



Homes
England

The Housing and Regeneration Agency

Date: 30 April 2025

Our Ref: RFI5056

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

By Email Only

Dear

RE: Request for Information – RFI5056

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

You requested the following information:

1a) Please confirm that the Funding Agency's consented to the Council concluding the LEL Building Agreement dated 2nd November 2005 between (1) Lancaster City Council (2) Luneside East Ltd (3) CTP Ltd (4) Development Securities Plc.

1b) Please confirm that the Funding Agency's consented to the Council concluding the TNL Building Agreement dated 16th February 2006 between (1) Lancaster City Council (2) Luneside East Ltd (3) Thomas Newall Ltd.

2a) Please confirm whether or not the Funding Agency's advised the Council that they had breached/defaulted on the 31st December 2008 ERDF longstop date?

2b) Please confirm whether or not the Funding Agency's consented to an extension of time for the practical completion of the 8,000 sq. m Commercial/Business floorspace?

2c) Please provide copies of any correspondence between the Funding Agency's and the Ministry of Housing, Communities and Local Government?

2d) Please provide copies of any Agreements the Funding Agency's concluded to waive the requirement for the completion of the 8,000 sq. m Commercial/Business floorspace?

3a) Please provide a copy of the proposals for the future management of the development the

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Funding Agency's providing the Council?

4a) Please provide a copy of the Funding Agency's agreement to vary the JFA to allow the Council to dispose of the Luneside East land for the sum of £170,000, less than the £1,690,500 absolute minimum stipulated in the JFA?

4b) Please confirm that the sale of the 6.4 hectares Luneside East land for £170,000 fulfilled the Funding Agency's and Council's obligation to secure "best consideration" and whether or not the sale was approved by the Secretary of State?

5a) Please provide copies of all the communication exchanged between the Funding Agency's the Council and their representatives between 6th May 2009 and 22nd May 2009 relating to the Funding Agency's letters ultimately submitted to the Lands Tribunal?

6a) Please provide a copy the Funding Agency's Counter Proposals for the development of Luneside East?

6b) Please provide a copy the Funding Agency's agreement to vary the JFA to dispose of the 8,000 sq. m Commercial/business floorspace and provide funding for the alternative Student Housing scheme?

6c) Please provide details of the total funding provided by the Funding Agency's for the alternative Student Housing scheme practically completed circa September 2020?

7a) Please provide a copy of any legal agreements or advice the Funding Agency's received so as to enabled Funding Agency's to continue to provide Public Funding for the Council's revised scheme, the piecemeal development of Luneside East and the Student Housing Scheme?

8a) Please confirm that the Funding Agency's were satisfied that the Council procurement of the additional £4 million investment for the Developers from Lancashire County Council complied with state aid rules and did not prejudice the terms and conditions of the JFA.

8b) Please confirm whether or not the Funding Agency's have the liability to pay the £3,500 contribution for preparing plans that the NWDA's representative offered TNL on 14th September 2001.

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9a) Please provide details of any attempts the Funding Agency's made to "Clawback" all or any part of the funding provided pursuant to the JFA for the Comprehensive Luneside East "Urban Village" scheme?

9b) Please provide details of any other Student Housing scheme that the Funding Agency's have provided Public Funding to local Authorities to deliver?

9c) Please confirm that the circa of £12 million Public Funding initially provide for the Comprehensive Luneside East "Urban Village" scheme that ultimately delivered a Student Housing scheme represents Value for Money?

We requested clarification on a number of these questions and you advised the following:

4a) For the avoidance of any doubt, we are not currently requesting any Land Registry document. We are asking for a copy of the Funding Agency's agreements and consents to vary the JFA, concluded between the 20th June 2011 and 5th April 2013, that allowed the Council to reduce the scale of the Luneside East development and allowed the Council to dispose of the Luneside East land for the sum of £170,000 which is less than the £1,690,500 absolute minimum stipulated in the JFA.

7a) Schedule 3 of the JFA provides for Clawback and we are not currently aware of any attempts made by the Funding Agency's to Clawback any part of the circa £10 million provided. We are asking for a copy of the Funding Agency's agreement concluded after 20th June 2011 when the Funding Agency's notified the Council that the Council's proposal dated 21st March 2011 was not acceptable and before 5th April 2013 when the Council confirmed that the Funding Agency's had consented to a smaller Luneside East scheme which did not deliver the comprehensive scheme the Secretary of State authorised the Council's use of CPO powers to deliver.

We are also asking for a copy of the Funding Agency's agreement consenting to the Council materially changing the comprehensive "Urban Village" scheme of 350 residential units including 20% affordable homes and 8,000 sq. of commercial/business floorspace to a piecemeal Student Housing scheme.

The agreement should have been concluded after 1st March 2012 when the Council first discussed student housing with the Developers and presumably before the Developers submitted

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a student housing planning application on 5th May 2016.

Response

We can confirm that we do hold some of the requested information. However, to comply with your request would present a disproportionate burden on our resources. We therefore rely on regulation 12(4)(b), exception where the request is manifestly unreasonable.

The full text of the legislation can be found on the following link and we have quoted regulation 12(4)(b) below for ease.

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

Regulation 12(4)(b) – Manifestly Unreasonable

Regulation 12(4)(b) of the EIR provides an exception to the duty to disclose environmental information where the request is manifestly unreasonable. The information requested engages this exception because, as advised in our response to your previous request (reference RFI4853), Homes England holds a significant amount of information relating to the Luneside Lancaster development. In our previous response, we recommended that any revised request does not include such a broad request, and this could be narrowed by date, recipients or limited in scope to the documents/decisions themselves rather than all associated correspondence.

We recognise that, in this subsequent request, you have asked more specific questions however to identify, locate, retrieve, and extract the information in scope of your request necessitates searching through all information held. We therefore consider that this work including the time required to review the information to determine whether or not it is subject to an exception and conduct a public interest test, would cause a disproportionate burden on Homes England's resources.

To reach this decision, we have conducted an initial search of our electronic and manual file storage systems. We identified a minimum of 59 manual files and approximately 1600 electronic documents in the main document repository for Luneside East, this does not include. The majority of these files have consistent naming mechanisms which allow us to conclude that they are likely to contain information that is relevant to your request. Therefore, each document, and any attachments, would need to be reviewed to identify and extract information in scope and then consider the applicability of any exceptions.

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We consider that given the nature of the information, regulation 13 of the EIR – personal data and regulation 12(5)(e) of the EIR – confidentiality of commercial or industrial information would likely be engaged. Therefore, extracted information would need to be specifically reviewed to identify information which is subject to an exception, with redactions and the public interest test being completed where appropriate. In addition to this, the physical files would need to be retrieved from archiving and manually scanned into the system for processing.

We carried out a manual search over a 6-hour period and reviewed some of the electronic files and identified that we do hold some of the requested information. We identified information relating to the draw down of the phases under the Building Agreement (as varied) by Luneside East Limited and the Council's assertion to Homes England officers that the draw down met the requirements of the Joint Funding Agreement and the subsequent request for Homes England consent pursuant to the terms of the Joint Funding Agreement. Information was also found on the claims for funding from the Council pursuant to the Joint Funding Agreement.

We have considered whether it would be appropriate to rely on regulation 7(1) of the EIR, which would permit Homes England to extend the time limit for compliance to a maximum of 40 working days in order to facilitate compliance with the request. However, we still consider that the complexity and volume of information requested means that it is impracticable to comply with the request within 40 working days.

Public Interest Test

Regulation 12(4)(b) 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) Homes England 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 regulation 12(4)(b).

Public interest in favour of disclosure:

- Homes England acknowledges 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

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- Homes England recognises that there has been a change to the original intended use of the land, to the eventual use of the land, and there is public interest in transparency and accountability in public use of funds and this process;
- Home England acknowledges that the disclosure of environmental information increases public trust in how we undertake our responsibilities as a public authority;
- Homes England acknowledges that there is a public interest in development processes and the robustness of the applications and management of public funds in such developments.

Public interest in maintaining the exception:

- Homes England estimates that reviewing the information held would take in excess of 193 hours of staff time to review, determine, and extract the requested information. This is calculated at 10 minutes per file for physical (paper) files and 6 minutes per file for electronic files. This time calculation includes determining that we hold the information, locating, retrieving, and extracting the information, identifying any information that engages the exceptions contained within regulation 12(5)(e) of the EIR and regulation 13 of the EIR, conducting the Public Interest Test and applying redactions where appropriate. We do not consider that this is a proportionate use of our limited resources and will again impact our ability to respond to other requests and disrupt the delivery of Homes England's work.
- Homes England is a small public authority with limited resources. Identifying the environmental information that would engage regulation 12(5)(e) and regulation 13 in all the documents identified in scope of this request would place a disproportionate burden on our resources and would prevent us from answering other requests. This would therefore restrict the general right of access to information, due to staff having to spend time dealing with the request.
- Locating, retrieving, and extracting information would require the support of technical staff. Due to the volume of information that would need to be searched to identify information in scope of this request, this would cause a disruption to delivery of other services provided by Homes England.
- Much of the requested environmental information consists of information that was provided to Homes England by third parties. Homes England may be required to consult with involved third parties about the disclosure of the environmental information and considers that the review of this information would place a disproportionate burden on the other third parties involved.
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Having considered the argument for and against disclosure of the information, we have concluded that at this time, the balance of the public interest continues to favour non-disclosure.

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Advice and Assistance

Regulation 9(1) provides that an authority must provide advice and assistance to applicants. In accordance with this we can advise that this exception is maintained as your request mandates the manual search of all documentation held in order to locate the relevant information. As per the advice within our letter requesting clarification, dated 1 April 2025, we recommend you narrow the scope of your request to reduce the quantity of information being requested.

Your current request relates to information recorded over a large period of time. Therefore, limiting this time period would allow Homes England to use our resources in a proportionate manner to locate, retrieve and review the relevant information.

A significant amount of time would also be required to retrieve, extract, review and scan the manual documentation held. Therefore, limiting your request to information held electronically would be likely to reduce the burden on Homes England's resources.

Furthermore, question 9b necessitates an intensive review of information held by Homes England in order to determine what student housing its investment has supported. This would require a substantial amount of time due to the broad nature of the request. We therefore advise that the scope of this query is refined by time and/or location to assist with narrowing our searches to identify relevant information.

Please note that due to the broad scope of your request we cannot confirm that any further request would not also be considered manifestly unreasonable pursuant to regulation 12(4)(b) EIR.

For further assistance, the Information Commissioner's Office have some useful information online that you might find helpful:

<https://ico.org.uk/for-the-public/official-information/how-to-write-an-effective-request-for-information/>

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.

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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

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