



Homes
England

Making homes happen

Date: 17 February 2021

Our Ref: RFI3281

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

By Email Only

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

Dear [REDACTED]

RE: Request for Information – RFI3281

Thank you for your request for information, which was processed under the Environmental Information Regulations 2004 (EIR). You requested the following information:

I'd like visibility of any planning, building or other information held by Homes England in relation to the following:

*Machine Shop No.8
Chatham Maritime
Chatham Historic Dockyard
Chatham
Kent*

*Also known as:
MS8 Ltd
Dockhead Road
Chatham Maritime,
Kent,
ME4 3ED*

We asked for clarification regarding the information sought and you advised as follows:

*I'm also looking for documents pertaining to the lease of the premises/land.
i.e.
Length of Lease
Terms of Lease
Conditions of Lease*

Response

We can advise that we do hold some information that falls within the scope of your request.

As advised in our clarification letter this property is subject to a lease and therefore all 'planning' and 'building' information would be held by the tenant and local authority as it is their responsibility to obtain any local authority consents necessary.

OFFICIAL



Date: 17 February 2021

Our Ref: RFI3281

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

We do hold a copy of the lease for this property, however we are withholding this from disclosure under the following EIR exceptions:

Regulation 12(5)(e)

Under regulation 12(5)(e) of the EIR, Homes England may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

The lease contains information relating to an ongoing commercial operation regarding prospective/potential development. It is subject to a confidentiality provided by law under a contractual duty of confidence. The lease contains information that if disclosed, would harm the ability of Homes England and third parties to receive value for money for land and services at this site. There is a legitimate economic interest in protecting the ability of Homes England and third parties to negotiate in current and future commercial agreements. Disclosure would result in third parties gaining access to commercially valuable information. Disclosure of the confidential information would harm the ability of Homes England to achieve good value for public money.

Regulation 12(5)(e) is subject to the public interest test. Once the exception has been engaged it is then necessary to consider the balance of the public interest in maintaining the exception or disclosing the information.

Under regulation 12(2) the public authority must apply a presumption in favour of disclosure, in both engaging the exception and carrying out the public interest test. In relation to engaging the exception, this means that there must be clear evidence that disclosure would have the adverse effect listed in 12(5).

Factors in favour of disclosure

- Homes England acknowledge that there is a presumption in disclosure regarding environmental information as well as a public interest in promoting transparency in how we undertake our work and allocate public money.

Factors in favour of withholding

- The information relates to and directly affects ongoing commercial negotiations with third parties. If this information were released it would be likely to disadvantage Homes England's commercial position. Homes England and third parties would not be able to negotiate effectively as this information could be used by third parties to distort or otherwise prejudice potential development at this site. This would not be in the public interest as it would put development at risk and inflate prices. This would negatively affect public money;
- Release of information in the lease could put prospective development works at the site at risk. If the terms were in the public domain the tenant could face issues with planning consents or be unable to agree works with third parties. Homes England need to support relationships with our tenants to safeguard land that could be developed or regenerated. Release of the information would be likely to negatively affect the ability of the site to be developed. Release would not be in the public interest as it would impact Homes England's ability to achieve the objectives set out in its strategic plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.



Date: 17 February 2021

Our Ref: RFI3281

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

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.

Regulation 12(4)(d) EIR

Regulation 12(4)(d) of the EIR provides an exception to the duty to disclose environmental information where the material is still in the course of completion, an unfinished document or incomplete data.

The Lease engages this exception because the terms are currently being amended.

Public Interest Test

Regulation 12(4)(d) is subject to a public interest test with a presumption in favour of disclosure.

Factors in favour of disclosure

- Homes England acknowledge that there is a presumption in disclosure regarding environmental information as well as a public interest in promoting transparency in how we undertake our work and allocate public money.

Factors in favour of withholding

- The terms of the current lease are being amended and to release a version that does not reflect the correct position would be misleading. It is necessary that Homes England is able to have a 'safe space' in which to discuss and amend the terms of the lease away from public scrutiny or intervention and disclosing the information at this time would harm Homes England's 'safe space'. The Lease is currently being revised by our lawyers in consultation with third parties and to disclosure would harm the abilities of all parties to seek independent legal advice and negotiate terms effectively. This would not be in the public interest as it would negatively affect Homes England's ability to secure terms that reflect good value for public money. It would also cause distrust with current and future partners if they felt we would release information relating to ongoing negotiations. It is vital that Homes England maintain relationships with third parties in order to achieve the objectives set out in our strategic plan.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time disclosure of the information would have an adverse effect on Homes England. The balance of the public interest favours non-disclosure.

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

Or by email to infogov@homesengland.gov.uk



Homes
England

Making homes happen

Date: 17 February 2021

Our Ref: RFI3281

Tel: 0300 1234 500

Email: 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

OFFICIAL