



Homes  
England

Date: 13 November 2020

Our Ref: RFI3130

Tel: 0300 1234 500

Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

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██████████  
By Email Only

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

Dear ██████████

**RE: Request for Information – RFI3130**

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

*I would like to make a freedom of information request to receive electronically all detailed reports/agreements/correspondence that detail any caveats/approvals that Homes England have attached to their agreement of the sale of the Five Acres site to FODDC for the cost of £1 and also any details of any subsequent offers for values received in excessive of £1.*

**Response**

We can confirm that we hold information that falls within the scope of your request. The information held is contained within;

- 1) Draft Head of Terms
- 2) Overage Terms (contained within an email between Homes England and the Forest of Dean District Council (FoDDC)).

**Section 43 - Commercial interests (FOIA)**

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

At this moment in time, the information requested 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.

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.

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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:

- Releasing information would be likely to prejudice the FoDDC current and future negotiation capabilities. The information requested (at this moment in time) forms part of an internal governance process which is very much on-going;
- Release of the information could lead to lobbying that could impact both Homes England and the FoDDC. It is essential that decision makers must make decisions based on the information provided and be seen to do so;
- Any decision based on incomplete information could lead to poorer outcomes which would not be an effective use of public money;
- Disclosure would result in other local authorities being deterred from including commercially sensitive information in future matters. This will mean that Homes England must evaluate information that is less comprehensive than would otherwise have been the case, meaning that Homes England's ability to undertake due diligence will be impaired. This will result in decision makers not taking all relevant information into account, meaning the decisions will be less robust and less likely to deliver value for money; and
- The consequences of releasing data that is part of a wider ongoing matter could damage our relationships with partners. This would not be in the public interest as this could put potential homes in jeopardy.

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

Or by email to [infogov@homesengland.gov.uk](mailto:infogov@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,

**The Information Governance Team**

For Homes England

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