



Homes
England

Date: 5 September 2022

Our Ref: RFI4018

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 ██████████

RE: Request for Information – RFI4018

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:

Please provide copies of information regarding any application made by Crystal Properties UK Ltd (06851902) to become a Registered Homebuilder, as part of either the 2013-2021 and/or 2021-23 Help to Buy: Equity Loan schemes.

Any application would most likely be in relation to Help to Buy properties at 28 Grasmere Road, Purley, CR8 1DU.

Response

We can inform you that we do hold the information that you have requested in relation to an application made by the developer Crystal Properties UK Ltd to become a registered homebuilder with Homes England. However, we rely on section 43 (2) of the FOIA to withhold the information 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 relates to an ongoing funding agreement and 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 Help to Buy Scheme.

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.

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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 Help to Buy Equity Loan Funding Administration Agreement (funding agreement) between Homes England and the developer 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 funding 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 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 funding agreement sets out requirements on the developer and furthermore failure to meet the agreed terms could result in a material breach of contract. This would have significant cost implications on both the developer and Homes England. This would directly nullify public funds already spent and would be likely to inflate the cost of future spend on the scheme, which would not be in the public interest as it would directly affect the public purse;
- The funding 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 developers and are respected in the market as a positive force;
- 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 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 HTB Scheme. 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.



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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. To comply with this duty we are able to confirm that a copy of the template Help to Buy Equity Loan Funding Administration Agreement for the 2021-2023 scheme is publicly available via the below link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927110/201015_FINAL_HTB_Standard_Funding_Admin_agreement.pdf

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

The Information Governance Team
Homes England – 6th 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/>



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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

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