



Homes
England

The Housing and Regeneration Agency

Date: 23 May 2024

Our Ref: RFI4693

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

██████████
By Email Only

Dear ██████████

RE: Request for Information – RFI4693

Thank you for your request for information which was processed initially processed under the Freedom of Information Act 2000 (FOIA). In our letter to you dated 24 April 2024, we had stated that we required additional time to respond your request as a qualified exemption applied to some of the information that fell within the scope of your request. We have determined that the exemption at section 43(2) of the FOIA to withhold information that is commercial information is no longer engaged. However, we have now determined that the information in scope of your request should have been processed under the Environmental Information Regulations 2004 (EIR).

You requested the following information:

Please provide a copy of all email correspondence, including attachments and appendices, between employees/representatives of Homes England and employees/representatives of Ilke Homes between 1 May 2023 and 31 July 2023.

Please provide a copy of all letter correspondence, including attachments and appendices, between employees/representatives of Homes England and employees/representatives of Ilke Homes between 1 May 2023 and 31 July 2023.

Please provide a copy of all reports/reviews done by or on behalf of Homes England related to the Meadow Grange development in Southend, near Fossetts Way/Fossetts Farm, since 1 May 2023.

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

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@HomesEngland
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Response

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

Please provide a copy of all email correspondence, including attachments and appendices, between employees/representatives of Homes England and employees/representatives of Ilke Homes between 1 May 2023 and 31 July 2023.

We can confirm that we do hold the requested information. We are 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 email correspondence contains information concerning the financial and contractual commitments between Homes England, Ilke Homes and representatives as well as information concerning the administration of Ilke Homes which is not in the public domain. We have considered whether or not we can separate any information from the commercial information but consider that this represents a 'golden thread' throughout the information and it is therefore not possible to separate any information from the commercial information. 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.





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- 3) The confidentiality is providing a legitimate economic interest;
The withheld information relates to the ongoing development of a site. If the confidentiality of this information were breached it would harm the ability of Homes England and third parties to receive value for money for land and services at the site. 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.

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 any development projects with like Homes involvement.

Factors in favour of withholding

- Although one party has gone into Administration, the information remains relevant in relation to wider ongoing negotiations. The consequences of releasing correspondence 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





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undermine current and future agreements and site assembly adversely affecting the delivery of homes on the site;

- 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/were collaborating it would be likely that future partners would be unwilling to collaborate 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 is able to attract competitive partners and is respected in the market as a positive force;
- Some information relates to a site where there is still ongoing works. If this information were released it would be likely to disadvantage the third parties commercial position and have a negative impact on the ongoing development at this site. By releasing this information, it would be likely to have the same negative effect on future commercial activity and other Homes England funding. This would not be in the public interest as it would put developments at risk, inflate prices and damage Homes England's reputation as a partner. This would negatively affect public money and nullify work already undertaken;
- Releasing this sort of information would be likely to negatively impact future development processes and proposals as interested parties may feel unable to provide all the relevant information necessary for fear of disclosure. This would impact the ability of Government officials to make effective, informed decisions regarding allocation of public funds; 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 Regulation 12(5)(e) in the legislation can be found via the following link: [The Environmental Information Regulations 2004 \(legislation.gov.uk\)](#).

Please provide a copy of all letter correspondence, including attachments and appendices, between employees/representatives of Homes England and employees/representatives of Ilke Homes between 1 May 2023 and 31 July 2023.





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Regulation 12(4)(a) – Information not Held

Under regulation 12(4)(a) of the EIR, Homes England may refuse to disclose information if the requested information is not held by that public authority.

When relying on Regulation 12(4)(a), Homes England must also advise details of any other public authority to whom the requestor could redirect their request to, and in accordance with this we can advise that that you contact the developer Guinness Homes or Southend City Council for further information.

Regulation 9(1) provides that an authority must provide advice and assistance to applicants and in accordance with this we can advise that there was no letter correspondence sent or received from Ilke Homes to Homes England during the above-mentioned time frame. We can also confirm that we do not hold any reports or reviews done by or on behalf of Homes England relating to the Meadow Grange development. This is because the Meadow Grange development was a partnership between Ilke Homes and Guinness Homes as the developer before construction was paused when Ilke Homes went into administration.

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

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SW1H 0TL





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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

