



Our Reference:

BY EMAIL ONLY

18 March 2015

Dear

Request for Information

Thank you for your email dated 18 February 2015 requesting information on Site B4.4, Central Milton Keynes.

By way of background, Barratt's has submitted financial information to support the application however this is not in the public domain nor available via Milton Keynes Council's 'public access system'. The information provided was for review by Milton Keynes Council's valuers. We hope this clarifies your statement that *'Barratt's have submitted financial appraisals to Milton Keynes Council in support of an open planning application, (15/00114/AFF), in connection with the site so we would presume that such information can now be considered to be in the public domain'*.

We have now had the opportunity to investigate your request and are able to communicate our response. For ease we have answered each of your questions separately below.

1. How many developers submitted bids and when was Barratt selected as the winner?

The HCA invited six developers from our Developer Partner Panel to tender, and two submitted bids to us. Both bids were returned on 24 August 2011 and Barratt (BDW Trading Limited) was appointed as preferred developer partner on 28 November 2011.

2. Did Barratt's submit any financial appraisal as part of their bid and, if they did, is it possible to have a copy please

As above, we can confirm that Barratt submitted a financial appraisal as part of their bid. We have considered and consulted on the information contained within the bid and have determined that the information is exempt from disclosure under Section 43(2) as disclosure could cause harm to the Homes and Communities Agency (HCA) and Barratt.

Section 43(2) – 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.

The HCA determines that harm would arise from disclosure of the requested information as it would compromise the interests of both the HCA and the Barratts. To do so could influence (prejudice) the way potential tenderers bid on future schemes which may not be in HCA’s best interest.

Disclosure would also harm the HCA’s interests by undermining our ability effectively negotiate contract values to ensure the best value for money and/or best developer to fulfil the contracts. Similarly, if disclosed, this information would be prejudicial to the third parties in the market place as their price transparency would disadvantage them commercially. We have concluded that Section 43(2) is engaged for the information that would cause this type of prejudice if released. Section 43(2) is a qualified exemption, which means a Public Interest Test is request in order for it to be maintained. A Public Interest test involves balancing the weight of arguments for and against disclosure.

Public Interest Test – Factors in favour of disclosure

Disclosing the requested information would promote the accountability and transparency of the HCA as well as providing increased information about the application of public funds. This in turn provides a basis for a more informed public debate about the value of money being obtained by the HCA.

Disclosure would also assist the public in understanding the HCA’s position and gain an understanding as to why certain decisions have been made or actions considered. This again helps to assist the public in informed debate around the future of projects, sites and developments.

Public Interest Test – Factors in favour of non-disclosure

Disclosure of the information would be likely to effect the HCA’s ability to operate effectively in a competitive market as it would disclose how much value we put on a contract, therefore creating a disadvantage the next we time we do a tender exercise for a similar development. Potential bidders could base their proposed costs on the current value which would diminish our ability to negotiate.

Further, disclosure of the contract value would impact on the third parties ability to compete in a marketplace, placing them at a commercial disadvantage as other bidders would be able to under bid them when competing for a contract with the HCA. It would also affect their negotiations with other companies they currently work with/may wish to work with to work with as the values are specific to the contract entered into with the HCA.

It is not in the public interest to diminish a public authority’s ability to be competitive in a commercial market by releasing information as the result of an FOIA request when it is seeking to achieve best value for the public purse. It is also not in the public interest for disclosure to harm the interests of third parties as this would also affect who and how the HCA works with developers in the future.

We have, therefore, concluded that the balance of the public interest favours non-disclosure of this information at this time. We would, however, stress that the public interest is as ever changing concept and the arguments may change over time.

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

