



Our Reference: FOI000

BY EMAIL ONLY

18 December 2015

Dear

Request for Information

Thank you for your email dated 26 November 2015 requesting the following information:

(The Agreement) with the full consortium led by Rossendale to deliver standard Lease and Repair properties and Purchase and Repair properties.

We can confirm that we hold a copy of the Empty Homes Consortium Agreement 2012 - 2015 allocation (local authority led consortium) between the Homes and Communities Agency (HCA) and Rossendale Borough Council (RBS) and Together Housing Group, Green Vale Homes, Housing Pendle, Twin Valley Homes, Calico Homes. We have provided a copy of this agreement to you alongside this letter. Whilst we have made the full Agreement available to you, we have identified that disclosure of Schedule 1 would be prejudicial to commercial interests and has therefore been redacted under Section 43(2) of the Freedom of Information Act 2000 (FOIA).

Section 43(2)

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 withheld information as it would compromise not the third parties of the Agreement as well as HCA’s own interests. It would impact upon our ability to operate effectively and competitively within the marketplace as it would give both competitors and potential developers an advantage for future schemes or projects. It would, or would be likely to, undermine the HCA’s ability to effectively negotiate ensuring the best outcome for a development and best value for money. Similarly, if disclosed, this information would be prejudicial to all third parties dealings in the market place as 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 insight as to why certain decisions have been made or actions considered. This again helps to assist the public in informed debate around current and future projects, sites and developments.

Public Interest Test – Factors in favour of non-disclosure

Whilst the HCA appreciates the factors above, we have in this case determined that disclosure would cause harm rather than just create a likelihood of harm. This strongly adds to the factors below of non-disclosure.

The HCA needs to be mindful that such disclosures do not adversely affect our ability to achieve our operational objectives and discourage us and third parties to enter into contracts that may be tailor made for specific developments or developers.

Disclosure of this information is likely to affect the commercial interests of third parties as it reveals financial and commercial information. Disclosure of this information would put them at a commercial disadvantage with both its competitors and also other financial institutions who they may wish to transact with in the future. Competitors could undermine their costs/valuations etc. to win business. Similarly other parties entering into contracts/partnership with them could use financial information to negotiate costs which would be an unfair advantage to those parties.

Disclosure of the withheld information would indicate the HCA's commercial strategy to the world at large. This would include any interested parties that were seeking to transact with the HCA in the future and would therefore significantly damage the HCA's commercial standing in seeking best value for money as well as hindering our ability to make the best decisions and achieve our operational objectives. 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.

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

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

0300 1234 500
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
Online: <https://ico.org.uk/concerns/getting/>

Yours sincerely

Naomi McMaster
Information Access Officer
Homes and Communities Agency