

Date: 28/11/2019
Our Ref: RFI2801
Your Ref: FOI Request – Swale Development
Tel: 0300 1234 500
Email: foi@homesengland.gov.uk



Homes
England

[REDACTED]
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear [REDACTED]

RE: Request for Information – RFI2801

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:

Under the Freedom of Information/EIR acts please supply copies of all correspondence sent by Mr Mark Quinn/Quinn Estates/Mulberry Estates with regards to any development in Swale.

Response

We can confirm that Homes England holds the information that falls within the scope of your request, however we are withholding the information under section 43(2).

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

The information requested relating to the development in Swale engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of any development in Swale, and would prejudice our relationships with partners if confidential information were in the public domain at this moment in time.

Section 43 is a qualified exemption. This means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether it is in the wider public interest for the information to be disclosed.

Arguments in favour of disclosure:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money.

Arguments in favour of withholding:

- The consequences of releasing data that is part of a wider ongoing development would damage our relationships with partners and put this potential development at risk. This would not be in the public interest as this could put potential homes in jeopardy;

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- Releasing information in relation to one party in a competitive market would be likely to distort competition, making it a less competitive process, which would not be in the public interest;
- Releasing information that forms part of a competitive process before a decision has been made would be likely to compromise the development process;
- Releasing the information would be likely to negatively impact future development processes and proposals as interested parties may feel unable to provide all the relevant information necessary for fear of disclosure, which would impact the ability of Government officials to make effective, informed decisions;
- Release of the information could lead to lobbying that could impact the impartiality of the decision maker (or give rise to concerns on the part of others that impartiality could be adversely affected). It is essential that decision makers must make decisions based on the information provided via the development process and also be seen to do so;
- Disclosure would result in potential partners being deterred from including commercially sensitive information in their proposals, or from working with Homes England. This will mean that Homes England has to work in a less comprehensive and competitive market than would otherwise have been the case, meaning that Homes England's ability to deliver value for public money will be negatively affected;
- Disclosure would adversely affect the relationship between Homes England and current and potential partners. There would be significant reputational, commercial and financial loss to Homes England and our partners as third parties could use the information to distort the market for their own gain;
- Releasing information at this stage prior to this information being in the public domain would undermine Homes England's position and ability to deliver against its objectives and targets in our Strategic Plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours 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>

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 – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Or by email to foi@homesengland.gov.uk

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.

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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