



**Department
for Transport**

Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR
Tel: [REDACTED]

Web Site: www.dft.gov.uk

Our Ref: XXXXXXXX

Your Ref:

DATE 24th November 2012

XXXXXXX XXXXXX
XXXXXXXXXXXXXXXX

Dear XXXXXXXX

Freedom of Information Request Reference P0009258 - additional car parking at Bedwyn station

I am writing to confirm that the Department for Transport has now completed its search for the information which you requested on 17th September 2012. I am sorry for the delay in responding.

You requested;

All documentation (letters, emails, reports, application forms, impact assessments) which relate to an application for funding by Network Rail and First Great Western to the DfT to provide additional car parking at Great Bedwyn (Marlborough) station.

The Department holds no documentation that relates to an application for funding by Network Rail and First Great Western to the DfT to provide additional car parking at Bedwyn station. However, the Department does hold documentation relating to an application for funding by First Great Western to provide additional car parking at Bedwyn station under the Stations Commercial Project Facility (SCPF). This appears to fit the information you are requesting. The detailed criteria for the SCPF are viewable on the Network Rail website at the following address:

www.networkrail.co.uk/scpf

It is not possible to release the information in the documents relating to their economic evaluation, including supporting information which is commercially sensitive containing predicted costs and financial returns. This information is being withheld in reliance on the exemptions in the following sections of the Freedom of Information Act 2000 (the "Act"):

- (a) section 41, under which information obtained by a public authority is exempt if disclosure of the information to the public by the public authority would constitute an 'actionable breach of confidence'; 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 41, much of the information you requested is protected by the law of confidence in such a way that disclosure of it to the public by the Department would constitute an actionable breach of confidence. That information is protected in this way because (i) it is of a confidential nature, (ii) it was disclosed to the

- Department in circumstances of confidence and (iii) there is no overriding public interest in its disclosure; and
- (b) in the case of section 43(2), disclosure of much of the information you requested would prejudice the commercial interests of both the Department and the bidders.

In applying the exemption under 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 (PIT) favours withholding the information. Section 41 is an absolute exemption, and therefore not subject to a PIT.

The Department is able to release the attached documentation which relates to an application for funding by First Great Western to provide additional car parking at Bedwyn station under the SCPF. I also attach some further information relating to your FOI application which has been received since your application. Commercially sensitive information and information where disclosure would constitute an 'actionable breach of confidence', falling within section 41 and section 43 (2) of the Freedom of Information Act 2000, together with personal information has been redacted from the documents released.

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/01
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,

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XXXXXXXXXXXXX

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

Annex A

Exemption 43 in full

1. Information is exempt information if it constitutes a trade secret.
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).
3. The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

Public interest test

| Public interest test factors for disclosure | Public interest test factors against disclosure |
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| <p>There is a public interest in knowing the information in the documents relating to their economic evaluation, including supporting information which is commercially sensitive containing predicted costs and financial returns. The public could have an interest in satisfying themselves that the decisions regarding which bids are successful are fair. To ensure fairness the Panel awarding the funding comprises DfT, Network Rail and the Association of Train Operating Companies.</p> <p>The current coalition Government has promoted the ideal that information should be made public rather than not, and that Government should be more transparent.</p> | <p>Commercial confidentiality</p> <p>This data is commercially sensitive to bidders. Most rail services and car parking operations in the UK compete with other public transport services and car park providers. Making rail and car park data available would provide unfair commercial advantage for most of these competitors.</p> <p>As more data is made public, it is easier to allow analysis of revenue and of the growth in revenue: for example by route; by time of day; by year. Like any commercial organisation, detailed revenue and patronage information is of high value to the operators' competitors and the release of this information would prejudice their ability to compete.</p> <p>Train operators were consulted by DfT in March 2009 over the specific issue of data confidentiality and data access/sharing with reference to the passenger count information they share with the Department. It was concluded that permission was not given to share individual operators' data with any party other than DfT except with express permission. Permission has not been given in this instance.</p> <p>The train operating companies are separate commercial entities, and although they operate services on behalf of the Government, we are not obliged to release any information that could prejudice a private company's commercial interests.</p> |

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| | <p>At a very general level, there is a public interest in protecting the commercial interests of both the private sector (which plays an important role in the general health of the economy) and the public sector (whose commercially-related functions need in any event to be exercised in the wider context of the public interest).</p> <p>If the train operators feel that the Department is not treating their commercial data with care, there is a risk that they will stop supplying any information that they are not obliged to under the terms of their Franchise Agreements with the DfT. This would have an impact on DfT's ability to carry out its policy and planning functions, and would limit the information available to the Department when franchises are being let.</p> |
| <p style="text-align: center;"><u>Decision</u></p> <p>To release this information would damage the commercial position of the Train Operating Companies, and would adversely affect DfT's working relationship with the industry.</p> | |