



Our Reference:

BY EMAIL ONLY

26 March 2015

Dear

Request for Information

Thank you for your email dated 11 February 2015 requesting information on Sovereign Housing's application for funding for North View Heights. For ease of reference your request is below:

Please could you supply redacted copies of Sovereign Housing's grant applications for the redevelopment of North View Heights in Hungerford, West Berkshire.

[...]

I would also appreciate redacted copies/screen shots of the information held on your IMS system with regard to this property/redevelopment, and if possible within the time limits of the Acts, copies of any internal and external correspondence (redacted as appropriate) relating to the bids. If you feel that the latter cannot be retrieved within the time limits of the Acts (FOI & EIR) please provide me with advice & assistance to refine my request.

We can confirm that we hold the two bids submitted by Sovereign Housing relating to North View Heights as described in your request above. Please note that bids are submitted by the third party through the IMS system so the screen shots we have provided to you make up the bids.

We have considered both bids and whilst we are able to make some information available to you we have determined that parts of the bids are exempt from disclosure under the Freedom of Information Act 2000 (FOIA) the Environmental Information Regulations 2004 (EIR).

Successful bid

The successful bid falls under EIR and the withheld information, if disclosed, would adversely affect the interests of Sovereign Housing, therefor engaging Regulation 12(5)(f) of the EIR.

Regulation 12(5)(f) – Adverse effect to the person supplying information .

A public authority may refuse information to the extent that its disclosure would adversely affect the interests of the person who provided that information where that person:

- i. was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
- ii. did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
- iii. has not consented to its disclosure

The requested information fulfils all three criteria above but in the interest of being clear as to why this exception is engaged we have provided you with the reasons below.

Was the information supplied on a voluntary basis?

Sovereign Housing was under no legal obligation to supply total scheme costs to the HCA in order to apply for funding. The HCA would not have the right to require Sovereign Housing to provide such information using any of its statutory powers, or in order to fulfil our objectives as an Agency, so it was therefore provided on a voluntary basis.

Is the HCA entitled to disclose the information other than under the Regulations?

As part the grant application process there is an expectation that information would not be disclosed more widely than those considering the bids. Therefore the information would not be disclosed other than in response to a request under the EIR or FOIA.

Did the developer consent to the disclosure of the information?

The HCA has consulted with Sovereign Housing in regards to whether the information could be disclosed and they have confirmed they do not consent to this. Therefore this criterion has also been met.

How would disclosure adversely affect DCLG's interests?

Disclosure of information regarding the scheme costs into the public domain would affect Sovereign 's ability to negotiate competitive commercial terms with developers where similar schemes are under negotiation by giving a clear indication of the development costs that Sovereign is willing to incur in relation to such developments . Sovereign is involved in a rolling programme that involves similar residential developments and disclosure of the scheme costs for a specific element of the North View Heights development would undermine Sovereign 's bargaining position in relation to the development of such schemes .

All EIR exceptions are subject to a Public Interest test in order to determine whether the exception is maintained. However, as many of the arguments for both the EIR exception and the FOIA exemption are the same we have avoided repetition by summarising the Public Interest test factors below.

Unsuccessful bid

The HCA determines that the unsuccessful bid falls under FOIA as the outcome has not, and will not; effect the state of the environment and disclosure of the withheld information would cause commercial harm to Sovereign Housing. Therefore Section 43(2) of FOIA is engaged.

Section 43(2) – Prejudice to commercial interests

Section 43(2) of the Act permits a public authority to withhold information where disclosure “would, or would be likely to, prejudice the commercial interests of any party”, including the public authority holding the information. We have identified certain information which, if released, could have the potential to prejudice the commercial interests of Sovereign Housing by diminishing their opportunity to negotiate in the market place whether with the Homes and Communities Agency or with other developers.

Section 43(2) is a qualified exemption, which means that before we can withhold information we must firstly consider the public interest in the disclosure. We can confirm that we have given careful consideration to the disclosure of this information, and identified the following factors as relevant in relation to the unsuccessful and successful bids.

Public Interest Test – Factors in favour of disclosure

Disclosure of the requested information would help demonstrate HCA’s commitment to the principles of transparency and accountability.

Disclosing information helps further the public scrutiny of the activities and management of the HCA. This helps to serve the public interest by enabling interested individuals to be fully empowered of all the facts when considering the activities of HCA.

There is a legitimate public interest in ensuring that public authorities are operating effectively and in line with their organisational objectives, and that they are obtaining the maximum value for money for the public purse. This can be served by promoting transparency in the disclosure of any information which relates to the Agency’s decision making and spending activities.

Public Interest Test – Factors in favour of non-disclosure

As no public money has been invested in the unsuccessful bid there is a weaker public interest in favour of disclosure. Disclosure of the information in both bids could harm Sovereign’s commercial advantage in the marketplace as it would reveal to the world at large what they may be willing to spend on a development with the HCA.

It would not be in the public interest to harm Sovereign’s commercial interest in this way as it may affect the HCA’s ability to work with them. This in turn may affect HCA’s and Sovereign’s ability to carry out their operational objectives of delivering projects on time and for best value for money.

Sovereign would not expect their unsuccessful bid to be disclosed as a result of a request for information. It would not be fair Sovereign to identify why their bid did not meet the conditions of the application for funding

Conclusion

Whilst we recognise that there is a legitimate public interest in the disclosure of any official information, such disclosure needs to be considered in line with the potential harm which may be caused by its release. We have therefore determined in this case that the public interest in favour of withholding the specified information falls in line of non-disclosure at this time. We would stress that the public interest is continually changing and that whilst we are unable to release this information at this time, we may be able to reconsider its disclosure in the future.

If you have any questions regarding this response or any further queries you can contact us at the following addresses and quote your unique reference number found at the top of this letter:

Email: mail@homesandcommunities.co.uk

Mail: Information Access Officer
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are unhappy with the way Homes and Communities Agency has handled your request you may ask for an internal review. You should contact

Head of Legal Services
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

Naomi McMaster
Information Access Officer
Homes and Communities Agency

Homes and Communities Agency
Fry Building, 2 Marsham Street, London, SW1P 4DF

0300 1234 500
homesandcommunities.co.uk

