



Homes  
England

Date: 18 January 2021  
Our Ref: RFI3243  
Tel: 0300 1234 500  
Email: [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

Making homes happen

Jason Gillen  
By Email Only

Windsor House  
Homes England – 6<sup>th</sup> Floor  
50 Victoria Street  
London  
SW1H 0TL

Dear Jason Gillen

**RE: Request for Information – RFI3243**

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA).  
You requested the following information:

- 1. Could you confirm a submission of interest for the site known as Daedalus Waterfront was received from either the Tigers Childrens Motorcycle Display Team or Daedalus Training.*
- 2. Can you please confirm if any part of the original proposed site development was removed from the tender package and obtained by Solent Airport or Fareham Borough Council*
- 3. Can you provide a copy of the tender package.*

**Response**

We can confirm that we do hold some of the requested information. We will address each of your points in turn.

- 1. Could you confirm a submission of interest for the site known as Daedalus Waterfront was received from either the Tigers Childrens Motorcycle Display Team or Daedalus Training.***

**Neither Confirm nor Deny**

Homes England can neither confirm nor deny that we hold the information requested.

On receipt of a valid request for information, section 1(1) of the FOIA obliges a public authority to inform the requestor under section 1(a) if they hold the information requested, and under section 1(b) communicate that information to them.

However, the duty under section(1)(a) does not apply to your request by virtue of section 43(2) – Commercial Interests.

Under section 43(3) the duty to confirm nor deny does not arise if to comply with this duty would be likely to prejudice the commercial interests of any person (section 43(2)).

The full text of section 43 in the legislation can be found here:

[Freedom of Information Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk).

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Section 43 is a qualified exemption. This means that once we have decided that the exemption is engaged, Homes England must carry out a public interest test to assess whether or not it is in the wider public interest for the organisation to confirm or deny that we hold the information.

#### Public Interest Test

##### Arguments in favour of confirming or denying:

- Homes England acknowledges there is a general public interest in promoting accountability, transparency, public understanding and involvement in how Homes England undertakes its work and how it spends public money; and
- Homes England acknowledges that there is a public interest in tender submissions.

##### Arguments in favour of neither confirming or denying:

- Confirming or denying that Homes England holds information that falls within scope of the request would be likely to undermine any third party's submission (if received) as this could reveal their future business plans. This would not be in the public interest as companies would not wish to work with Homes England if they felt that this would impact their opportunities and financial interests. This would result in Homes England not receiving value for money on its procurements;
- To confirm or deny would be likely to diminish the market of potential applicants which would not be in the public interest. It would result in a less competitive tender process if third parties felt they may have their interests disclosed. This would narrow the pool of applicants, negatively affecting value for public money;
- Confirming or denying would be likely to negatively affect ongoing and future relationships with suppliers if they felt that Homes England would release information that could affect their commercial interest. This would not be in the public interest as Homes England has to maintain relationships in order to achieve our objectives as set out in our Strategic Plan; and
- Confirming or denying could put Homes England at risk of breach of Regulation 18 of the Public Contracts Regulations 2015. Regulation 18 provides that "Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner". Homes England is a contracting authority. If held, release of the information would be likely to result in third parties being placed at a commercial disadvantage in relation to other potential bidders. There would be significant reputational, commercial and financial loss to Homes England and our partners if third parties could use the information to distort the market for their own gain.

Having considered the arguments for and against, we have concluded that confirming or denying whether any information is held would be likely to be detrimental to the currently ongoing procurement process, and therefore the balance of the public interest favours neither confirm nor deny.

The public interest arguments to confirm or deny should not be interpreted as evidence that Homes England does or does not hold information that falls within the scope of your request.



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**2. Can you please confirm if any part of the original proposed site development was removed from the tender package and obtained by Solent Airport or Fareham Borough Council**

An area adjacent to the Control Tower was under offer to Fareham Borough Council to support aviation use associated with the Solent Airport. It was not initially included within the tender at the time of issuing the tender documents but it has now been included in the tender. This is referenced within the Invitation to Tender, that if the disposal does not progress the land may be brought back into the tendered disposal.

**3. Can you provide a copy of the tender package.**

Please find attached Annex A, the Invitation to Tender for Daedalus Waterfront.

**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 by writing to;

The Information Governance Team  
Homes England – 6<sup>th</sup> Floor  
Windsor House  
50 Victoria Street  
London  
SW1H 0TL

Or by email to [infogov@homesengland.gov.uk](mailto:infogov@homesengland.gov.uk)

You may also complain to the Information Commissioner 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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