



Our Reference:

BY EMAIL ONLY

24 June 2015

Dear

Request for Information

Thank you for your email dated 22 May 2015 requesting information on the Get Britain Building (GBB) Sowerby Gateway scheme. For reference, your request is below:

A grant for 100 homes was made to Castlevale Group Ltd under round 1 of Get Britain Building. Castlevale is now renamed Mulberry Housing Ltd and is 75% owned by Broadacres Housing Association who have guaranteed repayment of the loan. I understand that £5.3m is due to be repaid in July 2015. The site of the 100 homes is called Sowerby Gateway. The building contractor, Southdale Ltd, has ceased trading and gone into administration and the site is effectively stalled.

I understand that under the terms of the loan all homes funded through the loan must be completed by December 2014. It does not appear to me from observation at the site that as many as 100 homes have been completed.

You followed this by posing questions to the Homes and Communities Agency (HCA) in relation to the above. We have answered each of your questions separately below.

1. Is the GBB loan outstanding?

We can confirm that as at today's date a GBB loan balance is outstanding. Please note that this was a loan investment not rather a grant.

2. Has any application been made to defer or reschedule repayment?

Please see question 3 below.

3. Is Castlevale/Mulberry in breach of the terms of the loan by failing to complete 100 homes on the Gateway site by December 2014

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities.

Unless exemptions apply, the first duty at Section 1(1) (a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

The HCA can neither confirm nor deny that it holds the information relevant to your request. When responding to a request by refusing to confirm or deny under a prejudice based exemption, the HCA needs to demonstrate what prejudice (relevant to the particular interest that the exemption relates to) would, or would be likely to, arise from complying with s1(1)(a). The HCA is not required to consider what prejudice would, or would be likely to arise from complying with section 1(1)(b) (providing the information). However we need to explain which limb of the comparative section 1(1)(b) provision is relevant to the exclusion from the duty to confirm or deny. We have the duty in Section 1(1)(a) of FOIA does not apply by virtue of the following exemption:

Section 43 – Prejudice to commercial interests

Under Subsection (3) of FOIA the duty to confirm or deny does not arise if, or to the extent that, compliance with Section 1(1)(a) would, or would be likely to, prejudice the commercial interests mentioned in subsection (2) below.

Subsection (2) of Section 43 states that information is exempt if its disclosure under FOIA would, or would be likely to, prejudice the commercial interests of any person, including the public authority holding the information.

Prejudice identified

The HCA has identified that confirming or denying whether any third party has or has not applied to defer repayment, or a breach of contract has or has not occurred, would be likely to prejudice a third party's dealings with existing and potential funders, as well as other trading partners. This is because confirming or denying that a default has or has not occurred, and commenting upon any necessity to restructure repayment terms, can in itself be an event of a default of commercial funding and contractual arrangements, and can also trigger solvency concerns among parties dealing with the business in question.

4. If Castlevale/Mulberry fails to make due repayment will the Homes and Communities Agency require payment from Broadacres Housing Association pursuant to the guarantee?

The HCA will carefully consider its position should it face any form of default or breach of contract in relation to any of its programmes/activities; part of this will involve assessing its security position, which may or may not include a parent company guarantee.

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

0300 1234 500
homesandcommunities.co.uk

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