



Homes
England

Date: 5 July 2021

Our Ref: RFI3486

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 – RFI3486

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

On 5 April 2019 the Council entered into a S106 agreement with SGJ Limited, Gary Paterson and John Philip Hartley Salter (1) David Ian Tapley (2) Cala Management Limited (3) and The Kent County Council (4) in which various planning obligations were entered into/given in relation to the development of land at Ransley Oast and Greenside Ashford Road High Halden Kent pursuant to a planning permission granted by the Council under reference 18/00262/AS in a decision notice dated 5 April 2019

Optivo (a co-operative and community benefit society registered under number 7561 and a non-profit registered provider registered with the Regulator of Social Housing under number 4851) whose registered office is at 125 High Street Croydon CR0 9XP has since the date of the 2019 S106 acquired the freehold ownership of the whole of the site and says that it intends to deliver all of the units on site as affordable housing.

Although the RP is intending to deliver all 43 units on site as affordable housing, the s106 only secures the delivery of 17 as affordable housing subject to s106 requirements as to occupation and nomination rights to the Council. There is no mechanism under the s106 to force Optivo to enter into a requirement that syncs the 26 market housing units (now to be used as social housing) to the affordable housing restrictions and nomination rights under the s106 that apply to the other 17 units. Currently, the 26 can be used as market housing or affordable housing (not aligned to any Council policy requirement or sync'd to the existing s106 requirements under the April 2019 s106).

We understand that the Site purchased by Optivo was grant funded and that being the case it may be that it is a condition of the grant funding that all of the 26 units (notionally to be used as market housing) be subjected or sync'd to the existing s106 requirements for the 17 units set aside as affordable housing and subject to the existing s106 requirements.

- 1. Can you please confirm whether the disposal to Optivo was full or part grant funded?*
- 2. If the answer is positive, then can you provide us with a copy of the grant funding approval and conditions under which the grant funding approval has been given?*

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Response

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 Project 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. To comply with this duty, we are able to confirm that we do provide Optivo Homes with funding as an Affordable Housing partner. Homes England (HE) does not hold information about scheme by scheme acquisitions and disposals in Optivo's pipeline. However, in relation to this particular scheme, we can confirm that no grant funding has been allocated from HE.

For further information on grant funding for this scheme, we advise that you contact Optivo directly at the following link: <https://www.optivo.org.uk/contactus.aspx>

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.

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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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