

From: [HS2](#)
To: HS2@JimConboy.com
Subject: Fw: HNL21397JH - Chiltern Tunnel Approval
Date: 01 May 2021 10:16:10

From: HS2 <HS2@chilternsociety.org.uk>
Sent: 26 April 2021 20:28
To: NET Enquiries <HNLenquiries@environment-agency.gov.uk>
Subject: Re: HNL 213937 JH - RE: 210414/JBa09 - FW: Chiltern Tunnel Approval - a request under the Environmental Information Regulations - Please Review

Dear Mr Hammet,

As you know, we requested the documents associated with the HS2 application to construct the Chiltern Tunnel, and not the application form itself, which has already been released -

https://www.whatdotheyknow.com/request/hs2_application_to_tunnel_near_t#incoming-1760075

As the application has been submitted, these documents must be in your possession. There is no exemption under FoI/EIR regulations from disclosing information on the grounds that it is also held by other bodies (HS2 in this instance), and so I would be grateful if you would supply the requested information within 28 working days of the original request date (by 3rd May), before I refer this request to the information commissioner.

We naturally have no objection to the redaction of personal information from these documents.

Regards,
Dr James Conboy

From: NET Enquiries <HNLenquiries@environment-agency.gov.uk>
Sent: 30 April 2021 15:49
To: HS2 <HS2@chilternsociety.org.uk>
Subject: HNL21397JH - Chiltern Tunnel Approval

Dear Dr James Conboy

Thank you for your enquiry which was received on 5 April 2021 and for your subsequent email advising us that our initial response to your request for information did not fulfil the request as you made it.

I have reviewed the situation and I agree that our response was not the correct one. Your request was received at a similar time as a large number of enquiries requesting a copy of the application, and due to human error your request was included with those. Our internal process should have identified that your request was for the supporting documentation to the application not the application itself, however the disconnected nature of remote COVID-secure working prevented this from happening and I apologise

for our mistake.

The files which you requested are now available to be downloaded via this link:

[Now at http://www.hs2amersham.org.uk/Resources/Geology/EA_Approval/Files.zip , 70Mb]

We respond to requests under the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

Please note that we are withholding some information from the reports because some of the information is personal data and because some of the information would adversely affect National Security.

The information that has been requested on this occasion is environmental and it is therefore exempted from the provisions of FOIA by FOIA s.39(1).

We are therefore considering the request under the provisions of the Environmental Information Regulations 2004 (EIR). EIR regulation 12 allows a public authority to refuse to disclose environmental information if an exception to disclosure applies under paragraphs (4) or (5) and in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. A public authority shall apply a presumption in favour of disclosure.

The exceptions that we consider may apply to this information are:

EIR Regulation 12(5)(a) applies because disclosure would adversely affect international relations, defence, national security or public safety. As a public body we are required under the Freedom of Information Act/Environmental Information Regulations to give reasons for this refusal. We also need to show that we have considered the Public Interest balance between refusal and disclosure. **You can find the details in the appendix below.**

The Environment Agency is not able to disclose some names, addresses and contact details as this is personal data under the Data Protection Act 2018 (DPA 2018) and to disclose it would breach the First Data Protection Principle of the DPA 2018.

The information requested is therefore exempt due to Regulation 13(1) of the Environmental Information Regulations 2004, which explains that:

“To the extent that the information requested includes personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if—

(a) the first condition is satisfied...”

The ‘first condition’ referred to above is further explained in Regulation 13(2A): “The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations—

(a) would contravene any of the data protection principles...”

The First Data Protection Principle requires that we are fair to individuals when we collect, hold and use their personal data. In this case it would be unfair to disclose information that would identify individuals whose signatures or images appear in a report as those individuals have a reasonable expectation that such information held by

the Environment Agency would remain confidential.

We have redacted information from the reports in accordance with the above principles.

If you are not satisfied you can contact us within 2 calendar months to ask for our decision to be reviewed. We shall review our response to your request and give you our decision in writing within 40 working days.

If you are still not satisfied following this, you can raise a concern with the Information Commissioner, who is the statutory regulator for Freedom of Information and the Environmental Information Regulations. The contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 0303 123 1113
Website: <http://ico.org.uk>

Please refer to the [Open Government Licence](#) which explains the permitted use of this information.

Please get in touch if you have any further queries. If you want us to review the information we have sent, please contact us again within two months from the date of this email.

Yours sincerely

Matt Byrne

Customer Team Leader

02030259210

HNLenquiries@environment-agency.gov.uk

Environment Agency Herts and North London Office, Alchemy, Bessemer Road,
Welwyn Garden City, Herts, AL71HE

Pronouns: he/his ([why is this here?](#))