

Mr Graeme Amis

request-522441-de63d52e@whatdotheyknow.com

29 October 2018

Dear Mr Amis

FOI18-2119

Thank you for your information request of 28 September 2018. I have processed your request under the Environmental Information Regulations 2004 ('EIR') as the information requested is environmental according to the definition in regulation 2 of the EIR. Section 39 of the Freedom of Information Act 2000 ('the Act') exempts environmental information from the Act, but requires us to consider it under the EIR.

In your email you requested the following information:

"Under EIRs, please provide any risk assessments that relate to the Chiltern Aquifer.

I can confirm that HS23 Ltd does hold the information that you have requested. However, this is being withheld under the following grounds:

Regulation 12(5)(a) EIR – National Security and public safety

Regulation 12(5)(a) EIR provides an exception to disclosing requested information if it would adversely affect national security. The following link sets out the regulation 12(5)(a) in full: <http://www.legislation.gov.uk/uksi/2004/3391/regulation/12/made>

You have requested the risk assessments of the Chiltern Aquifers. This type of information is considered highly sensitive and includes the security arrangements and access to construction sites including access to water bore holes. As such disclosure would mean placing significant security related information into the public domain which could be used to interfere with or disrupt HS2 works. The information could also be used to commit crimes that would put the public and HS2 at risk.

Public Interest Test

Regulation 12 (5)(a) EIR is subject to a public interest test (PIT) which means we need to consider whether "*in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information*". We have weighed up the benefits to the public of releasing the information against the factors for not releasing it.

We consider that the factors for not releasing the information outweigh that for disclosure. Please see [Annex A – Table 1](#) for our full details of our consideration.

Regulation 12(4)(d) EIR – unfinished documents incomplete data

Regulation 12(4)(d) of the EIRs provides that a public authority may refuse to disclose information “to the extent that the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data”. If the information falls into any one of these categories, then the exception is potentially engaged. The following link sets out regulation 12(4)(d) in full:

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>.

The material withheld relates to a scheme which is currently still in the early stage of design and development with the details yet to be completed. As such, this work is still ongoing and unfinished. There is public interest in ensuring that public authorities are given space to develop policies and make informed decisions, and it is important for the public to know exactly what plans are being taken forward for consideration and consulted upon, rather than general discussion points on the options.

Public Interest Test

All exceptions under EIR are subject to a Public Interest Test which means that we need to consider whether “in all circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information”. We have weighed up the benefits to the public of releasing the information against the factors for not releasing it. Please see [Annex A – Table 2](#) for details of our consideration.

If you are unhappy with the way we have handled your request or with the decisions made in relation to your request, you may complain in writing to HS2 Ltd at the address below. Please also see attached details of HS2 Ltd’s complaints procedure and your right to complain to the Information Commissioner.

Please remember to quote reference number **FOI18-2119** in any future communication relating to this request.

Yours sincerely

F Woollard

Briefings, Correspondence and FOI Adviser
High Speed Two (HS2) Limited

Your right to complain to HS2 Ltd and the Information Commissioner

You have the right to complain to HS2 Ltd 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.

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