



Homes
England

The Housing and Regeneration Agency

Date: 27 July 2023

Our Ref: RFI4410

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

██████████
By Email Only

Information Governance Team
Homes England
Windsor House
6th Floor
42-50 Victoria Street
London
SW1H 0TL
United Kingdom

Dear ██████████

RE: Request for Information – RFI4410

Thank you for your recent email, which was processed under the Environmental Information Regulations 2004 (EIR).

You requested the following information:

Please can you send me available plans, even those at an early stage, on sustainable urban drainage and flood risk assessments for the West of Ifield 3000 home development?

Please accept this as a formal freedom of information request for the above information on drainage proposals, river channel alterations, sustainable urban drainage including but not limited to the location and size of any detention ponds and swales or raingardens and other interception devices. I would prefer to receive the requested information in electronic copies in PDF or Word format.

Response

We can confirm that we do hold the requested information.

The information that we hold that falls within the scope of your request is a Flood Risk Assessment Report and a number of related appendices. We are withholding this information from disclosure under the following exception:

6th Floor
Windsor House
42 - 50 Victoria Street, Westminster
London, SW1H 0TL

0300 1234 500
[@HomesEngland](https://twitter.com/HomesEngland)
www.gov.uk/homes-england





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Regulation 12(4)(d) - Material in the course of completion, unfinished documents and incomplete data

Regulation 12(4)(d) of the EIR provides an exception to the duty to disclose environmental information where the material is still in the course of completion, an unfinished document or incomplete data. The Flood Risk Assessment Report engages this exception because it is a working draft, and therefore currently incomplete information.

Public Interest Test

Regulation 12(4)(d) is subject to the public interest test. Once the exception has been engaged it is then necessary to consider the balance of the public interest in maintaining the exception or disclosing the information. In engaging the exception it is only necessary that the information fall into the defined category, not that disclosure would have an adverse effect. However, under regulation 12(1)(b), the public authority can only withhold the information if, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. Furthermore, under regulation 12(2), it must apply a presumption in favour of disclosure.

Factors in favour of disclosure

- Homes England acknowledge that there is a presumption in disclosure regarding environmental information as well as a public interest in promoting transparency in how we undertake our work and allocate public money; and
- Homes England acknowledge that there is a public interest in the information collected and compiled regarding sustainable urban drainage and flood risk assessments at this site and that even draft documentation may be of interest to the public regarding the proposals for development for the land West of Ifield.

Factors in favour of withholding

- The Flood Risk Assessment Report are documents created as part of the wider planning process for the West of Ifield development. In order to make informed decisions about the environmental impact, consequences or opportunities of a site we continuously seek new information, update the information we hold and use it to consider options to make decisions about land use that are in the public interest. It is necessary that Homes England is able to have a 'safe space' in which to gather and appraise information away from public scrutiny or intervention and disclosing the information at this time would harm Homes England's 'safe space'. Furthermore, as the information is in draft it is being updated continuously and the information is continuously superseded. This information will be considered 'final' when a planning application has been submitted for the development.





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- There is also a 'chilling effect' argument regarding release of the Flood Risk Assessment Report. The chilling effect is that the information contained within the documents is still under active consideration and relating to ongoing discussions and approvals that are only at this stage, proposed. There is a specific need for the decision makers to have frank discussions regarding this information in order to fully and adequately appraise the information contained within. To disclose the information at this time would harm the ability of decision makers to robustly and adequately reach a decision regarding the collated information. This would not be in the public interest as it could lead to detriment in the public purse;
- There is also a 'chilling effect' argument regarding future information of a similar nature if disclosed. If the information were released it would prejudice the quality of information contained within future documents of a similar nature if those drafting thought that the information would be disclosed. This would affect the ability of decision makers to make effective, informed decisions. Any decision based on incomplete information could lead to poorer outcomes which would not be in the public interest as it would not be an effective use of public money; 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 disclosure of the information would have an adverse effect on Homes England. The balance of the public interest favours non-disclosure.

Regulation 14(4) of the EIR states that if the exception in regulation 12(4)(d) is specified in refusal, the authority shall also specify, if known, the estimated time in which the information will be finished or completed. In compliance with this regulation, we can advise that this information will be made available on Crawley Borough Council's planning portal, which can be found via the following link: <https://planningregister.crawley.gov.uk/Disclaimer?returnUrl=%2F>. This information will be available when a planning application is submitted, we are not able to provide a timeframe for the submission of the application.

The full text of Regulation 12(4)(d) in the legislation can be found via the following link: [The Environmental Information Regulations 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk-legislation/regulations/2004/12/4/d).





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Right to make Representations

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 a reconsideration of our response (Internal Review). You can make this representation by writing to Homes England via the details below, quoting the reference number at the top of this letter.

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Your request for reconsideration must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response (Reg 11(2)). Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for reconsideration 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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