



Homes
England

The Housing and Regeneration Agency

Date: 13 January 2025

Our Ref: RFI4997

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI4997

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

You requested the following information:

1. We seek any notes or email correspondence relating to the meeting referred to in the email attached dated 9.9.24 at 14.01:29 (revealed in the FOI response [RFI4943]), that is described as taking place the same day the email was sent; and
2. The response to the email dated 9.9.24 at 14.01:29 (revealed in the FOI response), and any preceding or subsequent email correspondence between the author and recipient.

Response

We can confirm that we do hold some of the requested information.

Please see Annex A below, which includes all email correspondence relating to the meeting referred to in the email of 9 September 2024, as well as any preceding or subsequent email correspondence between the author and the recipient of that email. For ease of reference, we've included the email of 9 September 2024 (which was provided under RFI4943) again.

We have redacted some information contained within from disclosure under the following exception:

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

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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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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 redacted information relates to ongoing commercial operations of Homes England and third 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.
- 3) The confidentiality is providing a legitimate economic interest;
The withheld information relates to ongoing financial arrangements between Homes England and third parties. If the confidentiality of this information was breached it would harm the commercial position of Homes England and third parties. 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).

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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.

Factors in favour of withholding

- If this information were to be released it would be likely to disadvantage Homes England's and the third party's commercial position and have a negative impact on ongoing discussions. This would also 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 future developments at risk, inflate prices and damage Homes England's reputation as a partner;
- Information of this nature revealed to a wider audience would affect future negotiations for the same or similar services. Homes England needs to attract the contractors who will deliver the homes that the market needs. Contractors would be deterred from working with us if they thought that their sensitive commercial and financial information would be disclosed. That would not be in the public interest;
- Disclosure would adversely affect the relationship between Homes England and potential partners. There would be significant reputational, commercial and financial loss to Homes England and for their own gain; 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:

<https://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>

Regulation 13 – Personal Data

We have redacted information on the grounds that it constitutes third party personal data and therefore engages Regulation 13 of the EIR.

To disclose personal data, such as names, contact details, addresses, email addresses and personal opinions could lead to the identification of third parties and would breach one or more of the data protection principles.





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Regulation 13 is an absolute exception which means that we do not need to consider the public interest in disclosure. Once it is established that the information is personal data of a third party and release would breach one or more of the data protection principles, then the exception is engaged.

The full text in the legislation can be found on the following link:

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/13/made>

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. Homes England does not hold any notes relating to the meeting referred to in the email of 9 September 2024.

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

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.

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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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From: reg. 13
To: reg. 13
Subject: FW: Halton Canal Site - discharge of planning condition
Date: 10 September 2024 09:47:00
Attachments: [image002.png](#)
[image003.jpg](#)

Hi reg. 13

Good news re Halton see below, I need to see a copy of the letter from planning then reg. 13 can approve for you to put on file.

reg. 13

reg. 13

Have you seen our [IMS Training videos on YouTube?](#)

Videos to support the 21-26 Programme: New user videos can be found [here](#), existing IMS user videos can be found [here](#). Click on Show more in the video description for timing links

Videos to support RSAP can be found [here](#)

Videos to support SOAHP 16-21 can be found [here](#)

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The Housing and Regeneration Agency

We believe that affordable, quality homes in well-designed places are key to improving people's lives.

We make this happen by using our powers, expertise, land, capital, and influence to bring both investment to communities and to get more quality homes built.

Please forward any Freedom of Information Requests to: infogov@homesengland.gov.uk

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From: reg. 13

Sent: Tuesday, September 10, 2024 9:40 AM

To: reg. 13

Cc: reg. 13

Subject: RE: Halton Canal Site - discharge of planning condition

Hi reg. 13

If the letter comes from the planning authority and they state that the homes are habitable and it's just that planning condition outstanding we would be happy to accept that, this would be covered in chapter 9 -

7.7.1

7.1 General

7.1.1 Providers must:

- Obtain detailed planning permission according to the requirements and timescales outlined in the [Programme Management](#) chapter, section 4.2.2
- Have obtained building regulation approval prior to the completion of the development and
- Have made best endeavours to have any planning conditions and/or reserved matters signed off by the planners prior to the completion of the development

It is noted that in some specific cases practical completion will be achievable for homes without

sign off of all planning conditions or reserved matters. This occurrence is at the risk of the provider and should not impede occupation of homes or final sign off of any outstanding consent in the near future.

Thanks

reg. 13

[Redacted signature block]



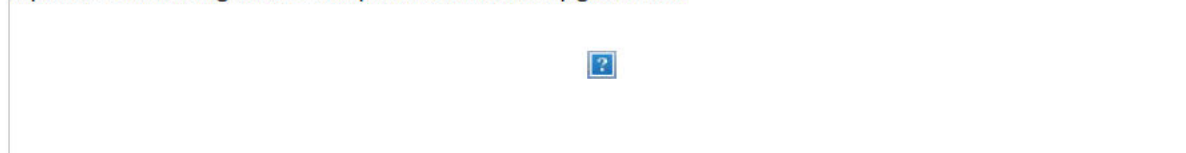
@HomesEngland

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From: reg. 13

Sent: Tuesday, September 10, 2024 9:21 AM

To: reg. 13

Cc: reg. 13

Subject: FW: Halton Canal Site - discharge of planning condition

Hi reg. 13

Below is an outstanding 16/21 scheme.

I spoke to Magenta yesterday regarding the outstanding issues, reg. 13 has summarised for me to consider the request, option 1 is going to be the quickest solution in respect of them claiming grant, however I wasn't sure if this would be something that would be acceptable to us and in line with CFG compliance.

What are your thoughts

Many thanks

reg. 13

[Redacted signature block]

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From: reg. 13

Sent: Monday, September 9, 2024 2:01 PM

To: reg. 13

Subject: Halton Canal Site - discharge of planning condition

Hi reg. 13

Many thanks for your time earlier today.

As discussed, please can you advise whether Option 1, proposed by Halton Borough Planning Department, would be acceptable to Homes England in lieu of formal Planning Condition discharge prior to PC claim.

Background:

- The final planning condition to be discharged is the requirement for a 3m acoustic fence on the boundary between the homes at Halton Canal Site and the Generator on the adjacent site to reduce the decibel levels.
- In July, the Planning Department gave approval to remove the condition from the 12 homes based on the opposite side of the site as the decibel levels are within tolerances.
- It has been established, through on-site measurement, that the generator sound levels in the garden areas of the closest properties are 72 dB L_{Aeq} (façade sound level) with an internal sound level, in an upper floor bedroom, of approximately 45 dB L_{Aeq} (with windows closed and trickle vents open).
- The BS 8233/WHO guideline value of 55 dB $L_{Aeq, 16h}$, for external amenity areas, is unlikely to be achievable.
- The results of computer noise modelling indicate a 3 or 4 metre barrier (as proposed in the planning condition) provides less than 1 dB of sound attenuation i.e. the impact is negligible. This is largely because the generator site is circa 1.5m higher than Canal Site and as such, the fence does little to provide a barrier against noise emanating from the stacks (the output for the generator). The fence would need to be 7-8m tall to mitigate against the noise from the stacks, but advise is that a fence of that height isn't feasible from a structural point of view taking into considerations the wind calcs etc.

Meeting on 9th September with Halton Borough Council Planning and Public Health:

- The Environmental Health Officer (EHO), in attendance at the meeting accepted that we are not going to be able to achieve the BS 8233/WHO guideline value of 55 dB $L_{Aeq, 16h}$, but did advise that we need to be able to demonstrate Best Practical Means which would be a potential defence against any prosecution for statutory noise nuisance
- The 3 metre boundary fencing is enshrined in the planning condition and is unlikely to be able to be simply removed but there may be options for non-material amendments to allow for innovative solutions which need to be explored. E.g. in order to totally rule out the effectiveness of an acoustic fence (only desktop modelling undertaken thus far), there is an option to create a temporary structure and apply an echo barrier to replicate the effect the acoustic fence would have on reducing

decibel levels. We are going to explore this avenue first. Clean Amp Energy (owners of the generator site) advise there is unlikely to be any measures to be taken that could reduce the level of noise at source however they will speak to their manufacturers about any potential options.

- The EHO advised that the homes can be lived in whilst further investigation into noise mitigations is on-going. However, due to the outstanding planning condition Magenta is unable to take handover.
- There are two main concerns regarding further delays to handovers:
 1. Homes England – This scheme forms part of the SOAHP programme and handovers are already significantly delayed from original forecasts.
 2. reg. 12(5)(e) [REDACTED]
- The planning officer presented 2 options:
 1. HBC Planning provide a letter to Homes England to advise that although there is a Planning condition outstanding, they consider the homes habitable, and Magenta will continue to work with Public Health and Planning to find a suitable mitigation for noise disturbance. As discussed, I am concerned that this isn't compliant with CFG and would like to enquire whether an exception would be considered.
 2. The Planning Officer seeks consent from more senior colleagues to discharge the planning condition on the basis that the acoustic fence it asks for does not appear to be a suitable mitigation and on the proviso that Magenta Living continue to work with Public Health and Planning to find an alternative mitigation for noise disturbance.

I advised I would ask the question about option 1 although, as discussed, I have concerns about being non-compliant with the CFG.

If you have any queries, or need me to clarify anything, please let me know.

Kind regards,

reg. 13

[REDACTED]

[REDACTED]



Empowering people is our purpose.

To find out more visit www.magentaliving.org.uk/who-we-are

Magenta Living is a not-for-profit housing provider, owning and managing nearly 13,000 homes. We are the largest affordable housing provider in Wirral and also operating across the North West region.

Magenta Living is a registered company in England and Wales: number 4912562

A registered charity: number 1106969

Registered with the Regulator of Social Housing: number L4435

Registered office: Partnership Building, Hamilton Street, Wirral CH41 5AA

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