



Homes England

Date: 15 February 2024

Our Ref: RFI4608

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4608

Thank you for your request for information which was processed under the Environmental Information Regulations 2004 (EIR).

You requested the following information:

Who actually owns the land that Basildon United Football Club sits on in Gardiners Close Basildon SS14 3AW, do you own the land or has it been sold to Inland homes and if so was there a lease that was transferred and when does the lease run out. And if the land was sold to Inland homes with them being in administration how does this affect the land going forward and the Football club as well and do you have provision in place to protect the sports clubs that are based in the local area.

Response

We can confirm that Homes England does own the land that the Basildon United Football club sits on which can be confirmed at the land registry under title number EX703617. We can also confirm that there is a lease in place with the Football Club.

We are withholding information in relation to the Lease and the effect of the land going forward 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.





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

- 1) The information is commercial or industrial in nature;
The content of the lease (including its expiry date) and any information regarding the agreement with Inland Homes contains information concerning the financial and contractual commitments and contractual between the parties. 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. The information was created by two parties who have entered into contractually binding confidentially terms. These show that the parties had the intention that a duty of confidentiality would be created between them. Homes England therefore recognises that this information was intended to be held in confidence between the parties.
- 3) The confidentiality is providing a legitimate economic interest;
The withheld information contains information about the sale and purchase of land. If the confidentiality of this information was breached it would harm the ability of Homes England and third parties to negotiate effectively on current and future transactions involving the sale and purchase of land. There is a legitimate economic interest in protecting the ability of Homes England and third parties 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.





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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).

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 current and future plans for the site.

Factors in favour of withholding

- The information relates to an agreement where, although one party has gone into Administration, the Agreement remains relevant in relation to wider ongoing negotiations. The consequences of releasing the Agreement could damage Homes England's relationships with partners and put potential negotiations at risk. The interests of third parties involved would also be similarly affected by disclosure, as this would reveal commercially sensitive information that was not meant for release into the public domain. The release of such information would undermine current and future agreements and site assembly adversely affecting the delivery of homes on the site;
- Releasing information about the lease would undermine future agreements for similar works as it would reveal what has been agreed in this instance which could be used as a basis for obtaining an unfair advantage by other third parties. This would put them at a commercial disadvantage which would not be in the public interest as it would hinder their ability to conduct business in a competitive market if their financial information were revealed in this way. This could put potential homes in jeopardy and would undermine Homes England's position and ability to deliver against its objectives and targets in our Strategic Plan;
- Disclosure would adversely affect the relationship between Homes England and current and potential partners. There would be significant reputational, commercial and financial loss to Homes England and our partners as third parties could use the information to distort the market for their own gain;
- The withheld environmental information relates to the value, condition and development potential of the land. Disclosure of this information would negatively impact a third party's commercial interest relating to the potential future disposal of this land. This would likely result in significant commercial and financial loss as the release of this information could allow third parties to unduly influence the potential disposal or development process; and





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- 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 Regulation 12(5)(e) in the legislation can be found via the following link: [The Environmental Information Regulations 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

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
42-50 Victoria Street
London
SW1H 0TL

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,

The Information Governance Team

For Homes England

