

XXXX

Via Email:
XXXX

XXXX
Department for Transport
Zone XXXX
Great Minster House
76 Marsham Street
London
SW1P 4DR

DIRECT LINE: XXXX
FAX: XXXX
GTN No: 3533
XXXX

Web Site: www.dft.gov.uk

Our Ref: FOI 8023

9 November 2011

Dear XXXX,

Thameslink FOI Request

Thank you for your recent request for information about the Thameslink Programme. I am writing to confirm that the Department for Transport has now completed its search for the information which you requested.

You asked for: *'..a copy of the final version and any draft versions you hold of the report produced by the company Interfleet in January 2010 about the formation of Thameslink trains. I would like to see the advice which was given by your consultants at that time about how many carriages Thameslink trains should have.'*

I attach the final Thameslink Rolling Stock Project Unit Length Study report dated 15 January 2010 and a draft dated 12 January 2010. Both of these documents contain redactions in reliance on the exemptions in the following sections of the Freedom of Information Act 2000 (the "Act"):

- (a) Section 40(2), under which information is exempt if it constitutes personal information and disclosure could contravene data protection principles; and
- (b) Section 43(2), under which information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person.

These exemptions apply because:

- (a) in the case of section 40(2), disclosure of personal information such as names and contact details would contravene data protection principles; and
- (b) in the case of section 43(2), disclosure of much of the information you requested would prejudice the commercial interests of the Department, Bombardier Transportation UK Ltd with VeloCity – a special purpose company comprising Bombardier Transportation (Holdings) UK Ltd, RREEF Ltd, Serco Holdings Ltd, Amber Infrastructure Group Ltd and SMBC Leasing (UK) Ltd and Siemens Plc with Cross London Trains (XLT), the consortium comprising of Siemens Project Ventures GmbH, Innisfree Ltd and 3i Infrastructure Plc.

In applying the exemption under section 43(2) we have had to balance the public interest in withholding the relevant information against the public interest in disclosure. The attached annex A to this letter sets out the exemptions in full and details why the public interest test favours withholding the information. Section 40(2) is an absolute exemption, and therefore not subject to a public interest test.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/04
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

XXXX

Your right to complain to DfT and the Information Commissioner

You have the right to complain 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. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

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

Exemptions in full**Section 40 (2) Personal information**

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

(i) any of the data protection principles, or

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(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

43(2) Commercial interests

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Public interest test factors for disclosure	Public interest test factors against disclosure
<ul style="list-style-type: none"> The general public interest in the scrutiny and transparency of public procurement processes, including the scrutiny and transparency of relevant public expenditure and the impact on 	<ul style="list-style-type: none"> It would be likely to prejudice the ability of the Department to achieve value for money in relation to the Thameslink Programme procurement.

<p>UK jobs.</p> <ul style="list-style-type: none"> • The particular public interest in the scrutiny and transparency of Thameslink procurement, which is of high value and national significance. 	<ul style="list-style-type: none"> • The public interest in preserving public and industry confidence in the ability of public authorities to protect confidential information. • The DfT intends to publish substantial information in relation to the Thameslink Programme procurement once contracts have been signed. That information is likely to include redacted contracts. • Disclosure would prejudice the commercial interests of the bidders in that it would weaken the bidder's position in negotiations with third party suppliers. • Disclosure would be likely to reveal market-sensitive information or information of potential usefulness to the bidders' competitors. • The public interest in achieving value for money from the Thameslink procurement. • The Thameslink procurement process is in any case subject to scrutiny within the Department for Transport, by the National Audit Office and by the Public Accounts Committee. • Disclosure could damage the business reputation of the Department and the confidence that suppliers have in it.
<p><u>Decision</u></p> <p>In view of the above, the Department is of the view that the balance of the public interest is clearly against disclosure of the relevant information.</p>	