



**IN THE FIRST-TIER TRIBUNAL (INFORMATION RIGHTS)**

**EA/2015/0111**

**BETWEEN:**

**Appellant: Robert Latimer (“RL”)**

**First Respondent: The Information Commissioner (“the ICO”)**

**Second Respondent: The Department for Environment, Food and Rural Affairs (“DEFRA”)**

**The Tribunal’s Decision on an application for permission to appeal**

1. This application is made pursuant to Rule 42 of the Tribunal Procedure (First Tier Tribunal) (General Regulatory Chamber) Rules, 2009.
2. The Tribunal declines to review this decision pursuant to Rule 44 because it is not satisfied that an error of law is involved, as required by Rule 44(1)(b).
3. The Tribunal refuses permission to appeal pursuant to Rule 43(2).
4. Like DEFRA, the Tribunal approached its task on the footing that the request to be considered was that which emerged from the request for an internal review, not from the letter of 27<sup>th</sup>. January, 2014. That was a concession to RL, designed to acknowledge his underlying purpose rather than the strict terms of his request.

5. The sole question for determination was, therefore, whether, at or about the date of the request, that is to say in January or February, 2015, DEFRA held information (“background material”) on the basis of which the UK Permanent Representative to the European Union wrote a letter to the European Commission on 23<sup>rd</sup>. January, 2001 specifying the volumes of flow and the storage of the interceptor tunnel described in our decision.
6. That is a straight question of fact. The Tribunal’s decision involved no contentious issue of law and none is identified in the application for permission. There was ample evidence to support the Tribunal’s view (see paragraphs 16 – 22 of the decision) and little , if any evidence to justify RL’s assertion that DEFRA held the requested information.
7. The application refers, for the most part, to passages in the Tribunal’s decision in EA/2015/0112. Other than repeated claims that the Commission was misled by the figures in the letter and subsequent communications, allegations which have no bearing on the identified issue, RL makes no case for challenging our finding.
8. An appeal to the Upper Tribunal lies only on a question of law. There is none.
9. Permission to appeal is therefore refused.

David Farrer Q.C.

Tribunal Judge

2<sup>nd</sup>. December, 2015