



Homes  
England

Date: 22 July 2021  
Our Ref: RFI3512  
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 – RFI3512**

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

*On 23rd June 2021, Alison Broom, CEO of Maidstone Borough Council (MBC) updated MBC's Policy and Resources Committee that Homes England had entered into a collaboration agreement with MBC in respect of delivery of the Heathlands Proposal that forms part of the MBC Local Plan Review. In her update, Mrs. Broom confirms that Homes England had "...thoroughly reviewed the Heathlands Proposition and concluded that it is a viable and credible project to be pursued..." and that Homes England would not have entered into the collaboration agreement "...without being totally satisfied that it is viable and credible..."*

*Please provide under FOIA and the EIRs the final assessment of the review undertaken by Homes England (or advice provided to Homes England) of the Heathlands Proposal leading it to the conclusions put forward by Mrs. Broom that Homes England considers the Heathlands Proposition both viable and credible. Please also provide any correspondence between Homes England and MBC in which Homes England provides its appraisal of the Heathlands Proposition leading to the signing of the collaboration agreement.*

**Response**

We are able to confirm that we do hold some of 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 appraisal and any correspondence regarding the Heathlands Proposal 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 the project and the funding programme.

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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;
- Homes England acknowledges there is interest from the public in any proposed development at this site; and
- Homes England acknowledges there is a public interest in how it assesses proposed schemes and applications to its funding schemes.

Arguments in favour of withholding:

- Disclosure is likely to be prejudicial to the commercial interests of both the Agency and third parties as there is reasonable expectation that such advice provided to Homes England would not be disclosed and would not then potentially be relied upon by other parties;
- Releasing information that revealed Homes England's assessment and scoring of bids for funding would be likely to distort our internal decision-making process, making it a less competitive and vigorous process. This would not be in the public interest as public funds could be allocated in a way that would distort regional need for development;
- Public disclosure of information would also mean that funding applications received would be less comprehensive than would otherwise have been the case, meaning that Homes England's ability to undertake effective due diligence will be impaired. This would result in decision makers not having before them all relevant information, meaning the decisions will be less robust and less likely to deliver value for money. Any decision based on incomplete information could lead to poorer outcomes which would not be an effective use of public money;
- Release of information which contains detailed scheme information could make homebuilder partners reluctant to bid for land if commercially sensitive information was put in the public domain. This would not be in the public interest as it could result in Homes England allocating funding in a way that did not accurately reflect public and local needs. This would put public funds entrusted to Homes England by the government at risk;
- If the public were aware of how Homes England assesses bids for funding this would be likely to negatively affect the ability of Homes England to rigorously and fairly allocate public funds. If the information were in the public domain, third parties could distort or mis-represent information in order to secure funding applications. This would mean that decision makers would not be able to make decisions based on an accurate or complete picture which would not be in the public interest as it would be likely to result in mis-use of public funds;
- Release of the information would inform future applicants of our assessment process 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;



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- 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 consequences of releasing data that is part of a wider ongoing matter could damage our relationships with partners and put these potential and future funding allocations at risk. This would not be in the public interest as this could put potential development of 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.

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

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

### **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