

Denise Wheeler

by email:

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Date as email

Dear Denise Wheeler,

FOI-22-4503-R

FOI-22-4578-R

FOI-22-4602-R

FOI-22-4707-R

FOI-23-4861-R

FOI-23-4897-R

FOI-23-4984-R

FOI-23-5024-R

Internal Review responses

I am writing in response to your concerns about HS2 Ltd's handling of your requests for information - our references: FOI-22-4503 / FOI-22-4578 / FOI-22-4602 / FOI-22-4707 / FOI-23-4861 / FOI-23-4897 / FOI-23-4984 / FOI-23-5024 - and to advise you of the outcome of the independent reviews of the original decisions made in relation to your requests. These reviews are entirely new and separate decisions, and this is explained as such below.

Original request

In your original requests, dated:

05 January 2022 / 11 March 2022 / 30 March 2022 / 25 July 2022 / 11 January 2023 /
13 February 2023 / 13 April 2023 / 16 May 2023,

you sought access to the following data:

Please can you provide information on HS2 phase 1 property lots

a) The total area of property permanently required & the number of lots in that area ?

b) The total area of property temporarily required & the number of lots in that area ?

c) The total number & area of lots where the purchase has been fully completed?

d) The total number & area of lots where an offer has been made & the purchase is in progress?

e) The total number & area of lots which have been taken under schedule 16 for use on a temporary basis?

f) The total number & area of lots which have been taken under schedule 16 that under current design will be required on a permanent basis?

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 requests were received on:

05 January 2022 / 11 March 2022 / 30 March 2022 / 25 July 2022 / 11 January 2023 / 13 February 2023 / 13 April 2023 / 16 May 2023,

and the statutory due date for response was 20 working days from those dates. As the table below shows, one response (FOI-22-4602) was not responded to within the 20-working day statutory deadline.

I apologise for any inconvenience this may have caused to you.

FOI Ref No:	Date Received	Initial Response Due date	Initial Response Sent Date
FOI-22-4503	05/01/2022	02/02/2022	02/02/2022
FOI-22-4578	11/03/2022	08/04/2022	18/03/2022
FOI-22-4602	30/03/2022	29/04/2022	16/05/2022
FOI-22-4707	25/07/2022	22/08/2022	09/08/2022
FOI-23-4861	11/01/2023	08/02/2023	08/02/2023
FOI-23-4897	13/02/2023	13/03/2023	13/03/2023
FOI-23-4984	13/04/2023	15/05/2023	15/05/2023
FOI-23-5024	16/05/2023	14/06/2023	02/06/2023

Identification of data sought

A search of our systems was made, to determine whether we held information relevant to your request. Relevant information was located, and we provided what we believed was the appropriate data, in full, in all eight responses.

Upon investigation I have concluded that some of the data provided in our original responses was incorrect.

Data had been extracted from HS2 Ltd's GIS (Geographic Information System) to provide the response to these requests. When the search for the requested data was created, it was not restricted to Phase One data. Unfortunately, this discrepancy was not detected previously, and the data provided in the responses included Phase 2a data.

I would like to apologise for this error.

The search criteria have been updated and revised responses to all eight requests, with corrected data are attached to this review response. These eight responses now only contain data relating to Phase One. Please note that, for reasons outlined below, this data is being provided as a gesture of goodwill, outside the terms of the Regulations.

Your email of 29 June 2023 also raises the question regarding what is meant by the acquisition of a land parcel (the terminology for 'lot') being fully completed or still a purchase in process; **Q's c)** and **d)** above:

c) The total number & area of lots where the purchase has been fully completed

d) The total number & area of lots where an offer has been made & the purchase is in progress?

In legal terms, completion of the compulsory purchase of a property is considered to take place on the date ownership passes to the Secretary of State for Transport (on whose behalf we acquire land).

To be clear, the term 'property' also refers to land, regardless of whether this includes a dwelling or not.

Under compulsory purchase practice, compensation for acquired property is separate to the issue of transfer of ownership, and more often than not remains in negotiation beyond the date ownership transfers.

Full and final settlement of a claim sometimes does not take place until a number of years after completion of the acquisition of the property.

Consequently, HS2 Ltd's interpretation of the question "the total number and area of lots where the purchase has been fully completed" was the number and area of land parcels where HS2 Ltd had acquired all property required within that parcel.

This did not take into account whether full and final settlement had been reached with the relevant landowners. The data provided was therefore the number of land parcels (HS2 Ltd's term for lots, as these refer to parcels used in the Book of Reference submitted as part of the HS2 Phase 1 Hybrid Bill) that have been acquired, and the relevant area.

In the case of **Q d)**, the answer reflected the land parcels where land is still due to be acquired, but the date of possession has not yet passed, and the relevant area in land.

It is clear from your email of 29 June 2023 that you do not consider this to be the meaning of this request, and I accept that we should have provided a more detailed explanation of what the data being provided referred to, in order to avoid any confusion.

You have now clarified that you sought data on how many land parcels we have acquired where full and final settlement of the claim for that land has been reached. We have therefore reviewed our previous responses, using this new definition of the data required.

Internal Review

Upon review, it has become apparent that data is not organised in a way that allows us to easily provide the requested information.

Regulation 12(4)(b) of the Regulations allows public authorities to refuse a request for information where the cost or burden of dealing with the request would be too great.

With regard to providing

c) The total number & area of lots where the purchase has been fully completed

d) The total number & area of lots where an offer has been made & the purchase is in progress?

HS2 Ltd do not hold the information in a way that allows us to provide this information easily.

Land parcels, as previously explained, are iterated within the Book of Reference that is submitted as part of a Hybrid Bill. One land parcel can contain multiple properties with several different interests. Equally, someone can own or otherwise hold an interest in one property that spans multiple land parcels. Therefore, financial information relating to claims made is held separately by HS2 Ltd and is linked to individual cases by case reference number. It is not categorised by or directly linked to land parcel references.

Because of this, and the nature of the property acquisition process, to provide the total number and area of land parcels where the claim has been fully settled, or, where an offer has been made but full and final settlement has not been reached (as you have defined those requests) would require individual analysis of every claim we are dealing with, and to cross reference all payments against the land parcels we have acquired from all individual claimants, relating to land acquired or to be acquired for Phase One.

To provide the data requested, we estimate it would take at least 10 minutes to analyse each fully settled claim associated with each case to determine what address this related to and whether there were any other outstanding claims in progress or anticipated, which would result in:

589 settled claims x 10 minutes = 98.2 hours

Therefore, in this case responding to this request would place a disproportionate burden on HS2 Ltd. Please see **Annex A** for more detail.

Offer to Assist

When refusing a request for environmental information under Regulation 12(4)(b) on the grounds of cost or burden, public authorities are required to provide advice and assistance to help requesters refine their requests and bring them within the cost limit.

Unfortunately, we can think of no way in which the answers to **Q's c)** and **d)**, can be provided within the cost limit due to the size of the burden.

After discussions with the relevant business area, we have identified the parts of your request which we would be able to respond to within the cost limit.

Outside of our responsibilities under the Regulations, given the circumstances and as a gesture of goodwill, we have corrected the other discrepancies in each of the eight requests – **Q's a), b), e), and f)** – in the individual review responses attached. I trust this is helpful, but it does not affect our legal right to rely on Regulation 12(4)(b) for the remainder of the request.

Further Comment

In your review request you made some additional comments, which we will address outside of the Regulations.

You write that:

In all FOI's, I have asked for 'The total number & area of lots where the purchase has been fully completed', you have replied with 6,167 plots (out of 6,024 required!) ...

The number of plots required (6,024) represent a count of the land parcels permanently required under the Phase 1 Act Powers. The number of plots acquired (6,167) is a count of the land parcels acquired for Phase 1 either under Act Powers or by agreement (*for example*, those acquired under statutory blight).

I would like to explain that where acquired land or property is not required and has been declared as surplus it will either be sold as soon as practicable, transferred to another public sector body or retained within HS2 Ltd's managed portfolio until it is deemed appropriate for it to be sold.

It is the intention that surplus land and property will be put forward for disposal at the time the relevant phase of HS2 has been in operation for one year. Where land has been acquired via compulsory purchase, the previous owner will be given first refusal to purchase it back, in line with Criche Down rules.

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 the relevant reference number, or numbers, in any future communication relating to this request.

Yours sincerely,

Carl Bird

Senior Manager - Briefings, Correspondence and Freedom of Information

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 reviews, 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