



Homes
England

Date: 2 July 2021

Our Ref: RFI3458

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████
By Email Only

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

Dear ██████████

RE: Request for Information – RFI3458

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

I am writing with regard to the Forward Funding Award of £227m to the Cambridgeshire & Peterborough Combined Authority for the Northern Fringe East Programme, since renamed North East Cambridge Area Action Plan.

Under the Freedom of Information Act could you please provide:

- 1) Confirmation of the dates for: a) Submission by the Combined authority of i) Expression of interest, and ii) Formal business case, and b) HIF Funding Award by Homes England.*
- 2) A copy of the terms attaching to this HIF Funding Award.*
- 3) a) The summary level cost breakdown for the award of £227m and b) The corresponding HIF fund payment profile.*
- 4) Confirmation if any limitations were placed on the relocation of the Cambridge Waste Water Treatment Works by the HIF award, with regards to a) site selection, or b) value for money, or if this is determined solely by the Combined Authority.*
- 5) A copy of the HIF format 'Ready Reckoner' submitted by the Combined Authority to provide a value for money perspective.*

Response

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

1) Confirmation of the dates for:

a) Submission by the Combined authority of

i) Expression of interest - 28 September 2018

and

ii) Formal business case - 7 December 2018 ***b) HIF Funding Award by Homes England*** – The date of the funding agreement was 25 February 2019.

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2) A copy of the terms attaching to this HIF Funding Award.

We are able to confirm that we do hold the information you have requested. However, 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.

Section 43 - Commercial interests

The information requested relating to the cost and terms within the funding agreement 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 project and the funding programme.

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.

Arguments in favour of withholding:

- While there is obviously a public interest in understanding the terms in which funding has been made available to Cambridgeshire & Peterborough Combined Authority, disclosure would result in local authorities being deterred from including commercially sensitive information in future bids for grant funding therefore, the public interest in refusing disclosure for the time being outweighs the public interest in disclosure. Releasing the information will have a negative impact on future funding agreements with other local authorities;
- Furthermore, disclosure would also be likely to lead to Cambridgeshire & Peterborough Combined Authority being required to pay more to landowners in order to secure the necessary land/rights to deliver the scheme. Landowners could inflate future prices and harm negotiations. This would not be in the public interest as it would be likely to result in poorer value for public money;
- To disclose this information at a time when negotiations are ongoing would significantly prejudice Cambridgeshire & Peterborough Combined Authority's ability to deliver the schemes. Releasing the amount of funding loaned to a partner would prejudice their ability to apply to other funding schemes. If other potential or confirmed sources of funding became aware of how much funding is likely to be provided and by whom it would be likely to result in Homes England having to pay a higher grant than would have otherwise be the case. This would result in greater cost to the public purse which would not be in the public interest;



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- The consequences of releasing data that is part of a wider ongoing matter could damage our relationships with partners and put these potential funding allocations at risk. This would not be in the public interest as this could put potential homes in jeopardy and affect Homes England's ability to deliver against its objectives 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. Disclosure would be likely to have a negative impact on the Combined Authority's ability to procure works for ongoing development at this site as well as a negative effect on future commercial activity.

The full text of the legislation can be found on the following link;

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

Section 41 – Information provided in confidence

Under section 41(1)(b) of the FOIA Homes England is not obliged to disclose information to the public if it would constitute a breach of confidence.

Given that the Grant Funding Agreement (GFA) is subject to confidentiality provisions, section 41 of the FOIA is engaged. Information contained within the GFA includes information for the scheme that has been provided to Homes England in confidence and with the expectation that it will not be publicly disclosed. We rely on this exemption to withhold from disclosure the financial and technical information contained in the GFA only.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, we can confirm that we've considered the public interest as a breach of confidence may not be actionable if there is an overriding public interest in disclosure. We feel that there is no overriding public interest in favour of disclosure.

The full text of the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/41>

However, we are able to inform you that some of the information comprising the Grant Funding Agreement is available elsewhere. Therefore, we also rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link and we have quoted section 21 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>



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21 - Information accessible to applicant by other means.

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such, we can advise that the template Grant Funding Agreement for Forward Funding is available on the following link: [RFI3100 - HIF Grant Determination Agreements.pdf \(publishing.service.gov.uk\)](#).

3a) The summary level cost breakdown for the award of £227m and b) The corresponding HIF fund payment profile.

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 costs 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.

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;
- Homes England acknowledges there may be a general interest in how we engage with partners and arrangements we have regarding our funding; and
- Homes England acknowledges there is a public interest in the plans for the North East Cambridge Area Action Plan.

Arguments in favour of withholding:

- Releasing the information would be likely to negatively impact future funding processes and proposals as potential partners may be deterred from applying to Homes England for grant funding if they felt information related to their commercial and ongoing funding commitments would be released to the public domain. This would impact the ability of Government officials to make effective, informed decisions regarding allocation of public funds. This would not be in the public interest as public funds could be allocated in a way that would distort regional need for development;
- The information relates to a site where a third party (the council) is still procuring/undertaking works. If this information were released it would be likely to disadvantage the third party's commercial position and have a negative impact on the third party's ability to procure works for ongoing development at this site. The council would not be able to negotiate effectively as this information could be used by third parties to distort or otherwise prejudice the ability of the council being able to secure works for market value, resulting in damage to the public purse. This would also be likely to have the same negative effect on future commercial activity and other Homes England funding. This would not be in the public interest as it would put development at risk, inflate prices and damage Homes England's reputation as a partner. This would negatively affect public money and nullify work already undertaken;
- If information regarding value that has been/will be derived were in the public domain there could be expectations from the public and potential future partners about the value of the site 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 be likely to result in poorer value for public money;
- Releasing the information would be likely to negatively impact future processes as third parties may feel unable to provide all the information requested for fear of disclosure, which would impact the ability of Government officials to make effective, informed decisions and work effectively with partners. This would be likely to negatively impact allocation of public money;
- Releasing the information could reveal financial information of a third party which may in turn affect their commercial interests. The consequences of releasing data that is part of a wider ongoing matter could damage our relationships with partners and put other potential funding allocations at risk. This would not be in the public interest as this could put potential homes in jeopardy and affect Homes England's ability to deliver against its objectives in our strategic plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.



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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 as it would negatively affect their ability to negotiate or to compete in a commercial environment.

4) Confirmation if any limitations were placed on the relocation of the Cambridge Waste Water Treatment Works by the HIF award, with regards to a) site selection, or b) value for money, or if this is determined solely by the Combined Authority.

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 Housing Infrastructure Fund 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.

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 therefore, we can advise that there were no specific limitations placed on the HIF award regarding site selection. The benefit cost ratio would have been part of the application for funding and not within the terms of the contract.

5) A copy of the HIF format 'Ready Reckoner' submitted by the Combined Authority to provide a value for money perspective.

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

In order to conclude that the information is not held, we have searched with our Housing Infrastructure Fund 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.

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

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



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Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. We could not locate a copy of the HIF format 'Ready Reckoner' submitted by the Combined Authority therefore have concluded that one was not submitted as it would not be usual practice for one to have been submitted at the current stage.

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

The Information Governance Team
Homes England – 6th 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/>

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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