

**Denise Wheeler**

[request-830668-57407fd6@whatdotheyknow.com](mailto:request-830668-57407fd6@whatdotheyknow.com)

Dear Denise Wheeler,

## **FOI-22-4653-R – Internal Review response**

I am writing in response to your concerns about HS2 Ltd's handling of your request for information (our reference: FOI-22-4653) and to advise you of the outcome of the independent review of the original decision made in relation to your request. This review is an entirely new and separate decision and is explained as such below.

### **Original request**

In your original request received on 17 May 2022, you sought access to the following data:

***“Also Mr Thurston we have 12 / 13 sq km still to acquire - is this land where an offer has been made or is this new property not listed in your reply?”***

### **Internal review**

As part of this review response, I have considered the following to ensure that:

1. We appropriately responded within the statutory deadlines
2. We undertook appropriate searches to identify the requested data

### **Timeliness of the response**

Your original request was received on 17 May 2022 and the statutory due date for response was 16 June 2022. Your request was responded to on 16 June 2022, therefore, we responded within the 20-working days allowed under the Regulations.

### **Identification of data sought**

On investigation of this matter, I can confirm that appropriate searches were undertaken to identify relevant data held regarding the amount of land HS2 Ltd is still to acquire.

In the course of reviewing this matter, I also reviewed previous responses sent to you and recognise that the revised response to request FOI-22-4578 could have been clearer.

Therefore, I would like to apologise for any inconvenience this may have caused and use this opportunity to clarify matters.

Not all of the land required for the building and operation of Phase One of the new railway will be acquired by HS2 Ltd, nor possessed as such. Therefore, such land was not captured by request FOI-22-4578.

Rather than acquiring or possessing such land, HS2 Ltd will secure a right or a flying freehold to cross over a highway or an existing railway, this will accommodate instances such as, where a bridge needs upgrading or repair. HS2 Ltd – therefore, will not formally possess the land on which the highway or rail track sits. We have agreements with the landowners/operators (i.e., National Highways or Network Rail) to allow us to work where and when needed. In many cases, we will only seek the rights by agreement when the railway is constructed.

To ensure HS2 Ltd could reach agreement with these landowners, the necessary powers over the land were included within the High Speed Rail (London – West Midlands) Act 2017, and therefore also included in the circa 70 sq.km required

As request FOI-22-4578 sought information on Phase One possessions and acquisitions, the data regarding such land was not captured by the request.

By way of background, subsoil is the layer of earth at least nine metres below the surface of the ground. Under English property law, and unless specified otherwise in ownership documents, freehold ownership of land includes the ground below the surface to the centre of the earth. Section 8 of the High Speed Rail (London – West Midlands) Act 2017 authorises us to obtain and use subsoil to build HS2. This authorises the compulsory purchase of land, including subsoil, within defined vertical and horizontal limits.

Whilst subsoil is included in the circa 70 sq.km of land required, as FOI-22-4578 requested information on Phase One property lots, data regarding subsoil was not captured by the request.

## **Conclusion**

I trust that this is now clear, and this response addresses your concerns. If you are not content with the way we have handled your review, you may take this up in writing with the Information Commissioner, please see further details below.

Please remember to quote reference number **FOI-22-4653-R** in any future communication relating to this request.

Yours sincerely,

## **Sent on behalf of Carl Bird**

Senior Manager Briefings, Correspondence and Freedom of Information (BCFOI)  
High Speed Two (HS2) Limited

### **Your right to complain to HS2 Ltd and the Information Commissioner**

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