



Our Reference:

**BY EMAIL ONLY**

6 August 2015

Dear

**Request for Information**

Thank you for your email dated 9 July 2009 in which you requested information on English Rural. Part of your request was responded to by the East & South East Operating Area of which Terry Fuller is the Executive Director. The rest of your request was dealt with under the Freedom of Information Act 2000. For ease of reference, the part of your request this letter addresses, is below:

*Also, please let me know how to make a FOI request for details of any correspondence your organisation has had directly with English Rural (both to and from) in the previous 18 months as at the date of this mail. In addition, have you received any correspondence from private individuals regarding both English Rural and Foxley Tagg during the same period.*

We hold a large amount of correspondence between the Homes and Communities Agency (HCA) and English Rural within the past 18 months. However we can confirm that we hold no correspondence from private individual's relating to English Rural. Also, we can confirm that we hold no information on Foxley Tagg.

Your requests asks for correspondence between the HCA and English Rural on all matters, however your full enquiry mentioned Lingfield and, although we do not want to presume this is the area you're interested in in regards to your FOIA request, we wanted confirm that none of the correspondence we hold relates to Lingfield.

Whilst we have been able to make a very large amount of the information available to you, a small amount has been identified as having the potential to prejudice the commercial interest of English Rural and is therefore withheld under Section 43(2) of FOIA.

**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 English Rural in relation to their ability to negotiate contracts and site development.

Disclosure would harm the English Rural's interests by undermining the ability to effectively negotiate contract values to ensure the best value for money and/or best contractor to fulfil the contracts. Similarly, if disclosed, this information would be prejudicial to English Rural 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 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.

#### **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**

The release of the negotiating issues and/or issues surrounding development could cause harm to English Rural's ability to continue to being able to negotiate on that scheme. This in turn would be detrimental to their ability to negotiate for future contracts as competitors would have an unfair advantage as they would know values placed on contracts and/or English Rural's negotiating strategies.

It is not in the public interest to limit a third parties ability to compete in a commercial setting 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 and English Rural work with contractors 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.

Some information was identified as personal data of a third party. It is one line in an email dated 13 January 2014 from James Taylor (English Rural) to Heather Stoner (HCA). It is

numbered 91. This information has been withheld from disclosure under Section 40(2) of FOIA.

**Section 40(2) – Personal Data of a third party**

Section 40(2) of the Act permits a public authority to withhold information where disclosure would be in breach of any of the Principles of the Data Protection Act. Disclosure of certain information within the documents would be likely to breach the First Data Protection Principle, as it would exceed the Data Subjects' expectations as to how their information would be processed. This exemption is absolute and therefore no public interest test needs to be carried out to apply the exemption.

Please note all numbering and marks in the documentation was made during the course of investigating your request and has no relevance to what we have provided to you and was only for admin purposes.

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  
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

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

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homesandcommunities.co.uk

Naomi McMaster  
Information Access Officer  
Homes and Communities Agency