



Homes  
England

Date: 8 March 2022

Our Ref: RFI3739

Tel: 0300 1234 500

Email: 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 – RFI3739**

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:

*Award for a Housing Infrastructure Fund (HIF) for the Melton Mowbray Southern Distributor Road project.*

*The award is to Leicestershire County Council and now understood to be £18.2m (an increase of £3.5m).*

*Would you be able to provide the following information*

- 1. In relation to this award what would the funding be specifically for? What would Leicestershire County Council have to spend, and deliver, this funding on? Could this be broken down by amount?*
- 2. When did the HIF funding increase, by £3.5m, from £14.7m to £18.2m? And what was the reason for the increase of £3.5m towards the project?*
- 3. Was there any funding towards, specifically, education projects which would be required following the increase in housing following from this project?*
- 4. What date did Leicestershire County Council signal to Homes England that they would sign up to the HIF funding before the announcement made on 8 December 2021?*
- 5. Where there any objections from developers, such as Greenlight and Davidsons, regarding increasing their contributions towards the infrastructure? If so what was this based on?*
- 6. When does the project (or infrastructure projects) have to be completed by?*

**Response**

We can confirm that we do hold some of the requested information. We will address each of your questions in turn.

- 1. In relation to this award what would the funding be specifically for? What would Leicestershire County Council have to spend, and deliver, this funding on? Could this be broken down by amount?***

We can confirm that we do hold the requested information, which is contained within the completed Grant Determination Agreement (Forward Funding) for the scheme between Homes England and the local authority.

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The information is exempt from disclosure in accordance with the following FOIA exemptions:

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.

Given that the Grant Determination Agreement (GDA) is subject to confidentiality provisions, section 41 of the FOIA is engaged. Information contained within the GDA includes information for the HIF funding scheme 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 GDA only.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, we can confirm that we have considered the balance of the public interest, as a breach of confidence may not be actionable if there is an overriding public interest in disclosure. In this case, we feel that there is no overriding public interest in favour of disclosure.

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

<https://www.legislation.gov.uk/ukpga/2000/36/section/41>

Section 43 - Commercial interests

Information contained within the Grant Determination Agreement (GDA) 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 and the Housing Infrastructure Fund (HIF) funding programme.

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 is an interest in the terms of the funding it delivers and the arrangements between the organisation and our partners.

Arguments in favour of withholding:

- The GDA between Homes England and the Local Authority 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 GDA. It is imperative that the local authority 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



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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 GDA sets out requirements on the Local Authority and furthermore failure to meet the agreed deadlines could result in a material breach of contract. This would have significant cost implications on both the Local Authority 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 GDA contains confidentiality provisions in relation to the Local Authority'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 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 HIF funding and the obligations placed on the Local Authority regarding this funding as contained in the GDA, it would be likely to prejudice the ability of the Local Authority 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 been 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 HIF. 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; 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>

#### Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. Therefore, we can advise that generic performance/delivery criteria and milestone information is available in the template Grant



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Determination Agreement for Forward Funding, which has been published in response to previous FOI requests and is available on our disclosure log via the following link:

[RFI3100 - HIF Grant Determination Agreements.pdf \(publishing.service.gov.uk\)](#)

**2. When did the HIF funding increase, by £3.5m, from £14.7m to £18.2m? And what was the reason for the increase of £3.5m towards the project?**

We can confirm that the HIF funding increased in November 2021. The reason for this increase was due to the inflationary pressures and delays caused by the impact of Covid-19.

**3. Was there any funding towards, specifically, education projects which would be required following the increase in housing following from this project?**

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 Project team who would have the requested information if held.

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 there was no funding allocated to education projects through the HIF scheme as monies are only to be used for a specified purpose as set out in the GDA. However, we can advise that matters such as this would have been addressed through the planning process.

**4. What date did Leicestershire County Council signal to Homes England that they would sign up to the HIF funding before the announcement made on 8 December 2021?**

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 Project team who would have the requested information if held.

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:

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### 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 deadline to submit business cases was 22 March 2019 however many Local Authorities would have had to go through their own internal process to approve the contract before the point of execution. We therefore advise that you submit a Freedom of Information request directly to Leicestershire County Council via the below link:

[Freedom of Information requests | Leicestershire County Council](#)

#### **5. *Where there any objections from developers, such as Greenlight and Davidsons, regarding increasing their contributions towards the infrastructure? If so what was this based on?***

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 Project team who would have the requested information if held.

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>

### Discretionary outside of the FOIA

As a discretionary disclosure, although there is no recorded information held, we are able to confirm that there were no objections from developers to Homes England in relation to the increase in funding towards the infrastructure.

#### **6. *When does the project (or infrastructure projects) have to be completed by?***

The milestones the council are expected to meet are set out in the GDA, which was considered for release in question 1 under exemption s41 of the FOIA.

### **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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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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