

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 9 July 2024

**Public Authority:** East West Railway Company Ltd  
**Address:** The Quadrant  
Elder Gate  
Milton Keynes  
MK9 1FB

**Decision (including any steps ordered)**

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1. The complainant requested information from East West Railway Company (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the EIR.<sup>1</sup>
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

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<sup>1</sup> The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

## Request and response

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5. On 22 April 2024, the complainant made the following request for information to the public authority:

6. "Dear East West Railway Company Limited,

BFARe requests East West Railway Co provide the following information:

1. EWR is asked to immediately provide any report, plan profile maps or other analyses it holds which caused it to conclude that embankments and viaducts will be required along their preferred route (Option E announced Jan 2020) from Bedford Midland station to its intersection with the ECML.

2. EWR is asked to provide any engineering long section drawings which it has produced to assess a Southern route through Bedford Borough to the ECML. If no such drawings exist, EWR is asked to provide (a) the length of viaduct; (b) length in cutting; and, (c) length on embankment of its comparator Southern route to the ECML.

Precedent has been set regarding the provision of such information to Cambridge Approaches earlier this month in accordance with the ICO decision Reference: IC-135969-X0N6.

The plans requested under 1 above are believed to comprise EWR-Plan Profile Drawing – Core Section sheets prior to numbers 6 to 8 of 8 (already disclosed to Cambridge Approaches) and within the range of Drawing Name EWR-PGM-ARU-ZZ-XX-SC-C numbers prior to 000415. It is appreciated that the information requested may predate the change of drawings to accommodate the Alignment 1 (Temsford Variant) which was announced as the revised preferred option during the May 2023 RUA. If amended plans exist for the TV section which introduces Tempsford rather than St Neots (S) as the ECML passenger interchange station exist, please supply those as well."

## Reasons for decision

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7. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

8. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as

soon as possible and no later than 20 working days after the date of receipt of the request.”

9. The Commissioner contacted the public authority on 11 June 2024 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the public authority has failed to respond to the complainant.
10. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with the EIR. The Commissioner’s decision is that the public authority has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

## **Right of appeal**

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11. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

12. 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.
13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Roger Cawthorne**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**