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Dear Sir/Madam

Midland Main Line electrification

Internal Review reference number: FOI2017/00821

Original request reference number: FOI2017/00618

I am writing in response to your email of 6 July 2017 which requested an internal review of the handling of your original request for information made on 16 May 2017. For completeness, the history of your request is included in the Annex to this letter.

Your original request was as follows:

- '1. Please provide the locations of the four National Grid supply points that are proposed for the electrification of the Midland Main Line north of Bedford and the locations where power would switch from one to another.*
- 2. How much land would typically be required for each supply point?*
- 3. What is the maximum steady state current that could be supplied by each supply point?*
- 4. Please supply any reports regarding the extent and details of work needed to upgrade the overhead and feeder stations on the section between London and Bedford to allow trains to travel at 125mph.'*

You requested an internal review on 6 July 2017.

I must note that during the course of this review, on 20 July 2017, the Secretary of State for Transport announced that the East Midlands franchise would be operated with a new fleet of bi-mode trains; the provision of these trains would replace plans to electrify the line north of Kettering to Sheffield and Nottingham. In the light of this announcement, we will not progress with plans to electrify the line from Kettering to Sheffield and Nottingham.

The Information Commissioner's guidance specifically addresses the possibility that the circumstances relating to a request may change by the time the internal review is carried out:

*'17. However, any review must take into account the circumstances which applied at the time of the request (or at the latest, the time limit for responding, which will normally be 20 working days after the request is received) rather than those in place at the time of the internal review.'*¹

Following this guidance, I am obliged to consider the circumstances *at the time of the request*, and I have therefore conducted and completed the review in accordance with the ICO guidance.

Issues on review

This review will therefore consider:

- whether we should have responded to your request under FOIA or the Environmental Information Regulations 2004 (EIR);
- whether any of the information should be disclosed under FOIA or the EIR.

Decision

In summary, I have concluded that we should have processed your request under the EIR rather than FOIA. I will explain this in the following section.

I have also concluded that some of the requested information should be disclosed, and some information should be withheld under regulation 12(4)(d) of the EIR; this exception concerns material in the course of completion and unfinished documents. This is explained in more detail later in this letter.

¹ ICO guidance: *Internal Reviews under the EIR*
https://ico.org.uk/media/for-organisations/documents/1613/internal_reviews_under_the_eir.pdf

I will also indicate where information is not held.

Whether FOIA or EIR applied to the requested information

I note that our acknowledgement of your original request indicated that we were processing it under EIR; however, our response of 14 June 2017 was issued under FOIA. I consider that this was incorrect, as your request related to environmental information, as defined in regulation 2 of the EIR:

‘2.—(1) In these Regulations—

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on—

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b)...’

In this case, your request relates to a measure and activities (the electrification of the Midland Main Line) which are likely to affect the elements of the environment, specifically the landscape and land (in relation to location of the proposed power supply points; the amount of land used for each supply point; and work needed to upgrade overhead and feeder stations on a particular section of the line); and factors such as energy (power supply arrangements). I therefore consider that the requested information falls within the definition of environmental information in the EIR and we should have processed your request in accordance with the regulations. Section 39 of FOIA exempts environmental information from the FOIA, but requires a public authority to consider it under the EIRs.

I apologise for this error in the processing of your request and have therefore set aside our refusal of your request under FOIA. This review has therefore been conducted under the provisions of the EIRs.²

Review of each of your questions

I note that your request for a review states that our response did not reply to each part of your request. I have reviewed our response to see if this is the case. I see that our response did confirm that we held the requested information *except for* the information sought in part 2 of your request. On the basis of this, I can see that the refusal we issued was in relation to all the remaining parts of your request other than part 2.

While there is no legal requirement for a public authority to respond separately to each part of a request if the same exemptions and arguments are relevant to the information sought in each of those parts, I am sorry that the wording our response did not make clear that we held information for parts 1, 3 and 4 of your request, and that we were withholding the information for these three parts of your request.

I will now address each of your questions. On review, I am now disclosing some of the requested information as follows:-

1. Please provide the locations of the four National Grid supply points that are proposed for the electrification of the Midland Main Line north of Bedford and the locations where power would switch from one to another.

You explained in your request for an internal review that 'I do not require the precise location of the Grid supply points'.

The proposed locations of the four National Grid supply points were:

Sundon, Bedfordshire
Braybrooke, near Market Harborough
Kegworth, near East Midlands Parkway
Hasland, near Chesterfield

In relation to the part of this request seeking information on the locations where power would switch from one to another, at the time of your request we had not yet made final decisions on the locations where power switch and I therefore consider that this information should therefore be withheld under regulation 12(4)(d) of the EIR. This exception relates to material in the course of completion and incomplete documents; this is explained in more detail later in this letter.

² The EIRs set out that internal reviews must be conducted within a period of 40 days.

2. How much land would typically be required for each supply point?

You explained in your request for an internal review that:

'With regard to Q2 you state that my question is not a request for recorded information. This is presumably because I used the word "typically". I would therefore like to request the area of each supply point that I assume does appear in recorded information at this stage of the project. This is to facilitate a comparison between the area of the sites required to power MML with those needed for HS2. I would accept a figure for each site that does not identify which site it is or failing that a figure for the total area of all four sites if you wish to withhold the area of individual sites.'

At the time of your request, we did not hold the information about the area of land required for the site of each supply point. This is because we were still in the process of designing the supply points and which equipment would be required for each site. We would also need to take into account the local conditions at each site in determining the area of land which would be required. This is explained in more detail later in this letter.

3. What is the maximum steady state current that could be supplied by each supply point?

The maximum voltage of the traction supergrid transformer and its maximum current rating is 400 kilovolts / 80 megavolt amps.

At the time of your request, National Grid's System Design team had not made a decision on the maximum steady state current that could be supplied by each supply point and had not notified the project teams of their decision. I therefore consider that, at the time of your request, we did not hold the requested information.

4. Please supply any reports regarding the extent and details of work needed to upgrade the overhead and feeder stations on the section between London and Bedford to allow trains to travel at 125mph.

In response to this question, I was advised that, at the time of your request, there were separate issues involved in the work to upgrade the overhead and feeder stations on this section of the line. At the time, we considered that we would need to carry out work to the power supply arrangements if there were a change in the type of trains which would operate on the line; however, this would not affect the speed. I was also advised that, at the time of your request, there were mechanical reasons which meant that the current overhead wire system could not operate with trains travelling at

125mph. This was being resolved by adjustments to the system as part of the project. As work on this was ongoing at the time of your request, I consider that this information should be withheld under regulation 12(4)(d) of the EIR. This is explained in more detail later in this letter.

To explain why regulation 12(4)(d) applies to this information - why the information was 'material in the course of completion' - I will first provide a background explanation of the situation in relation to the Midland Main Line electrification at the time of your request.

Background to the Midland Main Line programme at the time of your request

To explain the relevance of regulation 12(4)(d), it may be helpful if I begin by explaining the general situation with work on the development of the Midland Main Line programme at the time of your request.

In June 2017, we published our Enhancements Delivery Plan (EDP) ³ which summarises the Midland Main Line programme as follows:

'The MML Programme has a phased delivery over two key output dates

Key Output 1 – December 2019 Working Timetable:

- *Provision of 25kv electrification from the existing limits at Bedford to Kettering and Corby;*
- *Enabling of improved journey times through the delivery of key infrastructure schemes;*
- *Additional capacity for a 6th Long Distance High Speed service to serve between St Pancras and Kettering / Corby; and 3 freight paths per hour between Bedford and Kettering.*
- *The capability of the network will be enhanced through the extension of platforms at key stations south of Leicester.*
- *New stabling facilities will also be provided at Kettering.*

Key Output 2 – CP6 [Network Rail's Control Period 6, covering 2019-2024]

- *Provision of 25kv electrification from Kettering to Nottingham and to Sheffield via Derby;*
- *enabling of improved journey times through the delivery of key infrastructure schemes; and*

³ <https://16cbgt3sbwr8204sf92da3xxc5m-wpengine.netdna-ssl.com/wp-content/uploads/2017/06/Enhancements-Delivery-Plan-June-2017.pdf>

- *Completion of adjustments to existing Fast Line OLE south of Bedford, increasing the permissible speed for electric trains.*
- *Additionally the capability of the network will be enhanced through the extension of platforms at key stations north of Leicester and through the completion of gauge enhancement works to provide W12 clearance'*

Our process for delivering projects on the operational railway, Governance for Railway Investment Projects (GRIP), divides a project into eight stages ⁴:

1. Output definition
2. Feasibility
3. Option selection
4. Single option development
5. Detailed design
6. Construction test and commission
7. Scheme hand back
8. Project close out

At the time of your request, our work on the power supply points and power supply was at GRIP 3 (option selection); at the time of your request we had not developed a single option (GRIP 4) or completed design work (GRIP 5) for all of the supply points.

In relation to the power supply arrangements, I was advised by the relevant business experts in Network Rail that, at the time of your request, design work was ongoing. At that time, our assumptions on power requirements for the line remained subject to change, although we assumed at that time that the power supply will be 25 kilovolts, 50 hertz alternating current.

At the time of your request, we did not yet know the specification of future rolling stock which would operate on the line or the maximum line speed. The design of overhead line equipment and the power supply requirements would be influenced by these factors (for example, if rolling stock has a single pantograph or multiple pantographs, then the overhead line equipment will need to be designed accordingly). In addition, if the power requirements changed, then the design of feeder stations and the equipment required at each feeder station would also be subject to change and this would, in turn, affect the total area of land required for each site.

Therefore, the only information held at the time of your request concerned the development of ongoing work – the information we held was unfinished or 'material in

⁴ <http://archive.nr.co.uk.aspx/4171.aspx>

the course of completion' and so falls under regulation 12(4)(d) of the EIRs. I will explain this regulation in more detail below.

An example of the incomplete nature of the work to design the power supply arrangements is demonstrated by the National Grid's press release dated 14 June 2017 (the same date on which we responded to your request) about the proposed substation for the Midland Main Line at Braybrooke.⁵ The press release explained:

'...Residents in and around Braybrooke and Market Harborough are being invited to find out more about National Grid's proposals to build a new electricity substation in Braybrooke parish.

The company is putting on a community consultation event from 3pm – 8pm on Tuesday 4 July at Braybrooke Village Hall, Griffin Rd, Braybrooke, LE16 8LH. National Grid's project team will be on hand to discuss the proposed new substation, give local people an opportunity to find out more and share their views. Representatives from Network Rail will also be available to answer questions about the Midland Main Line Upgrade and its electrification programme of which the first phase of work between London and Corby is due to complete around 2019.

*Andrea Robertson, project manager at National Grid, said: "Our proposed new electricity substation will provide supplies to the proposed new trackside feeder station which Network Rail will build as part of its Midland Main Line upgrade and electrification programme. **We want to hear local people's views on the substation before we apply for planning permission around the end of July and look forward to engaging with the community at the event.**" '[emphasis added].*

At the time of your request, the planning application for the substation at Braybrooke had not been submitted to the local planning authority and the design work on the substation had not been completed.

Regulation 12(4)(d) of EIR

In the situation as explained above, I consider that at the time of your request, the work to design the supply points and the power supply system was 'material in the course of completion'. This is because no conclusions had been reached, and work on

⁵ <http://media.nationalgrid.com/press-releases/uk-press-releases/east/national-grid-consults-on-plans-for-new-substation-at-braybrooke-near-market-harborough/>

the options was still continuing. I consider that this information can be withheld under regulation 12(4)(d) of the EIR⁶, which provides that:

‘12.—(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that —

(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data’

The Information Commissioner has published guidance on the exception, which explains that:⁷

‘Material which is still in the course of completion

8. The need for public authorities to have a ‘thinking space’ for policy development was recognised in the original proposal for the Directive on public access to environmental information, which the EIR implement. The proposal explained the rationale for both this exception and the exception for internal communications:

“It should also be acknowledged that public authorities should have the necessary space to think in private. To this end, public authorities will be entitled to refuse access if the request concerns material in the course of completion or internal communications. In each such case, the public interest served by the disclosure of such information should be taken into account.” (Explanatory memorandum to COM/2000/0402 final)

In this case, the requested information relates to work to design the power supply points and the power system for the electrification of the Midland Mainline. As explained above, this work was ongoing at the time of this request and we had not yet made final decisions on the requirements for the power supply points and the power system. Any relevant information about the work in progress therefore falls within ‘material in the course of completion’.

Public interest test

The exception under regulation 12(4)(d) is subject to a public interest test.

⁶ https://ico.org.uk/media/for-organisations/documents/1637/eir_material_in_the_course_of_completion.pdf

⁷ https://ico.org.uk/media/for-organisations/documents/1637/eir_material_in_the_course_of_completion.pdf

I agree that the factors in favour of disclosing the information are that it would increase transparency and public understanding of one aspect of the work to electrify the Midland Mainline; however, the information held concerns only preliminary considerations and options, and could not provide any concrete or final positions for public scrutiny. For this reason, I consider that the public interest in these factors is limited by the nature of the information, and the early stage of the work itself.

I consider that the strongest factor in favour of maintaining the exception is that, at the time of your request, we were still in the process of designing of the power supply points and the power supply arrangements for the Midland Mainline. I consider that we require a 'safe space' to carry out the detailed technical design work without public scrutiny at this time, as the process will not be completed for some time and it would not be particularly informative to disclose the current thinking on the design of the power supply when the designs may be subject to significant change. Furthermore, I consider that the requested information would create a misleading or inaccurate impression, because at the time of your request we did hold the final designs in relation to the requested information and these are not expected to be available for some time.

I also note that the proposed design of power supply points would be subject to scrutiny by the relevant local planning authorities where required (for example, in relation to the proposed substation at Braybrooke which is mentioned above) and that this is a further factor in favour of withholding the requested information, as the proposals would be subject to scrutiny by an elected local authority and, if relevant, subsequent stages in the statutory planning process.

I hope that the information provided and this further explanation is useful.

Yours faithfully

Colin Bendall
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.

Annex

On 16 May 2017, you made the following request for information:

Your original request sought the following information:

- '1. Please provide the locations of the four National Grid supply points that are proposed for the electrification of the Midland Main Line north of Bedford and the locations where power would switch from one to another.*
- 2. How much land would typically be required for each supply point?*
- 3. What is the maximum steady state current that could be supplied by each supply point?*
- 4. Please supply any reports regarding the extent and details of work needed to upgrade the overhead and feeder stations on the section between London and Bedford to allow trains to travel at 125mph.'*

We acknowledged your request on 19 May 2017 and responded on 14 June 2017. Our response was made under the Freedom of Information Act 2000 (FOIA) and confirmed that we held the requested information but were withholding it under section 31(1)(a) and section 38(1) of the FOIA. Our response explained that these exemptions are engaged when disclosure of the requested information would, or would be likely to prejudice the prevention or detection of crime and would endanger the health and safety of any individual.

In considering the balance of the public interest, we concluded that the factors in favour of disclosure (increasing transparency and public knowledge about the operation and workings of the rail infrastructure) were outweighed by the factors in favour of maintaining the disclosure (the likelihood and severity and potential harm of an attack that may degrade or disrupt rail communications). We acknowledged that it would be possible for a motivated individual to visit the locations, but we considered that this is a very different matter to official confirmation of the locations.

In relation to part 2 of your request ("How much land would typically be required for each supply point"), we advised that this is not a request for recorded information but was asking us to give an opinion or make an estimate and therefore it was not possible to consider this part of your request under FOIA.

Under section 16 of FOIA, we provided some advice and assistance by offering you the opportunity to speak to someone within Network Rail on this matter and asked you

to contact us if you wished to do so; we indicated that such a discussion might help to address the point raised in part 2 of your request.

You replied on 6 July 2017 as follows:

'You refused my previous request FOI201700618 which asked the following questions

- "1. Please provide the locations of the four National Grid supply points that are proposed for the electrification of the Midland Main Line north of Bedford and the locations where power would switch from one to another.*
- 2. How much land would typically be required for each supply point?*
- 3. What is the maximum steady state current that could be supplied by each supply point?*
- 4. Please supply any reports regarding the extent and details of work needed to upgrade the overhead and feeder stations on the section between London and Bedford to allow trains to travel at 125mph. "*

I contacted your FOI team and explained that the reason I sought this information was to facilitate a comparison between the requirements for MML and those for HS2. I consider that there is a strong public interest in being able to make this comparison given the huge cost of HS2 and the implications it has for the rest of the railway network. I was advised that this might influence your opinion on the balance between disclosure and withholding the information I was seeking.

The reason for refusing my request on Q1 concluded by saying "we consider that the balance of the public interest lies in preventing harm to the security of the infrastructure, and in ensuring the safety of those individuals who work and travel on the network."

I do not require the precise location of the Grid supply points but I assume these would be located in reasonably close proximity to existing National Grid lines which are readily visible. You also acknowledge that the supply points would also be visible. You state that putting this information in the public domain "would or would be likely" to be used to disrupt the infrastructure. I think this greatly overstates the risk. As plans showing the location and size of the HS2 supply points have been published on the internet any risk has presumably been accepted for that scheme.

With regard to Q2 you state that my question is not a request for recorded information. This is presumably because I used the word "typically". I would therefore like to request the area of each supply point that I assume does appear in recorded information at this stage of the project. This is to facilitate a

comparison between the area of the sites required to power MML with those needed for HS2. I would accept a figure for each site that does not identify which site it is or failing that a figure for the total area of all four sites if you wish to withhold the area of individual sites.

You did not reply to Q3. I assume that the MML project design has reached the stage where an estimate has been made of the maximum current that is required at each location and it appears in recorded information. HS2 Ltd have published the maximum current that can be drawn from the overhead line by each train and I believe a similar figure must exist in recorded information for the MML electrification project. With hindsight, this figure might be more helpful in drawing a comparison between the two projects although the maximum current provided by each substation would still be useful.

You did not provide any information in response to Q4. I am seeking information which was material to the decision to defer the project including an outline of the work needed and the estimated cost. The maximum speed envisaged for the MML is half that of HS2 and the increase of 15mph seems quite modest. There appears to be very little information on how electrification costs increase with speed or on the difficulties and cost of electrification and maintenance needed for very high speeds. While the upgrading of an existing route is not comparable with a brand new route I consider that it is in the public interest to have a greater awareness of the issues and costs for both.'

We acknowledged your email on 10 July 2017 and explained that we were treating it as a request for an internal review.