



Homes  
England

Date: 5 August 2021

Our Ref: RFI3541

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 – RFI3541**

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

You requested the following information:

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

*Notwithstanding the response to 4)b) above, my understanding from the HIF funding guidelines and Homes England introductory documentation is that a key element of securing funding is demonstrating value for money, which is understood can be achieved in principle by using the HIF fund 'Ready Reckoner'.*

*I note that Homes England does not hold the document requested in this format, but would welcome confirmation and provision of the document used by Homes England to demonstrate value for money for the award, which I understand to be a key factor in any HIF grant, in whatever format this is held.*

For clarity, this request was contained within correspondence requesting an internal review of a previous request, referenced RFI3458.

**Response**

We can confirm that we do hold information that falls within the scope of your request which has been determined as the Due Diligence Report undertaken for this scheme.

We are withholding this document from disclosure under the following exception:

**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.

OFFICIAL



Date: 5 August 2021

Our Ref: RFI3541

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Four elements are required for Regulation 12(5)(e) to be engaged:

- 1) The information is commercial or industrial in nature;  
In this case, the Due Diligence report contains financial and economic appraisals, commercial and delivery criteria, risk and viability appraisals that relate to an ongoing commercial operation regarding prospective/potential development that is ongoing/under negotiation. Therefore it is commercial in nature as it relates to commercial activity.
- 2) Confidentiality is provided by law;  
The withheld information is subject to confidentiality provided by law under a common law duty of confidence. There is no need for the public authority to have obtained the information from another or a third party for this duty to apply.  
The information has a common law duty of confidence because it is not trivial and not in the public domain. The information was created in circumstances creating an obligation of confidence; it has been created internally to assist an internal decision making/approval process. Homes England therefore recognises that this information was intended to be held in confidence within the organisation.
- 3) The confidentiality is providing a legitimate economic interest;  
The withheld information relates to appraisals of a site that is subject to development proposals. If the confidentiality of this information was breached it 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.
- 4) The confidentiality would be adversely affected by disclosure;  
Disclosure would result in third parties gaining access to commercially valuable information. Disclosure of the confidential information would significantly harm the ability of Homes England to achieve good value for public money.

#### Public Interest Test

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; and
- Homes England acknowledge that there is a public interest in funding/delivery at this site as it has the potential to impact a large amount of people; and



Date: 5 August 2021

Our Ref: RFI3541

Tel: 0300 1234 500

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

- Release of information promotes better public understanding in how Homes England assesses the viability of schemes that we provide funding to and has the potential to enhance the quality of decision making and deliberation.

#### Factors in favour of withholding

- The information includes figures that are still under negotiation 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, and put Homes England at risk of State Aid;
- 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 this site. 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 the market value assumptions 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 result in poorer value for public money and could result in mis-allocation of public funds. Therefore, release would negatively affect the public purse;
- The information is still subject to approval and options contained within not yet finalised. The consequences of releasing data that is part of a wider ongoing proposal 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;
- 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; 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.



Homes  
England

Making homes happen

Date: 5 August 2021

Our Ref: RFI3541

Tel: 0300 1234 500

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

### **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/>

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