



Homes  
England

Date: 25 August 2021

Our Ref: RFI3561

Tel: 0300 1234 500

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

Making homes happen

By Email Only

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

Dear [REDACTED]

**RE: Request for Information – RFI3561**

Thank you for your request for information which was processed in accordance with the Freedom of Information Act 2000 (FOIA).

You requested the following information:

*I would like to know how much money has been made available to Bright Green Futures, or any of their subsidiary companies, either as a loan or as a grant by Homes England or any other public body?*

*If a loan, on what terms?*

*When were each of the loans made, and for how much, if more than one?*

**Response**

We can confirm that we do hold information that falls within the scope of your request.

We can confirm that a subsidiary of Bright Green Futures, Water Lilies Ltd is the recipient of a Home Building Fund loan from Homes England. The date of the Funding Agreement is 9 April 2020.

The amount and terms of this loan are exempt from disclosure in accordance with the following FOIA 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.

The overall amount in the Loan Facility Agreement, drawdowns from this amount, and the terms of the loan engage section 43(2) of the FOIA as the information relates to a commercial activity 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 Home Building Fund and successful delivery of the loan.

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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; and
- Homes England acknowledges there may be general interest in the amount of funding given to applicants to the Homes Building Fund and the terms of this funding.

#### Arguments in favour of withholding:

- The Loan facility agreement provides an overall amount of funding available to Bright Green Futures (BGF). BGF submit requests to 'draw-down' funds from this overall amount at various milestones throughout the development. To release the amount currently drawn-down and provided as a 'loan amount' to BGF would reveal project milestones and confidential information in relation to the progress of the scheme. This would not be in the public interest as if third parties were aware of the amount left to be drawn-down it would be likely to negatively affect BGF's ability to procure future services from contractors that reflected best value for money;
- The Loan Facility Agreement between Homes England and BGF sets out performance criteria in relation to ongoing milestones and targets, delivery and operational obligations, performance criteria, and information relating to payments/repayments. To release the detail of these ongoing contractual obligations between the parties would be likely to prejudice their ability to fulfil the requirements agreed between the parties in the agreement. It is imperative that BGF be able to work to achieve the obligations set out in the contract without undue influence from third parties that could disrupt the development, contracting process, or prejudice other funding sources that could put the overall scheme at risk. This would affect value for public money and prejudice new homes which would not be in line with the strategic objectives set out by government that Homes England is tasked with achieving as per our strategic plan;
- The Loan Facility Agreement sets out requirements on BGF and furthermore failure to meet the agreed deadlines could result in a material breach of contract. This would have significant cost implications on both BGF and Homes England. This would directly nullify public funds already spent and would be likely to inflate the cost of future spend on the site, which would not be in the public interest as it would directly affect the public purse;
- The Loan Facility Agreement contains confidentiality provisions in relation to BGF's obligations and release of the information would breach these undertakings. This would be likely to cause significant detriment to Homes England in our relationship with a partner. As the government's housing accelerator Homes England has to support relationships with partners in order to achieve our strategic objectives and support home delivery with best value for public money. If partners felt that Homes England would reveal confidential commercial information in relation to projects where we are collaborating it would be likely that future partners would be unwilling to work with us or be wary of being open and transparent. This would cause significant risk in Homes England being able to invest public money and resources in the widest possible net of partners in order to achieve best value for money. It is imperative that Homes England are able to attract competitive partners and are respected in the market as a positive force;



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- The requested information relates to a current and ongoing project where all opportunities/proposals have not yet been determined or concluded. If other potential or confirmed sources of funding became aware of the terms of the Homes England funding and the obligations placed on BGF regarding this funding as contained in the Facility Agreement, it would be likely to prejudice the ability of BGF to negotiate for and secure other sources of funding. This would result in Homes England having to pay a higher grant than would have otherwise be the case, meaning greater cost to the public purse which would not be in the public interest;
- Releasing the information would be likely to negatively impact future funding processes and proposals to our funding schemes as potential partners may be deterred from applying to Homes England for grant funding if they felt information relating to their commercial and ongoing funding commitments would then be released to the public domain. This would be likely to result in a substantial impact on potential financial outcomes and delivery of the Home Building Fund. Furthermore, 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 consequences of releasing data at a time when negotiations/proposals are ongoing would significantly prejudice BGF's ability to deliver the program. Therefore release would be likely to put potential homes in jeopardy and affect Homes England's ability to deliver against its objectives in our strategic plan, which is not in the public interest; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

We would advise that once development has been completed and the full funding amount 'drawn-down' some of this information may no longer be sensitive.

#### 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.

The Facility Agreement is subject to confidentiality provisions, and therefore section 41 of the FOIA is engaged. Information contained within the Facility Agreement includes information 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 Facility Agreement.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, Homes England has considered that the degree of assurance provided by Homes England to applicants when submitting confidential information outweighs the public interest in disclosure of information of this type.

The full text of the legislation can be found on the following link;  
<https://www.legislation.gov.uk/ukpga/2000/36/section/41>



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### **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 information on the Home Building Fund and our involvement with applicants is available on the following link:

[Home Building Fund - GOV.UK \(www.gov.uk\)](http://www.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)

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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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