



Network Rail  
Freedom of Information  
The Quadrant  
Elder Gate  
Milton Keynes  
MK9 1EN

T 01908 782405

E xxx@xxxxxxxxxxxxx.xx.xx

By email: request-279719b657e49d@whatdotheyknow.com

22 December 2015

Dear Ms Noble,

**Information request**

**Reference number:** FOI2015/00641

Thank you for your request for information which was received on 11th July 2015. Your subsequent clarifications were received on 21 July 2015 and 23 July 2015.

You requested:

*“Please can you attach any correspondence and minutes of meetings with the Department for Transport, relating to the electrification of trans-pennine rail lines. In particular, I am concerned with two issues:*

- 1) The delay of electrification of the Manchester–Leeds via Huddersfield line.*
- 2) Any decisions regarding the electrification of the Manchester–Leeds via the Calder Valley line.”*

Clarification received on 21st July 2015:

*“In that case, please restrict the request to minutes of any meetings with the DfT regarding the aforementioned issues.”*

Further clarification received on 23 July 2015:

*“With regards to a timeframe, please limit a search between May 1, 2014 and April 31, 2015.”*

I have processed your request under the Freedom of Information Act 2000 (“FOIA”).

I would like to apologise for the delay in responding to your request and any inconvenience this has caused; we aim to respond to all requests within the statutory

20 working day timescale, and regret that we have been unable to do so on this occasion.

I can confirm that we hold the information you have requested. However, this information is exempt from disclosure under section 36 of the FOIA.

Section 36 of the FOIA provides an exemption when, in the reasonable opinion of a 'qualified person' (in this instance a Minister at the Department for Transport), the disclosure of the information requested would be likely to;

- inhibit the free and frank provision of advice (s.36(2)(b)(i));
- inhibit the free and frank exchange of views for the purposes of deliberation (s.36(2)(b)(ii)); and/or
- otherwise prejudice the effective conduct of public affairs (s.36(2)(c)).

The qualified person has decided that, in their reasonable opinion, disclosure of the requested information is likely to have these effects and therefore the exemption at section 36 applies. This is because disclosure of the information would be likely to undermine the ability for the various meetings to consider, challenge and discuss the current delivery challenges, and the overall detrimental effect of release would be to stifle advice required in the future, hinder serious debate, and be prejudicial to the effective conduct of public affairs.

Section 36 is a qualified exemption and therefore a public interest test has been carried out.

We acknowledge the public interest arguments in favour of disclosure are that being more transparent will help us become a more efficient and responsive organisation, which will make us more accountable to the people who rely on us, and enable the public to make informed decisions in relation to our organisation.

We consider that our overall transparency obligation in this regard is fulfilled by our commitment to publish the minutes from our Board meetings, which can be found at: <http://www.networkrail.co.uk/transparency/datasets/#B>

However, we consider the public interest arguments against disclosure are:

- Meetings discussing these issues need space in which to develop thinking, and explore options and proposals, including in discussions with other parties;
- Appropriate expert advice may not be sought because of the reluctance of those who might supply it to engage in a debate where their contribution might be at risk of disclosure;
- Meetings discussing these issues need space in which to be able to consider all the implications of particular issues and lessons learned. In particular, they need to be able to undertake rigorous and candid assessments of the risks to the programme or project under discussion.

The arguments for and against release have been considered and it is our view that the balance of public interest falls in favour of maintaining this exemption.

Further to this, we also consider that disclosure of the information sought would be likely to prejudice the commercial interests of Network Rail and certain third party contractors. I have set out the reasons why this is the case in the explanation below.

It is in the public interest that Network Rail is able to attract a wide number of interested third party contractors to carry out works in order to obtain best value for public money. Disclosure of internal discussions about options, solutions and lessons learned in relation to programmes and projects would be likely to dissuade certain companies from submitting future tenders. These discussions include contract details and agreed service levels, and disclosure would reveal information that was provided to Network Rail by third parties as part of commercial agreements, and with no expectation that these details would be disclosed. As well as damaging the commercial interests of the third parties, disclosure would also be likely to damage the third party's relationship with Network Rail.

Section 43(2) is a qualified exemption. This means that we are required to consider whether the public interest in disclosure outweighs the public interest in maintaining the exemption. In this case, the key factor in favour of disclosure is the promotion of accountability and transparency regarding spending of public funds by Network Rail, while the key factors against are the likelihood and severity of potential harm to the commercial interests of Network Rail and its potential contractors.

Having considered the public interest, our decision is to withhold this information. This is because for the reasons stated above disclosure of the detail from these meetings would be likely to cause prejudice to the commercial interests of Network Rail and certain third parties.

If you have any enquiries about this response, please contact me in the first instance at [xxx@xxx](mailto:xxx@xxx) or on 01908 782405. Details of your appeal rights are below.

Yours sincerely,

**Fiona McConachie**  
**Senior Information Officer**

### **Appeal Rights**

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the FOI Compliance and Appeals Manager at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at [xxx@xxx](mailto:xxx@xxx). Your request must be submitted within 40 working days of receipt of this letter.

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

Please remember to quote the reference number at the top of this letter in all future communications.