



Our Reference:

**BY EMAIL ONLY**

29 January 2015

Dear

**Request for Information**

Thank you for your email dated 1 January 2015 requesting information on North View Heights. Please note that the information you seek was considered under the Environmental Information Regulations 2004 (EIR) which is access to information regime. A summary of the EIR is provided below:

**EIR Summary**

EIR provides public access to environmental information held by public authorities. It does this in two ways:

public authorities must make environmental information available proactively;  
members of the public are entitled to request environmental information from public authorities.

EIR covers any recorded information held by public authorities in England, Wales and Northern Ireland.

EIR applies only to the environmental information held by public authorities. The Freedom of Information Act gives people access to most other types of information held by public authorities.

More information on the Regulations can be found at the Information Commissioner's website [here](#).

An extract from the legislation is also provided to further assist in your understanding of why this access regime was used in relation specifically to question 1.

**Extract from Regulation 2 of the EIR - Interpretation**

*"environmental information" has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –*

*(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*

*(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*

*(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;*

*(d) reports on the implementation of environmental legislation;*

*(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and*

*(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);*

Regulation 2(1)(c) has been highlighted as any decisions regarding allocating bids would affect the state of the environment.

We have answered each of your questions regarding North View Heights separately for ease.

#### **1. Applications for grant financing, whether successful or not**

We can confirm that Sovereign Housing has submitted a bid for Affordable Homes Programme 2015-18 funding for the North View Heights scheme. However the HCA has not made a decision on the outcome of a bid submission and disclosure at this stage could affect our decision making abilities. The information in question attracts the necessary quality of confidence as it was submitted by a third party confidentially, at least until a decision is made. Moreover, the proceedings as to how and why the HCA allocates funds also attracts its own quality of confidence. If information was disclosed early it could affect any future bids submitted. We have therefore withheld the requested information under Regulation 12(5)(d) of the EIR.

#### **Regulation 12(5)(d) – Confidentiality of proceedings**

Environmental information may be exempt from disclosure under Regulation 12(5)(d) if disclosing it would adversely affect the confidentiality of a public authority's proceedings where the confidentiality arises from statute or common law.

The Information Commissioner (ICO) provides guidance on what can be considered as 'proceedings' stating that word implies some formality, i.e. it does not cover an authority's every action, decision or meeting. It will include, but is not limited to:

- formal meetings to consider matters that are within the authority's jurisdiction;
- situations where an authority is exercising its statutory decision making powers; and
- legal proceedings.

In each of these cases the proceedings are a means to formally consider an issue and reach a decision. The HCA are in the process of formally considering all information available to them in order to reach a decision on allocating funds. We therefore conclude that the exception is engaged as the above are considered 'proceedings' as per the ICO's guidance and legislation.

For this exception to be maintained the HCA must first consider arguments of the Public Interest Test which weighs up factors in favour of disclosure versus non-disclosure. The Test will make consideration of whether disclosure of the information would help to inform useful public debate.

#### **Public Interest Test – Factors in favour of disclosure**

Disclosing the information requested promotes the accountability 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**

Whilst the HCA recognises the need to be transparent, there are strong arguments for maintaining the engaged exception.

The HCA needs a safe space where it can consider all bids in an unbiased fashion. Disclosure of an AHP 2015-18 bid prior to a decision being made could affect the outcome due to outside influences. This is not in the public interest as an incorrect decision could be reached.

Disclosure of a bid before a decision has been reached could also enable potential bidders to manipulate whether or not they receive funding in the future. This would not be in the public interest as the HCA's relies on allocating the correct funds to the bidders with the potential to make a difference to land and communities. This could also affect the way in which the HCA conducts its formal discussion on funding allocations.

All bids are submitted to the HCA with an implied confidence from the third parties, at least while no public money has been granted during the decision making process. To disclose this information would be unfair on the third party as it could reveal information highlighting areas of weakness/strength which could be used by their competitors against them.

Taking all factors into consideration we have determined that the exception is maintained and the information is withheld at this time as the public interest arguments are weighted more heavily to non-disclosure.

We would, however, stress that the public interest is as ever changing concept and the arguments may change over time.

**2. Communications/complaints regarding the physical condition of the buildings together with 'decent homes' compliance declarations made to the HCA as regulator.**

The HCA does not record property or scheme address to which complaints are made about. However we manually checked 10 records of complaints categorised as 'Repair & Maintenance' and Consumer Regulation made against Sovereign Housing to see if we could locate any communication of complaints in regards to North View Heights and the condition of the buildings. There was no mention of this scheme in any of the relevant complaints.

All information regarding Decent Homes Standards is available via the Statistical Data Return (SDR) which is a public document available via our website [here](#). We can confirm that Sovereign Housing has had no units falling below DHS and therefore we have had no communication regarding failure of this submitted to us.

**3. Notification of intention to demolish social/affordable housing stock.**

Statistics on demolitions carried out in the year are also available via the SDR dataset as above. However these are numbers only as we do not gather property/scheme information.

RPs/Developers are not required to give notification of their intention to demolish social/affordable housing stock.

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](mailto: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

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

0300 1234 500  
[homesandcommunities.co.uk](http://homesandcommunities.co.uk)

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