



Homes
England

The Housing and Regeneration Agency

Date: 5 February 2024

Our Ref: RFI4589

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4589

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

You requested the following information:

I submit this request to obtain information on funding allocations/provisional allocations for the Brownfield, Infrastructure and Land Fund. Please could you provide a spreadsheet of the funding allocations under the Brownfield, Infrastructure and Land Fund. It would be helpful to have the information for the following:

- **Scheme name (if possible);**
- **Scheme location (Local Authority);**
- **Number of residential units proposed;**
- **Amount of funding requested;**
- **Amount of funding allocated/provisional allocation;**
- **Basis of funding (Grant or loan facility);**
- **Funding amount per unit.**

Response

We can confirm that we do hold some of the requested information. We can only provide information that relates to the Homes England element of the Brownfield, Infrastructure and Land (BIL) Fund. It should be noted that any information on allocations related to BIL funding devolved to West Midlands Combined Authority (WMCA) or the Greater Manchester Combined Authority (GMCA) is held by those bodies.

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We can advise that the BIL fund operates on a continuous market engagement basis with funding allocations made at the point of project approval and only confirmed at the point of contract.

The table below summarises the schemes which have been allocated BIL funding and have contractual commitments. Please note this data is from the period between fund launch in July 2023 through until the date of your request (9 January 2024).

Scheme Name	Local Authority	Number of Homes	Requested Funding (capital)	Allocated Funding (capital)	Basis of funding	Funding per unit
Westpack, Sheffield	Sheffield	141	£6.6m	£6.6m	Land Acquisition & Enabling	£46.8k
Quayside West (Forth Yards), Newcastle	Newcastle upon Tyne	1,100	£8.0m	£8.0m	Land Acquisition & Enabling	£7.3k

The amounts and homes stated above are based on initial allocations for projects and may be subject to change as projects progress. Given that BIL funding is focused on infrastructure, enabling and remediation, future public funding may be required to deliver the total homes stated.

The information requested relating to provisional funding allocations 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. We are therefore withholding this information from disclosure under the following exception:

Regulation 12(5)(e) – Confidentiality of commercial or industrial information

Under regulation 12(5)(e) of the EIR, Homes England may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Four elements are required for Regulation 12(5)(e) to be engaged:

- 1) The information is commercial or industrial in nature;
The allocation of funding under the Brownfield, Infrastructure and Land (BIL) Fund concerns the financial and contractual commitments between parties that relate to live commercial activity regarding





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prospective developments and procurements. Therefore, it is commercial in nature as it relates to commercial activity.

2) Confidentiality is provided by law;

The withheld information is subject to confidentiality provided by law under a common law duty of confidence. The information has a common law duty of confidence because it is not trivial and not in the public domain. There is no need for the public authority to have obtained the information from another or a third party for this duty to apply. The information was created in circumstances creating an obligation of confidence; it has been created internally to assist an internal decision making/approval process. Homes England therefore recognises that this information was intended to be held in confidence within the organisation.

3) The confidentiality is providing a legitimate economic interest;

If the confidentiality of this information was breached it would harm the ability of the entity in receipt of the funding to achieve value for money on the necessary works the funding is provided for. If potential providers of services knew the amount of funding requested, the costs of works could be inflated and not represent best value for money. There is a legitimate economic interest in protecting the ability of Homes England via the receiving entity to negotiate in current and future commercial agreements.

4) The confidentiality would be adversely affected by disclosure;

Disclosure would result in third parties gaining access to commercially valuable information. Disclosure of the confidential information would harm the ability of Homes England to achieve good value for public money.

Public Interest Test

Regulation 12(5)(e) 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.

Under regulation 12(2) the public authority must apply a presumption in favour of disclosure, in both engaging the exception and carrying out the public interest test. In relation to engaging the exception, this means that there must be clear evidence that disclosure would have the adverse effect listed in 12(5).





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Factors in favour of disclosure

- Homes England acknowledge that there is a presumption in favour of 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 large scale development processes and the robustness of the applications for funding submitted to the BIL Fund.

Factors in favour of withholding

- Release of the amount of prospective funding for each site location would be likely to impact on the wider BIL Fund and other applicants for funding. If other funding recipients or applicants were able to compare applications and associated amounts of funding, future applications could be presented in a way that resulted in misallocation of funds. This would not be in the public interest as it would put public funds at risk and could result in third parties being likely to use this information to influence the cost of any proposals for future funding applications made under the BIL or similar schemes. This would not be in the public interest as it would be likely to result in misallocation of public funds and greater cost to the public purse;
- 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 funding negotiations 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 BIL fund. 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;
- The consequences of releasing data at a time when negotiations/proposals are ongoing would significantly prejudice the council's ability to deliver. Releasing information on projects that have not been contracted yet could jeopardise the agreement itself including putting the value and structure of the agreement. There is also the risk of releasing incorrect or inaccurate data. Therefore, release would be likely to put potential homes in jeopardy and affect Homes England's ability to deliver against its objectives in our strategic plan, which is not 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.



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The full text of Regulation 12(5)(e) in the legislation can be found via the following link: [The Environmental Information Regulations 2004 \(legislation.gov.uk\)](#).

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Regulation 9(1) of the EIR. In accordance with this duty, we can advise that there are additional projects where Homes England have allocated BIL funding but where we are currently in the process of finalising contractual elements of these schemes. We can confirm that there are currently 4 schemes which are infrastructure grant schemes with a total funding allocation of £65.4m which will deliver approximately 5.9k homes. These schemes are located in Oxfordshire, Sunderland, Norfolk and Cumbria.

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.

Email: infogov@homesengland.gov.uk

The Information Governance Team
Homes England
6th Floor
Windsor House
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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.

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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,

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For Homes England

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