



Jungwoo Jung
By email: request-578496-d29f808d@whatdotheyknow.com

Network Rail
Freedom of Information
The Quadrant
Elder Gate
Milton Keynes
MK9 1EN

T 01908 782405
E FOI@networkrail.co.uk

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Dear Jungwoo Jung

Internal Review reference number: IR2019/01228

Original request reference number: FOI2019/00959

On 28 August 2019, you submitted a narrowed request (after having your previous request refused as 'manifestly unreasonable' under regulation 12(4)(b) EIR) requesting the business case for 8 different projects. For the sake of clarity, I have included your full request history at the end of this letter under Appendix A.

Your request was again refused under regulation 12(4)(b) EIR. You requested an internal review of our decision on 25 September 2019.

Issues on review

Your email of that date states that you are seeking an Internal Review of the handling of your request. In absence of any further explanation on why you have requested an internal review of the decision provided to you, I have conducted an internal review on the basis that you disagree with the decision to refuse your request under regulation 12(4)(b) EIR.

Decision

After reviewing the response to your request and conducting further investigations I have concluded that the Information Officer was correct to refuse your request under regulation 12(4)(b) EIR as the request is 'manifestly unreasonable'. The decision to apply regulation 12(4)(b) to the request is therefore upheld.

I have considered the application of regulation 12(4)(b) EIR below.

Analysis: application of regulation 12(4)(b) in cases of disproportionate burden

Regulation 12(4)(b) of the EIRs states:

*12(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –
(b) the request for information is manifestly unreasonable*

The ICO guidance¹ on this regulation states:

8. The exception can be used:

- *when the request is vexatious; or*
- *when the cost of compliance with the request is too great.*

The ICO guidance explains that this exception can be used when the cost of compliance would be too great. Under the EIRs, there is no ‘appropriate costs limit’, as there is in FOIA, above which public authorities are not required to deal with requests for information. While there is not a specific limit under EIRs, the ICO guidance explains that the exception at regulation 12(4)(b) of the EIR can apply when the cost or burden of dealing with a request is too great.

As noted in our previous responses to you, this position is supported in the Upper Tribunal case of *Craven v The Information Commissioner and the Department of Energy and Climate Change* [2012] UKUT442 (AAC):

“Taking the position under the EIR first, it must be right that a public authority is entitled to refuse a single extremely burdensome request under regulation 12(4)(b) as “manifestly unreasonable”, purely on the basis that the cost of compliance would be too great (assuming, of course, it is also satisfied that the public interest test favours maintaining the exception). The absence of any provision in the EIR equivalent

Therefore, following the ICO guidance and case law, it is clear that regulation 12 (4)(b) EIR can be used for those requests which are so large that compliance would create a disproportionate burden. I have gone on to consider why this regulation is relevant in the case of your request.

Analysis of your request and whether this creates a disproportionate burden to Network Rail.

Here, I have considered the Tribunal’s comments in the *Department for Business Enterprise and Regulatory reform (DBERR) vs the Information Commissioner and Platform* (EA/2008/0097) and taken into account the following ICO guidance on the application of regulation 12(4)(b):

¹ <https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>

In assessing whether the cost or burden of dealing with a request is “too great”, public authorities will need to consider the proportionality of the burden or costs involved and decide whether they are clearly or obviously unreasonable.

20. This will mean taking into account all the circumstances of the case including:

- the nature of the request and any wider value in the requested information being made publicly available;*
- the importance of any underlying issue to which the request relates, and the extent to which responding to the request would illuminate that issue;*
- the size of the public authority and the resources available to it, including the extent to which the public authority would be distracted from delivering other services; and*
- the context in which the request is made, which may include the burden of responding to other requests on the same subject from the same requester.*

21. It should be noted that public authorities may be required to accept a greater burden in providing environmental information than other information.

I will now consider the burden created by compliance with your request. As referred to above there is no ‘appropriate cost limit’ under EIRs; however, the ICO guidance does explain that the FOIA Fees Regulations² may be used as a starting point for comparison when considering if a request under EIR is ‘manifestly unreasonable’:

In assessing whether the cost, or the amount of staff time involved in responding to a request, is sufficient to render a request manifestly unreasonable the FOIA fees regulations may be a useful starting point. They are not, however, determinative in any way.³

In ICO Decision Notice FER075944 and a number of the Information Commissioner’s published Decisions concerning this exception, the ICO sets out similar guidelines:

15. Unlike the FOIA, the EIR does not have a provision where requests can be refused if the estimated cost of compliance would exceed a particular cost limit. However, the Commissioner considers that if a public authority is able to demonstrate that the time and cost of complying with the request is obviously unreasonable, regulation 12(4)(b) will be engaged. The Commissioner considers the section 12 cost provisions in the FOIA is a useful benchmark, acting in this case as a starting point for the Commissioner’s investigations.⁴

² Under the FOI Act, the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provides that a public authority can only take account of the time determining if information is held, locating, retrieving and extracting information.

³ <https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>
para 23

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notice/2019/2614356/fer0759444.pdf>

The ICO's guidance and published decisions confirm that, although the FOIA Fees Regulations are themselves not applicable to EIR, the FOIA section 12 guidelines are a helpful and comparable structure on which to begin considerations in the application of 12(4)(b) under the EIR.

This means that it is appropriate to consider the FOIA 18 hour/£450 appropriate limit as a comparable 'benchmark' in cases under EIR. However, it is important to note that the activities relevant to section 12 of the FOIA (determining if the information is held, location, retrieval and extraction of the information), are only part of the considerations relevant to regulation 12(4)(b) of the EIR. It is therefore important to be aware that, under EIR, additional activities may also be included in any assessment of the burden created by a request – this means that, in this case, we may also take into account the time that would be needed to review any retrieved information, and to determine whether exceptions apply.

The Information Commissioner's guidance on Regulation 12(4)(b) addresses this key difference between section 12 of the FOI Act and Regulation 12(4)(b) of the Environmental Information Regulations, and confirms that additional activities may be considered under EIR:

26. Under FOIA the cost of considering whether information is exempt cannot be taken into account under section 12 (the appropriate costs limit) but can be taken into account under section 14(1) (vexatious requests). This is because section 12 limits the activities that can be taken into account when deciding if the appropriate limit would be exceeded. This is not an issue under the EIR. The costs of considering if information is exempt can be taken into account as relevant arguments under regulation 12(4)(b).⁵

In considering the burden in this case, I have therefore considered the time needed for the two sets of activities; firstly, the time needed for determining if the information is held, locating and retrieving this information, and secondly, the time needed for the review of information once located.

Our original response to your previous request FOI2019/0692 explained the time needed for the initial stage of location and retrieval of information about the 8 projects in some detail:

To determine if all the information is held and to retrieve any information held, I have first needed to engage the resources of over 40 different Network Rail employees, spread across a minimum of eight project sponsorship teams and at least eight other commercial, financial, communications and support functions. The information requested for each of these projects as sought in your request is not held by a central team but is held within project teams and with employees who were directly involved with the projects on the relevant Network Rail routes. This means engaging the relevant route-based staff separately for each of the eight projects for which you are seeking this information.

⁵ <https://ico.org.uk/media/for-organisations/documents/1615/manifestly-unreasonable-requests.pdf>

I have made enquiries of a number of these colleagues to understand the time they have committed to extracting and retrieving the information for the particular project area in which they hold the relevant information. For example, to extract relevant details for the cost breakdown as sought for the Kings Cross Redevelopment Project, which completed in September 2012, it took our expert 3.5 hours to retrieve all of the costing information and to provide it to me in the format sought in your request wording.

Further examples in this sample include locating the business cases for Dr Days Junction to Filton Abbey Wood and North West Electrification. The first took 30 minutes to locate and retrieve the business case, but it took a further two hours for other employees to identify the correct individual to provide the business case. The second took almost four hours to locate the information, due to the number of individuals who had to be approached and subsequent searches. On the basis of this sample, it is therefore reasonable to assume that for all eight projects it would take the following timescales to locate and retrieve all the information you have requested:

- *Business case/application for full approval/any government approval documents
(On a conservative estimate of 2 hours to locate and extract, based on the explanations provided above)
2 hours x 8 projects = 16 hours*
- *Costs, breakdown as specified in your request
3.5 hours x 8 projects = 28 hours*

I therefore estimate that it has already taken these staff members at least 44 hours in total to locate, extract and retrieve the information sought for this request. This is already a considerable burden, however, it is not the only factor that can be considered when assessing the burden of the request under EIR. In identifying the relevant experts to assist me with this request, around 100 emails have been sent to different employees within Network Rail. When working on the basis that it takes five minutes to write an email, it is reasonable to estimate that 500 minutes of the FOI team's time has been taken up preparing emails to our experts to determine and locate what information for these eight projects (5 minutes x 100 emails = 500 minutes/8 hours).

I appreciate that, in your request FOI2019/00959, you sought to narrow your request to '16 hours of work' in respect of only the information contained in the business cases. It is here that I must be very clear that the estimate of 16 hours, to locate and retrieve all of the business case information, is not the only time that is included in the estimate of the overall burden. As our response to FOI2019/00959 stated, this estimate did not include the further time that would be needed to review documents once they had been retrieved.

Again, I consider that our response to FOI2019/00959 provided a clear and detailed explanation of the time that would be required for this second stage of activities:

Using the Birmingham Gateway Project Business Case Report as a reasonable

example in this case, we can estimate that it took around two hours for our expert colleagues to locate and extract this full report. However, no one has at this time looked through the document in detail to understand whether some or all information would be suitable for disclosure in response. I asked one of our experts to review a sample of 17 pages, of which 4 only contained drawings or maps with very little text. It took our expert about 15 minutes to initially read all 17 pages in this sample.

Working on the round figure of 700 pages, it is reasonable to estimate that it would take one minute per page for one of our experts to read the entire document, with consideration of any concerns they would have around disclosure. This therefore means that reading this whole document alone would take around 700 minutes/11 hours.

Please note that the time taken to read the document does not take into account the time required by our experts to consider whether the entire document is appropriate for disclosure, or if some or all of it should be withheld from disclosure and for what reason. Though it took our expert 15 minutes to read the full 17 page extract, he then also needed to further review in detail to consider what could or could not be disclosed into the public domain; this task took a further 75 minutes. It is therefore reasonable to assume that each batch of 17 pages would be likely to take 75 minutes to review and consider.

On this basis, it is reasonable to estimate that further review and consideration of this entire 700-page document would take around 3,075 minutes/51 hours (700 pages ÷ 17 pages = 41 sections x 75 minutes = 3,075 minutes ÷ 60 minutes = 51 hours). This does not take into account any time required to consult third parties on their views on the document and on its potential partial or full disclosure.

It is my view therefore that it would take a minimum of 62 hours collectively to read, review and consider the one business case report for just this one project for disclosure. Though you asked us in request FOI2019/00927 to provide only the business cases or any governmental approval documents that require 16 hours of work, we cannot make assumptions on which projects you would particularly like us to locate, retrieve, consider and potentially prepare information for disclosure. This means that it is impossible for us, as a public authority, to identify on which projects to focus the requested 16 hours, meaning that we can only deal with your request in full.

Given that I have estimated that the business case report for the Birmingham Gateway Project would take around 13 hours, and review of what we hold and retrieval for the remaining seven projects is estimated at two hours per project, equaling 14 hours, it would take a minimum of 27 hours to gather the business case information you are seeking as well as to extract and review the business case report for the Birmingham Gateway Project to make decisions on disclosure. This estimate does not take into account the time already spent, as explained in response to request FOI2019/00692, on contacting other members of Network Rail staff to understand what information we may or may not hold, directly linking to the information you are seeking I response to this latest request.

This estimate is based on work already undertaken and I therefore consider it to be a reasonable one. Regarding the time needed for reviewing the information, we are aware that the information we have located contains commercial information, and I note that certain cost information was withheld from the published business case for the Borders Railway on the grounds of commercial sensitivity. This is indicative of the type of information that will be contained in business cases, and also highlights that review of such information is needed before publication or disclosure. Our projects and programmes of work will involve a range of external stakeholders, from the Department for Transport to local Councils, as well as contractors and suppliers involved in all aspects of designing and delivering the work. In each case, we would contact relevant stakeholders to seek views on disclosure and assessment of any information relevant to them.

As a key stakeholder for one project, we consulted Birmingham City Council regarding the information held for the Birmingham Gateway project. We provided a sample of the information to them and they estimated that reviewing the documents relevant to them would take one of their officers a minimum of 60 hours – effectively, just under one hour for each ten pages of the 700-page document. This again demonstrates the time that would be needed to complete review of this information, and the burden that this creates.

You may be interested to know that the Information Commissioner issued a previous decision in respect of a request to Birmingham City Council which asked for the Birmingham Gateway Plus Project business case (FER0483175). In that case:

26. The Council has argued that it is likely that the business case would contain information covered by exceptions in the EIR. In particular, it has explained there is a strong possibility that elements of the information are confidential. The Gateway Plus project is being carried out by Network Rail and features the involvement of a number of public authorities and other organisations. The Council has argued that it would be required to check through the business case to determine what information should be disclosed without causing harm to any of the other parties involved in the project.

28. The Commissioner accepts this argument as valid. Such a vast project involving a number of different business partners would be likely to produce information that is confidential both in regard to the proceedings involved in carrying out the project, and to the commercial information surrounding a project of this magnitude. Therefore the Council would be required to review the business case in order to determine what information was exempt and what should be released into the public domain.

In order to take a view on whether the impact of complying would be disproportionate, it is necessary to also take a view on the potential benefit of compliance.

The key public benefit of disclosure would be increased accountability. Putting these business cases into the public domain would provide information to allow the public to take a view on whether we are pursuing projects which represent value for money to the tax payer. It would, therefore, inform the public by providing accurate information and would provide the public with the opportunity to challenge the decisions we make; this

scrutiny could in turn mean that we achieve better value for money in the future. However, as the ICO recognises, the fact that a '*request relates to a subject matter that is likely to have significant environmental implications...*' is not reason of itself to put public authorities to a significant effort in compliance where to do so '*...would require significant public resources to be applied in order to fully comply with the request... [and] ...there is no immediate evidence available to the Commissioner that suggests the actions taken by the [public authority] have been incorrect, improper, or subject to a lack of transparency.*'⁶

In this instance there is no suggestion of incorrect or improper action and importantly, our work around the money spent on projects is subject to regulatory scrutiny and oversight from the Office for Road and Rail, the Department for Transport, the National Audit Office and, recently, the Hendy Review into public spending on rail enhancement projects. This is particularly important when a significant impact would be caused for our Project Managers, whose current workload will be focused on the delivery of ongoing and future projects and programmes of work.

For this reason particularly, we maintain that the impact of compliance with the request would be unjustified in this case. I therefore consider that the burden that compliance with this request would cause is a disproportionate and unreasonable one, and that regulation 12(4)(b) is engaged.

On this basis, I also feel that the suggestion made to you in our response to FOI2019/00959 was a reasonable one. I consider that in describing the partial information that had been located and suggesting a narrowed focus on these documents, our response met the requirements to provide reasonable advice and assistance, as set out in regulation 9(1) of the EIRs. I offer this advice to you again as a way to take forward a narrowed request:

As explained in my response to your previous request, in order to reduce the time required to be able to consider complying with your request, I advise that you identify one or two projects for which you would prefer us to seek, retrieve and consider for disclosure from the original list of eight projects you supplied. In the case of the Birmingham Gateway Project business case report, I have already set out our estimates for this and it would far exceed the time permitted to review this document, however we do have a Birmingham Gateway Business Case Executive Summary, dated May 2006, which is separate to the business case report considered in this response and is only ten pages long.

In terms of the Derby Station Remodelling Project, we do hold a GRIP 4 Appraisal Report and for the Gospel Oak to Barking project, we hold an Investment Appraisal Summary, dated June 2017. For the North West Electrification Programme (NWE), we also hold copies of the North of England Programme Strategic Case, Economic Case and Financial, Management and Commercial Cases, within these documents appear to be details related to NWE. I am not sure if these documents necessarily answer all of the points you have previously requested, but they may be a good starting point for your work.

⁶ Decision Notice FS50803136 <https://ico.org.uk/media/action-weve-taken/decision-notice/2019/2615720/fs50803136.pdf>

I also note that in our email of 22nd August 2019, we also suggested that you narrow the request to just one major project:

The information I had brought together at the point I refused your previous request (FOI2019/00692) does contain some business case information. The business case for the Birmingham New Street Gateway Project that I have located is over 700 pages long; we cannot say if this is the full business case (which would be held by Birmingham City Council rather than Network Rail), but this is clearly a significant amount of information. While it is a sizeable, I consider that a request for this business case would be a manageable and reasonable request.

We will therefore proceed with a narrowed request for the Birmingham New Street Gateway Project business case if this is acceptable to you.

I note that you refused this suggestion, maintaining that you wished to receive information on all projects. I recognise, however, that this was a significant offer to undertake a great deal of work, as the preceding paragraphs make clear that a substantial amount of work would be involved in reviewing the information for even this one project. I therefore consider that this suggestion also met the requirements to provide reasonable advice and assistance in regulation 9(1) of the EIRs.

Public Interest

I have taken into account the wider public interest considerations as to whether Network Rail should disclose this information.

I acknowledge that there is a strong public interest in providing information on our infrastructure projects, on how we are improving our network and on how we are allocating public money. This would enable public scrutiny of how these projects are delivered and how public funds are spent. I also accept that under the EIRs there is a general presumption in favour of disclosure.

However, there are a number of factors that these must be balanced against this. Importantly, Network Rail is subject to oversight and regulatory scrutiny by The Office of Rail and Road (ORR). The ORR website provides an extensive range of material in respect of Network Rail's performance and financial management, and I provide links to examples of the relevant publications below.

Efficiency and finance assessments:

<https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/monitoring-performance/network-rail-monitor>

<https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/monitoring-performance/efficiency-and-finance-assessment>

https://orr.gov.uk/_data/assets/pdf_file/0014/41513/annual-efficiency-and-finance-assessment-2018-19.pdf

Similarly, scrutiny of spending in respect of projects and enhancement programmes is

enabled through publications by the National Audit Office⁷, and through the Department for Transport's published Major Projects Portfolio data.⁸ As noted previously, the business case for the Borders Railway has been published in redacted form.⁹ Finally here, Network Rail's own publications, including our Annual Report & Accounts, including the Chief Financial Officer's review, also go towards meeting the public interest in transparency in our public spending.¹⁰

These publications and this oversight reduces the public interest in the disclosure of the further information you have requested, as accountability for public spending is demonstrated through these mechanisms.

In my public interest considerations, I have also taken into account the size of Network Rail and the resources available. Network Rail is a large company with over 36,000 staff. We also have the benefit of an independent FOI team whose role is solely to handle and respond to requests for information; the team is currently made up of four full time and one part time Information Officers.

Our colleagues across Network Rail who assist us in locating and providing the requested information for their business area, and in reviewing any information located and providing expert views, are not employed in dedicated FOI roles; they assist us in meeting our legal obligations in addition to undertaking their own specific day to day roles. In the case of your request, the time required for each individual to search their files would remove many of our colleagues in the relevant departments from their usual day to day responsibilities for a significant period of time.

There is a strong public interest in Network Rail's successful delivery of its core activities and functions in the management and enhancement of the rail network, and in continuing to achieve excellent compliance and quality in the fulfilment of our obligations – to all requestors – under information access legislation; distracting so many individuals from their day to day tasks for the benefit of one large request runs against this public interest.

A similar position was supported by the Information Commissioner in FER0483175, which also considered business case information, also specifically for the Birmingham Gateway project. We draw particular attention to the Commissioner's comments in that case regarding the public interest in those circumstances where a request would cause significant diversion of resources:

45. It has been demonstrated that for the Council to handle the request within the provisions of the EIR would require a substantial amount of Council resources. These resources would have to be diverted away from handling other requests and the other functions and duties of the

⁷ For example, in respect of the West Coast Route Modernisation Programme
<https://www.nao.org.uk/wp-content/uploads/2006/11/060722.pdf>

⁸ <https://www.gov.uk/government/publications/dft-government-major-projects-portfolio-data-2018>

⁹ https://www.transport.gov.scot/media/10321/ts_borders_fbc_final_version_issued.pdf

¹⁰ <https://www.networkrail.co.uk/who-we-are/publications-and-resources/regulatory-and-licensing/annual-report-and-accounts/>

Council. The Commissioner does not consider that this would be in wider interests of the public, and is of the view that the handling of manifestly unreasonable requests is rarely in the public interest.

I believe that this example is particularly relevant in the present case, where I have demonstrated the burden that compliance with the request would cause and have explained our reasons for considering that this burden would be disproportionate and unreasonable in terms of staff time.

I therefore find that, on balance, the public interest favours maintaining the exception in this case, and that regulation 12(4)(b) applies.

Yours sincerely

Danielle Stratton
Information Officer – Compliance & Appeals

Next steps If you are not content with the outcome of this 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

Please remember to quote the reference number at the top of this letter in all future communications.

Appendix A

Network Rail reference FOI201900569

On 24 May 2019, you submitted the following request:

I am writing to you under the Environmental Information Regulations 2004 and the Freedom of Information 2000 to request the following information of (1) Birmingham New Street Station Renovation, (2) Border Railway Project, (3) Derby Station Area Remodelling, (4) Dr Days Junction to Filton Abbey Wood Capacity Improvements, (5) Gospel Oak to Barking Electrification, (6) Kings Cross Station Improvements, (7) North Trans Pennine Electrification, and (8) North West Electrification (Northern Hub) from Network Rail:

- 1. Application for Full Approval. If Application for Full Approval is not available, please provide Full Business Case.*
- 2. Information on (1) date in service. (2) completed construction costs, (3) completed land related costs, (4) completed finance costs (if any), and (5) completed other significant costs.*

On 20 June 2019, your request was refused under regulation 12(4)(c) EIR as it was made 'in too general a manner'. Further clarification was sought asking you to explain which projects you were referring to for Birmingham New Street and Kings Cross as there were different project which were potentially relevant. You were also asked to provide further explanation on what you intended as 'significant costs'.

Network Rail reference FOI201900692

On 21 June 2019 you responded with the following clarification:

- 1. Birmingham New Street and Kings Cross Birmingham New Street Gateway Project (New Station) is the one I am interested in. Regarding Kings Cross Station Improvements, I had in mind the following (I think both of them refer the same project):*

*<https://www.networkrailconsulting.com/assets/Uploads/Kings-Cross-Station.pdf>
<https://www.theguardian.com/business/2012/mar/14/five-year-redevelopment-kings-cross-station>*

- 2. Significant Costs*

Significant Costs = Total Cost - Construction Cost - Land Cost - Finance Cost

- 3. Refusing Request as Manifestly Unreasonable Since you suggested my request is likely to be refused on cost grounds unless I narrow my request to one or two specific completed projects where you have already identified information from previous FOI requests, please explain how my request places an unreasonable burden on your resources by providing (if it does not add up to the cost grounds for refusal) :*

(1) your search strategy, for example:

- whether it has carried out any searches for the requested information;*
- whether it has based its estimate on a random or representative sampling exercise;*

- which departments or members of staff have been contacted;
- the search terms used when querying electronic records;
- (2) why it needs to search the files/records it has referred to;
- (3) how the information is stored, for example, whether the information is held in paper or electronic files;
- (4) how many files, boxes, documents, records or emails need to be reviewed and;
- (5) how long it would take to determine whether the requested information is held or to locate, retrieve and extract it. For example, it is useful to detail the size of the relevant files; the average length of time it would take to review each file and the number of staff required.

Later the same day you corrected your clarification of significant costs to:

Correction as follows.

2. "Other" Significant Costs

"Other" Significant Costs = Total Cost - Construction Cost - Land Cost - Finance Cost

On 25 June 2019, your request was acknowledgement explaining that your request had been taken as:

I understand your request to be the following:

I am writing to you under the Environmental Information Regulations 2004 and the Freedom of Information 2000 to request the following information of:

- (1) Birmingham New Street Station Renovation - Birmingham New Street gateway project (new station).
- (2) Border Railway Project
- (3) Derby Station Area Remodelling
- (4) Dr Days Junction to Filton Abbey Wood Capacity Improvements
- (5) Gospel Oak to Barking Electrification
- (6) Kings Cross Station Improvements – I had in mind the following (I think both of them refer the same project):
<https://www.networkrailconsulting.com/assets/Uploads/Kings-Cross-Station.pdf>
<https://www.theguardian.com/business/2012/mar/14/five-year-redevelopment-kings-cross-station>
- (7) North Trans Pennine Electrification
- (8) North West Electrification (Northern Hub)

From Network Rail:

- 1. *Application for Full Approval. If Application for Full Approval is not available, please provide Full Business Case.*
- 2. *Information on:*
 - a) *date in service*
 - b) *completed construction costs*
 - c) *completed land related costs*
 - d) *completed finance costs (if any)*

- e) *completed other significant costs. By other"*
Significant Costs I mean the total cost minus construction cost, minus land cost, minus finance cost

On 26 June 2019, you wrote in response to the acknowledgement email and stated:

Just in case you can locate neither Application for Full Approval nor Business Case, any government approval documents to go ahead with a project are acceptable as long as they provide estimated schedule and cost information before the start of construction.

On the 22 July 2019, the deadline to respond to your request was extended under regulation 7(1) EIR.

On 20 August 2019, the request was refused under regulation 12(4)(b) EIR as 'manifestly unreasonable'.

Network Rail reference FOI201900927

On 21 August 2019, you submitted a refined request for the following information:

You responded that you estimated 16 hours to locate business cases or any governmental approval documents and 28 hours to retrieve cost information. And you further argued that my Environmental Information Request creates unreasonable burden on Network Rail so that you refused to fulfill my request. If I refine my request and ask only business cases or any governmental approval documents which require 16 hours of work, will you fulfill my request? If so, please, proceed with my refined request. Otherwise, I request an internal review. Please, let me know how you would like to proceed.

On 22 August 2019, your request was acknowledged with the following explanation:

Thank you very much for your email, which we received on 21 August 2019.

Thank you also for your suggestion to proceed with a narrowed request for business case information which could be reviewed and considered for disclosure within a reasonable amount of time.

The information I had brought together at the point I refused your previous request (FOI2019/00692) does contain some business case information. The business case for the Birmingham New Street Gateway Project that I have located is over 700 pages long; we cannot say if this is the full business case (which would be held by Birmingham City Council rather than Network Rail), but this is clearly a significant amount of information. While it is a sizeable, I consider that a request for this business case would be a manageable and reasonable request.

We will therefore proceed with a narrowed request for the Birmingham New Street Gateway Project business case if this is acceptable to you.

I can confirm that your request is being processed under the terms of the Freedom of Information Act (FOIA) / Environmental Information Regulations (EIR). I will

endeavour to respond to you as soon as possible and in any event by 19 September 2019.

On 28 August you responded to the acknowledgement with the following:

Last week, I sent a message to you reminding that I had narrowed my request to business cases of 8 projects, not a business case of the Birmingham New Street Gateway Project which you had already located during your estimate. As I have not heard anything so far, I am concerned if my message went through. Please, confirm that you are proceeding with all 8 business cases. Just in case you intend to proceed with only 1 business case, I request an internal review. I am looking forward to hearing from you soon. Thank you.

On the 29 August 2019, the following response was sent to you confirming we would close the request for FOI201900927 and log a new request for the business cases for the 8 projects listed:

Thank you for confirmation of your request, which was received on 28 August 2019. I am sorry that we did not receive your earlier email; I checked on the What Do They Know website too and could not locate your correspondence on there - perhaps there has been a systems error. However, now you have confirmed that you are seeking the eight business cases for the projects listed in your earlier request, FOI2019/00692, I have logged this as a new request - the reference number is FOI2019/00959.

As you can see from my previous correspondence, I previously logged my suggestion of the Birmingham Gateway Project business case as a new request, reference number FOI2019/00927. As you have confirmed your requirements as being different to this suggestion, I will now close this earlier request and proceed with your new request for all eight business cases received on 28 August 2019.

The request was refused under regulation 12(4)(b) on 25 September 2019. On the same day you requested an internal review of this decision, as discussed above:

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Network Rail Limited's handling of my FOI request 'Major Projects' Cost and Schedule Information'.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://www.whatdotheyknow.com/request/major_projects_cost_and_schedule