

Dr James Conboy
HS2@jimconboy.com

Telephone: 08081 434 434
Minicom: 08081 456 472
Email: hs2enquiries@hs2.org.uk
gov.uk/hs2

11 December 2018

Dear Dr Conboy

FOI18-2188

Thank you for your information request of 11 November 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:

" We understand that you have commissioned a report on the safety case for the Chilterns Tunnel, a long standing concern of this society. We request a copy of the report, and any related correspondence between HS2 Ltd and its authors, under the Freedom of Information Act."

I confirm that HS2 Ltd does hold this report and related correspondence. However, we are withholding this information on the following grounds:

Regulation 12(5)(a) of the EIR – public safety

The withheld information includes information relating to the safety of the Chiltern tunnel's safety including fire-safety, evacuation, ventilation shafts and aerodynamics. Releasing this information could jeopardise public and worker safety and project delivery by increasing the risks of accident or acts of sabotage. Therefore Regulation 12(5)(a) of the EIR is engaged.

The legislation is available via the following link:

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

The information details the locations of safety arrangements of the tunnel, containing the review of civil provisions for ventilation, aerodynamics, environmental control and fire-life-safety tunnels. It also details the designs and plans associated with safety elements of the design. If released these details could be used to cause harm to the structure and therefore the public.

Public Interest Test

Regulation 12(5)(a) is subject to a Public Interest test which means that 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 benefit 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** for full details of our consideration.

Regulation 12(5)(e) – Commercial information

Regulation 12(5)(e) provides that information is exempt if its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

The legislation is available via the following link:

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

Some of the withheld information pertains to live and future matters for the building of the Chiltern’s tunnels which includes designs of ventilation shafts, escape routes, along with the analysis of other international systems. Therefore the information relates to legitimate economic interests of the third party, it outlining key workings, approaches and designs that could be used by competitors to gain an advantage in the market.

HS2 Ltd considers that it owes a duty of care to third parties providing us with sensitive commercial information. Releasing this information would jeopardise the relationship between HS2 and the contractor and other companies may be less inclined to provide us with information should there be concern that it may be disclosed in the future. This would be to the detriment of the HS2 project and taxpayer.

Public interest test

Regulation 12(5)(e) is subject to a Public Interest test which means that 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 benefit 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 B** for full 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 **FOI18-2188** 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