



Homes  
England

Date: 21 June 2021

Our Ref: RFI3449

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 – RFI3449**

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA). You requested the following information:

*Homes England is responsible for providing MHCLG and other government departments regular updates on the Forward Fund and access to data via monthly 'delivery board meetings'.*

*Under the Freedom of Information Act request, I would like to see these regular updates and data, as well as any minutes of these delivery board meetings.*

**Response**

We can confirm that we do hold the requested information. However, we are withholding the information from disclosure under the following exemptions:

**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.

Information contained within the Delivery Board Meeting minutes and the data held that forms 'updates' 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 the Housing Infrastructure Fund and our commercial relationships with third parties.

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.

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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:

- The information would reveal Homes England and MHCLG's (the Ministry of Housing, Communities and Local Government) decision-making and assessment process in relation to competitive bids for funding that will affect commercial enterprises. To release this information would not be in the public interest as it would undermine the necessity for public authorities to have a 'safe space' in which to assess and deliberate decisions that will directly affect commercial operations. Release of the information would inform future applicants of our scoring mechanisms and other assessment information that would prejudice the quality of future applications/submissions to the fund. There is a high likelihood that release would result in the mis-allocation of public funds which would greatly impact the delivery of homes and housing infrastructure, the funding of which has been entrusted to Homes England by the government;
- The information includes figures/amounts that are still subject to approval and have not yet been finalised and agreed. If this information were released it could allow third parties to undermine agreed processes and procedures and negatively affect Homes England's negotiating position with third parties. This would not be in the public interest as it would negatively affect the public purse. Furthermore, this could negatively distort competition amongst third parties putting Homes England at risk of breaching State Aid regulations;
- The information relates to and directly affects ongoing commercial negotiations that Homes England and third parties (councils) are undertaking with landowners. If this information were released it would be likely to disadvantage Homes England's and the councils' commercial positions. The parties involved would not be able to negotiate effectively as this information could be used by other third parties to distort or otherwise prejudice the acquisition or disposal of land. This would not be in the public interest as it would put development at risk and inflate prices. This would negatively affect public money and nullify work already undertaken;
- Disclosure could put Homes England at risk of breach of Regulation 18 of the Public Contracts Regulations 2015. Regulation 18 provides that "Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner". Homes England is a contracting authority. The information contains indicative costings for major infrastructure schemes that will be procured by Homes England. If this information were released it would be likely to prejudice future competitive tenders for works at these sites. Release of the information would be likely to result in third parties being placed at a commercial disadvantage in relation to other potential bidders. There would be significant reputational, commercial and financial loss to Homes England and our partners if third parties could use the information to distort the market for their own gain;
- If market value assumptions were in the public domain there could be expectations from the public and potential future partners about the value of sites and the value of potential works. This would mean that prices could be inflated and negotiating positions put at risk. This would not be in the public interest as it would result in poorer value for public money and could result in mis-allocation of public funds. Therefore, release would negatively affect the public purse;



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- Some of the information is still subject to approval and options contained within not yet finalised. The consequences of releasing data that is part of wider ongoing proposals could damage our relationships with partners and put potential negotiations and planning at risk. This would not be in the public interest as this could put potential homes in jeopardy and would undermine Homes England's position and ability to deliver against its objectives and targets in our Strategic Plan; and
- 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. This would impact the ability of Government officials to make effective, informed decisions regarding allocation of public funds.

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>

### **Section 29 – The Economy**

Under section 29(a) of the FOIA Homes England is not obliged to disclose information that would, or would be likely to, prejudice the economic interests of the United Kingdom.

The information requested engages section 29(a) of the FOIA as its release would be likely to prejudice regional or local economies.

Section 29 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;
- Homes England acknowledges that the information is regarding decision making that affects public funding and that to release the information could influence quality of decision making and promote better understanding and debate; and
- Homes England acknowledge that successful HIF funding has an impact on a large amount of people.

### **Arguments in favour of withholding**

Local Authorities that have applied to Homes England and MHCLG (the Ministry of Housing, Communities and Local Government) for funding under the Housing Infrastructure Fund will have identified in their local plans that there is a high need for investment in housing and surrounding infrastructure. Housing Infrastructure Fund applicants will have acknowledged that these are areas of high affordability pressure and therefore that new homes and infrastructure are greatly in demand to support the increasing local population.

The funding and therefore proposed developments would be likely to have the following effects on the local economies:



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- construction at the site and related infrastructure works would employ hundreds of people over several years. This would provide opportunities for many local people and businesses;
- proposed developments include office and business space that will support local businesses development into the future;
- proposed developments will provide significant investments in local highway infrastructure works which will support both current and future local businesses and residents;
- proposed developments will improve access to local services, public transport and community facilities which will support current and future local businesses.

If the information were released it would be likely to prejudice delivery of the proposed developments. This would not be in the public interest as it would be likely to result in the above positive economic impacts not being achieved. Investment will be provided to areas that have been identified and assessed as needing significant infrastructure investment. Homes England's involvement in these sites will support local councils in positively contributing to the local economy as a major customer, employer and investor. Disclosure would be likely to have a detrimental effect on a significant number of people and negate substantial economic improvement to each of the local areas that have applied for HIF funding.

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.

### **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. You can request an internal review by writing to Homes England via the details below, quoting the reference number at the top of this letter.

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

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

Your request for review must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response. Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for review will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) 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/>



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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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