



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref ATISN 14356

13 October 2020

Dear

Request for Information – ATISN 14356

I wrote to you on 1 October regarding your request for information. You asked for the following information in relation to the latest proposals for the Global Centre of Rail Excellence project -

1. The radius of the curves on the test track
2. The cant on the curves
3. The assumed allowable cant deficiency
4. The length of straights between curves
5. The assumed acceleration rate of the vehicles being tested.
6. A copy of the financial business case for the project
7. An explanation of how the forecast future demand for testing services has been revised in light of the reduction of demand for passenger rail services.

For questions 1-5, I refer you to the information provide to you for your previous requests. Nothing has changed since your other requests, therefore the information previously provided regarding the curves, cants and acceleration remain relevant.

I have concluded that the information relating to question 6 is exempt from disclosure under Section 43(commercial interests) of the Freedom of Information Act 2000. Full reasoning for applying this exemption is given at Annex A to this letter.

Regarding question 7, the issue of potential short term volatility in markets and sectors is addressed by way of the proposed 3 stage delivery process - with stage 1 (high tonnage infrastructure testing complex and a significant national asset in its own right) set to play a key role in supporting network operators and other stakeholders in accelerating innovation and driving cost-efficiency to benefit passengers and tax-payers. Further information can be found in the pre-application consultation <https://gov.wales/sites/default/files/consultations/2020-09/global-centre-rail-excellence-planning-pre-application-consultation-document.pdf>

The best way to engage with us in this matter is by reading all the information carefully and to submit your views. Please let us know your thoughts on the proposals for a



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding .

Global Centre of Rail Excellence in Wales. You can do this by completing the feedback form - which can be completed or downloaded from: <https://gov.wales/global-centre-of-rail-excellence-planningpre-application> . Deadline for comments is 14 October 2020. We will review all feedback and use it to inform our final proposals and application to the Local Planning Authorities.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ
or Email: Freedom.ofinformation@gov.wales. Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

ANNEX A

ATISN 14356 – Consideration For and Against Disclosure of Information

Decisions relating to non-disclosure have been taken with due consideration of the exemption identified under Section 43(2), commercial interests, of the Freedom of Information Act 2000 (FOIA).

Section 43 is a qualified (public interest tested) exemption and in order to engage it, I must show that the public interest in withholding the information is greater than the public interest in releasing it. I have therefore given consideration to the effects of disclosure of the information to the world at large, as the information is made available to anybody and everybody, not just the requestor. As such, when considering your request I have considered the wider effects of disclosure rather than any personal interest you may have in being provided with the information.

Section 43(2) – commercial interests

The exemption states:

(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).

The Welsh Government is of the view that revealing the financial business case for the project would be likely to prejudice our commercial interests should it be disclosed at this point in time. The information would reveal commercially sensitive information not otherwise publically available and which, if disclosed would be likely to prejudice our proposals and future strategy. In addition we are at Outline Business Case stage and there is further business case work to be undertaken in the next phase of project development.

Disclosing the information would give competitors a distinct commercial advantage and stepping stone which would be likely to put our proposal at risk and therefore prejudice our ability to engage in future commercial activities. We do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest.

Public Interest Test For Disclosure

The Welsh Government recognises the public interest in openness and transparency within government, particularly in terms of ensuring an accountable government by disclosing how the Welsh Government spends public money and that the money is invested wisely.

Public Interest Against Disclosure

We have been aware since early 2019 of competition with a rival project to be located elsewhere in the UK. Other competitive project proposals may also emerge in other parts of Europe. Disclosure of this information would provide potential competitors with access to a level of information not otherwise available to them. This would be likely to enable competitors to obtain an advantage. We do not believe facilitating this type of unfair competitive advantage would be in the wider public interest.

For example, disclosure of information would allow competitors to understand and potentially copy our proposals and service offering. To freely disclose the information would give our competitors a distinct commercial advantage and stepping stone which would be likely put the proposal at risk and therefore prejudice our ability to engage in promoting the investment potential in the project and its commercial activities. We do not have access to similar information on competitors as they do not publish it, so we would be at a significant disadvantage. We believe the resultant harm should this information be released, would be substantial.

The information contains financial workings and supporting analysis that would constitute trade secrets, the disclosure of which would prejudice both our commercial or legitimate economic interests. I do not believe that facilitating this type of unfair competitive advantage would be in the wider public interest. I further do not believe there is a public interest in prejudicing the commercial interests of industry stakeholders who have supported business case development by the release of this information.

I am aware that, as a general rule, the sensitivity of information is likely to reduce over time; therefore the age of the information, or timing of the request, may be relevant in determining whether to apply an exemption, or where the public interest may lie. In this case, however, the information captured is very much current information due to the current sensitive stage of project development. I believe therefore that the balance of the public interest falls in favour of withholding the information.