



Homes
England

The Housing and Regeneration Agency

Date: 14 October 2024

Our Ref: RFI4870

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4870

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 can I have a copy of the standard Help to Buyer (HTB) application required by building developers during the period 2019-2022 to be an approved developer under the HTB programme.

What was the Government's minimum requirement for a building developers to convert an existing office block into residential flats, and still qualify as a HTB property in 2019-2022.

Please provide a copy of the building developers HTB application in respect of Colwell House (aka Clapham House) 376A Clapham Road, London SW9 9FY. The developer was either Clapham House Ltd or Landmark Developers. Also operating under the name of Lipman Property Ltd.

Response

We can confirm that we do hold the requested information. We will address each point in turn below.

Please can I have a copy of the standard Help to Buyer (HTB) application required by building developers during the period 2019-2022 to be an approved developer under the HTB programme.

2nd Floor
The Lumen
St James Boulevard, Newcastle Helix
Newcastle upon Tyne, NE4 5BZ

0300 1234 500
@HomesEngland
www.gov.uk/homes-england

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We can inform you that we do hold the information that you have requested. However, we rely on section 21, exemption where information is available to the applicant elsewhere.

The full text of the legislation can be found on the following link and we have quoted section 21 below for ease.

<https://www.legislation.gov.uk/ukpga/2000/36/section/21>

Section 21 - Information accessible to applicant by other means.

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
- (2) For the purposes of subsection (1)—
 - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
 - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. In order to comply with this duty we can confirm the Help to Buy programme ran in two distinct time periods. The first was from 2013 to 2021, and then from 2021 to 2023.





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The most recent Help to Buy documentation for developers is available online here:

<https://www.gov.uk/government/publications/help-to-buy-equity-loan-2021-2023-funding-administration-agreement>

The previous documentation for developers is available online here:

[https://www.gov.uk/government/publications/help-to-buy-equity-loan-funding-administration-agreement#:~:text=Help%20to%20Buy:%20Equity%20Loan%20\(2013%20to%202021\)](https://www.gov.uk/government/publications/help-to-buy-equity-loan-funding-administration-agreement#:~:text=Help%20to%20Buy:%20Equity%20Loan%20(2013%20to%202021))

What was the Government's minimum requirement for a building developers to convert an existing office block into residential flats, and still qualify as a HTB property in 2019-2022.

The agreements state that the developers must use a 'Eligible Dwelling' (see page 9 and page 18 of the funding agreements respectively via the above links).

In order to assist you we will provide the wording here:

Eligible Dwelling means a Dwelling which immediately prior to the call for a transfer of Equity Loan Funding by Homes England to the Developer pursuant to Condition 7.13:

(a) is fit for beneficial occupation as a residential dwelling in accordance with the requirements of the NHBC or equivalent requirements;

(b) has the benefit of an NHBC guarantee or similar warranty by a reputable insurance company accepted by at least 75% of Qualifying Lenders providing first charge mortgage finance under the Help to Buy Initiative Provided That:

(i) such warranty includes protection of Eligible Purchaser's deposits between exchange and completion; or

(ii) the Developer's Solicitor have provided Homes England with an undertaking not to release the Eligible Purchaser's deposits between exchange and completion;

(c) complies with all relevant statutory and/or planning requirements, including current building regulations in force at the date of Practical Completion;

(d) has a Market Value below the Maximum Limit;

(e) has reached Practical Completion on or before the First Longstop Date for the relevant Year;

(f) (in the case of any House which does not qualify as an Exempt Leasehold House) will be disposed of on the basis of a freehold transfer to the Eligible Purchaser;

(g) is not provided as affordable housing in satisfaction of a Planning Agreement or other Planning Permission; and

(h) does not have the benefit of grant or public subsidy (other than the Equity Loan Funding; any Kickstart Funding; Get Britain Building Funding, Builder's Finance Fund or any alternative funding or scheme confirmed by Homes England as being subject to this exception)

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We can confirm that Homes England does not hold the information detailed in your request.

To conclude that the information is not held, we have searched with our Commercial team who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>

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 we do not hold applications on file for specific properties. This is because developers apply for a forecast of potential homes in a regional area.

We do hold a broad agreement with a provider. The agreement terms are the same as those available online (see response for Q1 above).

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

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Homes England

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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/>

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

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