



Date: 18 March 2021
Our Ref: RFI3273
Tel: 0300 1234 500
Email: infogov@homesengland.gov.uk

██████████
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear ██████████,

RE: Request for Information – RFI3273

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA). For clarification, you requested the following information:

I would like to make a Freedom of Information request for a copy of all documents regarding the Ward Close development in Wirksworth, Derbyshire, completed spring 2018, that were created by any party and are held on file by the Homes England. These documents include, but are not limited to, the application, approval, funding, amendments, construction, and signed-off legal / safety / environmental requirements of the development.

We wrote to advise the following regarding your request:

We have searched our affordable housing programmes system and do not hold information listed under 'Ward Close'. We can advise that our system has returned the following two funding allocations in Wirksworth, could you advise if your request relates to one or both of the following:

Programme	Local authority	Lead Organisation	Developing Organisation	Address	Completion	Homes
AHP 2015-18	Derbyshire Dales	Longhurst Group	Nottingham Community HA	Derby Rd Wirksworth Stafford House Derby Road Wirksworth DE4 4BG	27/Apr/18	13
AHP 2015-18	Derbyshire Dales	Longhurst Group	Nottingham Community HA	Derby Rd Wirksworth Stafford House Derby Road Wirksworth DE4 4BG	27/Apr/18	20

You advised as follows:

yes, BOTH of those funding allocations are what I am seeking information about. I would like to make a Freedom of Information request for a copy of all documents regarding their development, that were created by any party and are held on file by the Homes England. These documents include, but are not limited to, the application, approval, funding, amendments, construction, and signed-off legal / safety / environmental requirements of the development.



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Response

Regarding: application, approval, funding, amendments

We are able to inform you that we do hold some information that falls within the scope of your request. However, to comply with your request would exceed the appropriate limit for the cost of compliance. We therefore rely on section 12, exemption where the cost of compliance exceeds the appropriate limit under the FOIA.

The full text of the legislation can be found on the following link and we have quoted section 12 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/contents>

Section 12 - Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Minister for the Cabinet Office may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority:

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Minister for the Cabinet Office may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

We have considered the current wording of your request and in its current scope we have determined that to establish where all elements of the information is held, to locate the information, retrieving the information and extracting the information would exceed the appropriate limit in terms of timeframes.

Under the terms of the Act we are not obliged to provide any information compiled in the course of our searches prior to concluding section 12 is engaged.

Advice and Assistance

In compliance with the Section 45 Code of Practice (Paragraph 14) and to offer advice and assistance under section 16 of the Freedom of Information Act 2000, you may wish to consider narrowing the scope of your request.



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To contextualise our involvement in this development we can advise that Nottingham Community HA are an Affordable Housing Investment Partner with Homes England under the terms of the Shared Ownership and Affordable Homes Programme 2016 to 2021. Further information on this programme can be found here: [Shared Ownership and Affordable Homes Programme 2016 to 2021: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/shared-ownership-and-affordable-homes-programme-2016-to-2021).

Nottingham Community HA submit bids for funding under the Affordable Housing Programme via Homes England's Investment Management System (IMS), which is the primary means of 'communication' between the parties and where all applications and approvals for funding are submitted/processed. The schemes were submitted via IMS to Homes England for inclusion in the Nottingham Community HA programme of funding. Information regarding IMS and the functionality/process can be found here: [Investment Management System: access, guidance and support - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/investment-management-system-access-guidance-and-support).

The IMS system is an outward facing system built to support the relationship between Homes England and providers. There is no 'extraction' functionality of this system and therefore to extract the information regarding '*application, approval, funding*' is not possible without Homes England having to either manually extract the data or procure a new system for this purpose. To do so would exceed the cost limit for compliance.

We can advise that specific information could be extracted if requested but the broad nature of this part of your request in its current form would not be possible under the cost limit.

Please note that due to the broad scope of your request we cannot confirm that any further request would not also exceed the section 12 cost limit at this time.

Regarding: Assessment of the bid for funding

We can confirm that we do hold an internal document regarding the assessment of the funding. We are withholding this document from disclosure under the following exemption:

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

The information requested relating to Bid assessment engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of our funding programmes.

Section 43 is a qualified exemption. This means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether or not it is in the wider public interest for the information to be disclosed.



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Arguments in favour of disclosure:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money.

Arguments in favour of withholding:

- If the public were aware of how Homes England assesses bids for funding this would be likely to negatively affect the ability of Homes England to rigorously and fairly allocate public funds. If the information were in the public domain third parties could distort or mis-represent information in order to secure funding applications. This would mean that decision makers would not be able to make decisions based on an accurate or complete picture which would not be in the public interest as it would be likely to result in misuse of public funds;
- Releasing the information would be likely to negatively impact future competitive bidding processes as interested parties may feel unable to provide all the information requested for fear of disclosure, which would impact the ability of Government officials and ministers to make effective, informed decisions;
- Disclosure would result in providers being deterred from including commercially sensitive information in those bids. This will mean that Homes England has to evaluate bids that are less comprehensive than would otherwise have been the case, meaning that Homes England's ability to undertake due diligence on the bids will be impaired. This will result in decision makers not taking all relevant information into account, meaning the decisions will be less robust and less likely to deliver value for money;
- Bids may be approved without appropriate challenge, and other bids may be rejected because needs and dependencies are not comprehensively stated. This will result in Homes England funding programmes as a whole not delivering the objectives and benefits that HM Treasury stipulated when it made the funding available to Homes England; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours non-disclosure.

The full text of the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/43>

Regarding: construction, and signed-off legal / safety / environmental requirements

We are able to confirm that Homes England does not hold the information detailed in your request. This is because there is no legal or business reason for Homes England to do so.

In order to conclude that the information is not held, we have searched with our Affordable Housing and Provider Management team who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.



Homes
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Making homes happen

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The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. To comply with this duty we are able to confirm that this information is not required to be held by Homes England as part of our involvement with the provider. Homes England are only involved in providing funding and this information is not within our remit. We suggest that you contact the provider directly.

Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled, you may request an internal review. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk

The Information Governance Team
Homes England – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link <https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team
For Homes England

OFFICIAL