

“data subject” has the same meaning as in section 1(1) of that Act;

“personal data” has the same meaning as in section 1(1) of that Act.