

Date: 13/05/19  
Our Ref: RFI2640  
Your Ref: FOI Request – Botley Bypass  
Tel: 0300 1234 500  
Email: [foi@homesengland.gov.uk](mailto:foi@homesengland.gov.uk)



Homes  
England

██████████  
By Email Only

Windsor House  
Homes England – 6<sup>th</sup> Floor  
50 Victoria Street  
London  
SW1H 0TL

Dear ██████████

**RE: Request for Information – RFI2640**

Thank you for your request for information, which was processed under the Freedom of Information Act 2000 (FOIA). For clarification, you requested the following information:

*Please provide copies of emails from 1st June 2017 to present between relevant staff at the Homes England and colleagues at Hampshire County Council regarding funding of the Botley Bypass.*

*This bypass was announced on 1 February 2018: <https://www.gov.uk/government/news/866-million-investment-to-help-unlock-potential-200000-new-homes>*

*For the avoidance of doubt and to aid the facilitation of this FOI request, my interest in this matter relates only to the funding of this bypass (plus potentially any discussion related to PR about this funding). Please contact me if you require any further details that will aid the locating of this information.*

**Response**

We are able to confirm that we do hold information that falls within the scope of your request. Please find enclosed to this response Annex A which contains the information held.

You will note that some of the information contained within Annex A has been redacted. We have made the redactions in accordance with the exemptions as detailed below.

**Section 43 - Commercial interests**

Some of the information requested engages section 43(2) of the FOIA as its release would be likely to, prejudice the commercial interests of the Agency and of a third party.

Section 43 is a qualified exemption. This means that in order to withhold information under this exemption, we must consider the public interest in disclosure.

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

Homes England is compliant with the government agenda of transparency and recognises the benefit of publishing the information, particularly when it concerns how Homes England undertakes its work.

**Public Interest Test – Factors in favour of non-disclosure**

Homes England believes that it should not disclose some of the information contained within the email correspondence.

We have liaised with the third party concerned and we believe that some of the information, if disclosed, would be likely to prejudice the commercial interests of the third party. If disclosed, the redacted information would harm the

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commercial position of the third party by publicising its budget for the project, its financial strategy, estimated capital receipts and the programme of works.

This would negatively affect competitive negotiations with contractors and prospective developers and would prejudice the third parties ability to achieve best value for money in respect of those contracts and land transactions.

It would also prejudice negotiations with land owners affected by the by-pass and the ability of the third party to acquire the land at market value and in accordance with the project schedule.

Therefore after careful consideration we have concluded that at this time, the balance of the public interest favours the non-disclosure.

The full text of in the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/43>

#### Section 40 – Personal information

Some of the information requested engages section 40(2) of the FOIA on the grounds that it constitutes third party personal data.

To disclose personal data, such as names, contact details, addresses, email addresses and personal opinions could lead to the identification of third parties and would breach one or more of the data protection principles.

Section 40 is an absolute exemption which means that we do not need to consider the public interest in disclosure. Once it is established that the information is personal data of a third party and release would breach one or more of the data protection principles, then the exemption is engaged.

The full text in the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/40>

Please also note that we have redacted information on page 36 that falls outside of the scope of your request.

#### **Right to Appeal**

If you are not happy with the information that has been provided or the way in which your request has been handled you may request an internal review by writing to;

The Information Access Team  
Homes England – 6<sup>th</sup> Floor  
Windsor House  
50 Victoria Street  
London  
SW1H 0TL

Or by email to [foi@homesengland.gov.uk](mailto:foi@homesengland.gov.uk)

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You may also complain to the Information Commissioner however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link

<https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,  
**Information Access Team**  
For Homes England