



Homes
England

Date: 20 September 2021

Our Ref: RFI3546

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

By Email Only

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

Dear [REDACTED]

RE: Request for Information – RFI3546

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:

Further to your response of 20th July 2021 we formally request copies of any reports, both internal and external, between English Partnerships/Homes and Communities Agency and all parties from June 2016 to June 2017 in relation to the following

1. Land owned by HCA at Canada Dock West- Land at Derby Rd/Bankfield St Liverpool 20. Title MS 348370 and MS 377672 that was transferred to S Norton on 30.11.2016 which references a transfer document and agreement in the Title Absolute section under Section B Proprietorship Register No's 3 and 4.

Response

We can confirm that we do hold information that falls within the scope of your request in the form of an Internal Report and a Tender Evaluation Report in relation to Canada Dock West. However, we rely on Section 43 (2) of the FOIA to withhold these documents from disclosure.

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 the above reports 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.

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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.

Arguments in favour of withholding:

- The information would reveal Homes England's decision-making and assessment process in relation to competitive bids to tender that will affect commercial enterprises. To release this information would not be in the public interest as it would undermine the necessity for public authorities to have a 'safe space' in which to assess and deliberate decisions that will directly affect commercial operations. Release of the information would inform future applicants of our scoring mechanisms and other assessment information that would prejudice the quality of future applications to tender for works. Releasing information that revealed Homes England's assessment and scoring of bids would also be likely to distort our internal decision-making process, making it a less competitive and robust process;
- Furthermore, if the public were able to compare a ranking of organisations who submitted applications to tender, it might be possible for those with knowledge of the Homes England bid scoring system to gain some view on pricing strategy in relation to the quality score. This could lead to competitors having an unfair advantage in future tender submissions as a higher rank may influence competitors to lower their price;
- Releasing the information could reveal financial information of a third party which may in turn affect their commercial interests. Private companies would be less likely to tender for contracts in the public sector if they are worried that commercially sensitive information will be released. This will have adverse effect on competition for contracts. Disclosure of information may cause unwarranted reputational damage or loss of confidence in Homes England;
- The consequences of releasing the data of unsuccessful tender applicants could damage our relationships with partners and put development of the site and future developments at risk. Releasing the information would be likely to negatively impact 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. 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;
- 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;
- Disclosing details of a third party's business proposals, processes and information not in the public domain may affect their relationship with other parties, including Homes England, and affect a party's reputation in the market. This would be likely to have a negative impact on the third party's ability to procure works or funding for ongoing development. Releasing information in relation to a third party in a competitive market would be likely to distort competition, making it a less competitive process. This would not be in the public



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interest as it would be likely to lead to third parties being unable to secure works for market value, or be successful in securing approvals for works and services. This would be likely to have a negative effect on future commercial activity. This would not be in the public interest as it would negatively affect Homes England's position as the government's housing accelerator and our ability to create successful and trusting relationships with partners;

- 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 relates to services/contracts that have been procured by Homes England. If this information were released it would be likely to prejudice future competitive tenders for Homes England contracts. Release of the information would be likely to result in third parties being placed at a commercial disadvantage in relation to other potential bidders if the wider public were aware of how an organisation had ranked those suppliers' bids. 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; and

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

Or by email to 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/>



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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