



Homes  
England

Date: 16 December 2020

Our Ref: RFI3215

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████  
By Email Only

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

Dear ██████████,

**RE: Request for Information – RFI3215**

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

You requested the following information:

*I wish to see full copies of the following reports:*

*G4 -Temple Quay, Bristol, SSW (2016)*

*G4 -Temple Quay, Bristol, SSW (2017)*

*G4 –Temple Quay 3 –Arena Island –Diesel Depot*

*Bristol Arena - EX-Diesel Depot and 1-9 Bath Road variations to existing sale agreements*

*06 Bristol Arena (TQ3)*

**Response**

We can confirm that we do hold some of the requested information. We will address each of the reports requested in turn.

***G4 -Temple Quay, Bristol, SSW (2016)***

***and***

***G4 -Temple Quay, Bristol, SSW (2017)***

We are able to confirm that Homes England does not hold the information detailed in your request. This is because there is no legal or business reason for Homes England to do so.

In order to conclude that the information is not held, we have searched with our responsible Development team who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

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The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

### **Advice and Assistance**

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. To comply with this duty we are able to confirm that there were not G4 papers for Temple Island for the years 2016 and 2017 as the disposal was not at the stage where it would be reported until 2018.

#### ***G4 –Temple Quay 3 –Arena Island –Diesel Depot***

***And***

#### ***06 Bristol Arena (TQ3)***

We can confirm that we do hold the requested information. For clarity, these reports are one and the same, titled BRISTOL ARENA (TEMPLE QUAY 3, BRISTOL).

You requested a copy of “06 Bristol Arena (TQ3)” on 26 February 2019 (RFI2624). In our response to RFI2624 we withheld this report from disclosure as we concluded that it would prejudice the commercial interests of the parties concerned if this information were released. This decision was upheld in an internal review of this response dated 12 April 2019.

We consider that a ‘reasonable’ amount of time has passed between that request your new request for the same information and therefore have re-assed the public interest in release of the information withheld in 2019 to ascertain if the commercial sensitivities still apply and the public interest still favours non-disclosure:

#### **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 this report 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 ability of Homes England and the third parties to effectively manage ongoing negotiations at this site.

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 or not 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; and
- Homes England acknowledges that time has passed since this report was produced.



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Arguments in favour of withholding:

- The report contains information relating to the sale of Temple Island in 2015 by Homes England to Bristol City Council (BCC). Although this sale is complete, there are continuing disposals underway by BCC to third parties in relation to this same land. There are ongoing negotiations and agreements that are still conditional at this stage. Therefore, to release this report would still be likely to prejudice ongoing commercial and contractual negotiations between BCC and the third parties concerned;
- To release this report would not be in the public interest as it would negatively affect Homes England's relationship with a third party. Homes England's role as housing accelerator is to support local councils in development. If third parties felt that Homes England would disclose confidential commercial information in relation to ongoing projects there would be a detriment to our commercial reputation. This would not be in the public interest as it would not be an effective use of public money;
- Homes England has worked with BCC regarding this matter. BCC have confirmed that the information in the report is commercially sensitive and if disclosed, would still be likely to cause them commercial prejudice in relation to the ongoing negotiations;
- It is also our view that disclosure of this report could be detrimental concerning future requests for copies of internal reports. If the wider public is provided with such commercial information it could be used to exploit information for profit or other gain; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Upon review of the public interest arguments for and against disclosure of this report, we have concluded that the position has not changed since our response to RFI2624, and the balance of the public interest still 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>

***Bristol Arena - EX-Diesel Depot and 1-9 Bath Road variations to existing sale agreements***

We can confirm that we do hold the requested information, however we are withholding it from disclosure under the following exemption:

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 Deed of Variation 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.



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Homes England has identified that the information requested, if released, would be likely to prejudice the disposals and ongoing negotiations concerning this site.

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 or not 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; and
- Homes England acknowledges there is an interest in the plans for Temple Island.

Arguments in favour of withholding:

- The requested information varies the Contract for Sale and Option Agreement between Homes England and BCC regarding land at Temple Island. The information contained within the Deed of Variation relates to ongoing obligations between the parties and details information regarding the acquisition and the disposal of this land. Disclosure of this information would be likely to undermine the negotiating position of BCC when undertaking future commercial negotiations in relation to land that it owns. It would not be in the public interest for a public body to have its negotiating position undermined as it would prejudice its ability to sell land at the best possible price. This would negatively impact the public purse;
- The Variation contains information regarding the overage agreements on this land. Disclosure of the deed would make public the calculations and detail of the overage agreement. Disclosure would not be in the public interest as it would be likely to prejudice the ability of BCC to secure services from contractors and consultants at a competitive rate. This would not be in the public interest as a public body may have inflated costs and may not be able to procure the best services;
- Release of this information could prejudice the terms of the non-disclosure agreement (NDA) entered into between Homes England and BCC. If third parties felt that information would be made public that had specifically been the subject of an NDA there would be significant reputational damage to the organisation. It would prejudice our ability to achieve the objectives in our strategic plan if third parties were wary of working with Homes England due to concerns over confidential information being released. This would not be in the public interest as it would put potential homes in jeopardy; 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 the legislation can be found on the following link;

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



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### **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)

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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