

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 2 February 2023

Public Authority: High Speed Two (HS2) Limited
Address: Two Snowhill
Snow Hill
Queensway
Birmingham B4 6GA

Decision (including any steps ordered)

1. The complainant requested information about farmland acquired by High Speed Two (HS2) Limited. HS2 disclosed some information and refused to provide other information, citing regulation 12(5)(a) (adversely affect public safety) and regulation 13 (personal information) of the EIR.
2. The Commissioner's decision is that HS2 correctly withheld the requested information under regulation 12(5)(a).
3. The Commissioner does not require HS2 to take any steps.

Request and response

4. On 2 August 2022, the complainant wrote to High Speed Two (HS2) Limited and requested the following information:

"Have Staffordshire Farmers whose land has been taken by HS2 been paid for that land as of July 2022. How many have been paid for their land as of July 2022."

5. On 31 August the complainant clarified that their request sought the following information:

"Freehold Status Acquired by HS2 of farm land

1) What farm land in Staffordshire has had the completion of purchase by HS2 under freehold status please?

To answer this question please provide the following:

2) Please provide the name of the farm or holding and acreage/hectares involved?

3) Please provide its location using a post code or identification using map coordinates centring on the property connected with the farm land.?

4) What number of freehold purchased farms have had their purchase completed with vendors fully paid by HS2.?

5) What number of these farms have had title deeds filed with Land Registry stating HS2 is now the sole freeholder with title.?

6) How many freeholders have not had their payment made by HS2 for their farm in Staffordshire.

7) Is HS2 placing any of its personnel or equipment on this land without payment being completed on the freehold?

Leasehold Acquired by HS2 of farm land

1) What Farm land has been subject to leasehold status for a term please?

2) What terms and conditions have been applied to this lease including annual rent?

3) How much of farm's land are subject to leasehold arrangements if not the whole farm?

4) Where are those farms located please. Either a postcode or map coordinates will identify.

5) Has the purchase of the lease been completed with full payment and title to the lease filed with Land Registry?

6) What payment per lease was made please?

7) Has HS2 placed personnel and/or equipment on any part of leasehold land before completion of payment has been made?

Licence Acquired by HS2 of farm land

- 1) What licenses have you acquired in respect to farm land in Staffordshire?.
- 2) How many licenses have been acquired?
- 3) For what purpose?
- 4) Please identify the parcels of land where licenses have been acquired using either a postcode if applicable or map coordinates.
- 5) has full yearly minus a day payment been paid on these licenses?
- 6)When is the next payment due?
- 7) What is that payment per acre/ or hectare please?
- 8) If the use is for a track how long is the track please and where is it located?
- 9) Has HS2 placed either personnel or equipment on this land before completion of annual payment has been made?

If with any particular farm's land there is a combination of freehold, leasehold and licence payment please state."

6. On 1 October 2022 the complainant confined the scope of the information requested in the following manner:

"Please provide the information requested for the Madeley postcode area only. That is the plots of land acquired as freehold (with title and details lodged with the land registry), leasehold (with terms and conditions of the lease and whether documents are with land registry)and on a licence (terms and conditions of the licence please). and their location please."

7. HS2 confirmed that, in relation to the elements of the request which asked for information about Leaseholds and Licenses, it had not acquired any leasehold land in the Madeley area and (so) it does not acquire licenses. HS2 confirmed that it did not hold any information in relation to these elements of the request.
8. In relation to the request parts relating to "Freehold Status Acquired by HS2", HS2 withheld the information in parts 2 and 3 under regulation 12(5)(a) (adversely affect public safety) and regulation 13 (personal information) of the EIR. This is HS2's final position.

Reasons for decision

9. The complainant considers that HS2 wrongly withheld the requested information. This section sets out the Commissioner's conclusions regarding HS2's decision to withhold the information in this case.

Regulation 12(5)(a) – adversely affect international relations, defence, national security or public safety

10. Regulation 12(5)(a) of the EIR states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect international relations, defence, national security or public safety.
11. The specific information being withheld is:
- “(Freehold Status Acquired by HS2 of farm land)
- 2) Please provide the name of the farm or holding and acreage/hectares involved?
- 3) Please provide its location using a post code or identification using map coordinates centring on the property connected with the farm land.?”
12. In this case HS2 has argued that the exception is engaged because releasing the information would compromise the security and safety of properties it has acquired.
13. HS2 has argued that, to ensure the effective construction of the HS2 new railway, it acquires plots/parcels of land to ensure the smooth construction of the railway. HS2 considers that releasing specific geographical information about these plots would allow such properties to be identified. It has argued that this information could be used by external groups/individuals to target specific addresses and therefore result in negative impacts to residents, or anyone connected to these properties and areas.
14. In considering this matter the Commissioner has referred to a decision notice (“IC-40100-P6C4”) he issued in relation to a previous request to HS2 for similar information¹.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2619629/ic-40100-p6c4.pdf>

15. In IC-40100-P6C4 the Commissioner found that there was evidence of incidents of harm at HS2 properties and decided that it was a reasonable conclusion that there would be an increased risk of such incidents occurring if the property details were disclosed. The Commissioner also found that the relevant public interest factors were balanced in favour of maintaining the exception.
16. The Commissioner's decision in IC-40100-P6C4 was appealed (EA/2021/0098)². The Tribunal refused the Appeal and agreed with the Commissioner that the exception at regulation 12(5)(a) had been cited appropriately by HS2 and that the information should not be released.
17. The Commissioner is not aware of any factors which have changed since he issued his decision in IC-40100-P6C4 and he, therefore, considers that the conclusions he reached in that case are directly transposable to this case.
18. For the reasons cited above and those reasons cited in IC-40100-P6C4, the Commissioner has determined that HS2 correctly withheld the information under regulation 12(5)(a) and that the public interest favours maintaining the exception.
19. As he has found that the information has been correctly withheld under regulation 12(5)(a) it is not necessary for the Commissioner to consider the exception at regulation 13.

2

[https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2922/Miles,%20David%20\(EA.2021.0098\)%20Dismissed.pdf](https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2922/Miles,%20David%20(EA.2021.0098)%20Dismissed.pdf)

Right of appeal

20. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Christopher Williams
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF