



Homes
England

Date: 20 December 2021

Our Ref: RFI3656

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████ on behalf of Save our Heath Lands
By Email Only

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

Dear ██████

RE: Request for Information – RFI3656

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:

- 1) *Was Homes England ever involved with helping with the Chillimington estate in Ashford?*
- 2) *If you were, what was your role?*
- 3) *If you were, How much did Homes England spend on Chillimington ?*
- 4) *If you were, are you still involved with Chillimington?*

Response

We can confirm that we do hold some information that falls within the scope of your request. We will address each of your questions in turn.

- 1) ***Was Homes England ever involved with helping with the Chillimington estate in Ashford?
and***
- 2) ***If you were, what was your role?***

We can confirm that Homes England provided loan funding to the developer for infrastructure works on this site under the Home Building Fund. Information on the Home Building Fund (HBF) is available on the following link: [Home Building Fund - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

- 3) ***If you were, How much did Homes England spend on Chillimington ?***

We can confirm that Homes England does not hold the information detailed in your request.

To conclude that the information is not held, we have searched with our HBF funding team who would have the requested information if held.

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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 the HBF operates on a loan funding agreement, where funds are repaid to Homes England by the developer in accordance with the terms set out between the parties. Therefore there is no "spend" for Homes England on HBF loans.

4) *If you were, are you still involved with Chillmington?*

We can confirm that the HBF loan agreement is ongoing, however we are unable to confirm the facility expiry date under the following exemption:

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 loan facility agreement 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 delivery of infrastructure at this site.

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:

- To release the detail of milestones contained within the loan agreement which constitute a contractual obligation between the parties would be likely to prejudice the ability of the developer to fulfil the contract as agreed in the loan agreement. It is imperative that the developer 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



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could put the overall scheme at risk. Failure to meet the agreed deadlines could result in a material breach of contract. This would have significant cost implications on both the developer and Homes England. This 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. 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 agreement contains confidentiality provisions in relation to the developer'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;
- The requested information relates to an ongoing project where all opportunities/proposals may not yet have been determined or concluded. If other potential or confirmed sources of funding became aware of the terms of the HBF loan and the obligations placed on the Developer regarding the loan timescale it would be likely to prejudice the ability of the developer to negotiate for and secure other sources of funding. This may result in Homes England having to increase the amount of loan funding to support the development or result in the development not being completed, meaning a greater cost to the public purse which would not be in the public interest; 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;

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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/>

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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