



Homes
England

Date: 26 January 2021
Our Ref: RFI3159
Tel: 0300 1234 500
Email: infogov@homesengland.gov.uk

Making homes happen

Mr M Dean
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear Mr Dean

RE: Request for Information – RFI3159

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

- 1. The amount loaned to Sterling Park Developments Charge No: 1237 0389 0001.*
- 2. A copy of all emails between yourselves and Sterling Park Developments.*

Response

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

1. The amount loaned to Sterling Park Developments Charge No: 1237 0389 0001.

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

The overall amount in the Loan Facility Agreement and drawdowns from this amount engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of the Home Building Fund.

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 information to be disclosed.

Arguments in favour of disclosure

- 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

OFFICIAL



Date: 26 January 2021

Our Ref: RFI3159

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

- Homes England acknowledges there may be general interest in the amount of funding given to applicants of the Homes Building Fund.

Arguments in favour of withholding:

- The Loan facility agreement provides an overall amount of funding available to Sterling Park Developments. Sterling Park submit requests to 'draw-down' funds from this overall amount at various milestones throughout the development. To release the amount currently drawn-down and provided as a 'loan amount' to Sterling Park would reveal project milestones and confidential information in relation to the progress of the scheme. This would not be in the public interest as if third parties were aware of the amount left to be drawn-down it would be likely to negatively affect Sterling Park's ability to procure future services from contractors that reflected best value for money;
- Disclosure would result in the third party's negotiating position for funding being adversely affected. If other potential or confirmed sources of funding became aware of conditions of Homes England funding it could result in Homes England having to pay a higher loan than would have otherwise be the case. This would result in greater cost to the public purse which would not be in the public interest; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

We would advise that once development has been completed and the full funding amount 'drawn-down' this information may no longer be sensitive.

2. A copy of all emails between yourselves and Sterling Park Developments.

We can confirm that we do hold the requested information. Please find attached Annex A.

Further to the information provided in Annex A, we are withholding some correspondence and redacting some information under the following exemptions:

Section 43 - Commercial interests

Under section 43(2) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the commercial interests of any party.

Information contained within emails regarding approvals, terms and conditions of funding, ongoing milestones and drawdowns and financial information engages section 43(2) of the FOIA as it is commercial in nature and its release would be likely to prejudice the commercial interests of Homes England and other interested parties to the information.

Homes England has identified that the information requested, if released, would be likely to prejudice the effective operation of the Home Building Fund.



Date: 26 January 2021

Our Ref: RFI3159

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

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 information to be disclosed.

Arguments in favour of disclosure

- 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 there may be a general interest in how we engage with partners and the process of funding under the Homes Building Fund.

Arguments in favour of withholding:

- Disclosure would result in funding applicants being deterred from including commercially sensitive information in future applications for grant funding. This will mean that Homes England would have to evaluate applications that are less comprehensive than would otherwise have been the case, meaning that Homes England's ability to undertake due diligence on the applications will be impaired. This will result in decision makers not taking all relevant information into account, meaning the decisions will be less robust and less likely to deliver value for money;
- Releasing information relating to approvals and scoring would be likely to distort our internal decision-making process, making it a less competitive and robust process. This would not be in the public interest as public funds could be allocated in a way that would distort regional need for development;
- Releasing the information would be likely to negatively impact future processes as third parties may feel unable to provide all the information requested for fear of disclosure, which would impact the ability of Government officials to make effective, informed decisions. This would be likely to negatively impact allocation of public money;
- Disclosing business positions, details of negotiations or a third party's business proposals, processes and information not in the public domain may affect their relationship with other parties, including Homes England, and affect a party's reputation in the market. This would be likely to have a negative impact on the third party's ability to procure works for ongoing development at this site. Releasing information in relation to a third party in a competitive market would be likely to distort competition, making it a less competitive process. This would not be in the public interest as it would be likely to lead to third parties being unable to secure works for market value, resulting in damage to the public purse. This would be likely to have a negative effect on future commercial activity and other lenders;
- Releasing the information could reveal financial information of a third party which may in turn affect their commercial interests. The consequences of releasing data that is part of a wider ongoing matter could damage our relationships with partners and put these potential funding allocations at risk. This would not be in the public interest as this could put potential homes in jeopardy and affect Homes England's ability to deliver against its objectives in our strategic plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.



Date: 26 January 2021

Our Ref: RFI3159

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

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 the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/43>

Section 41 – Information provided in confidence

Under section 41(1)(b) of the FOIA Homes England is not obliged to disclose information to the public if it would constitute a breach of confidence.

The Facility Agreement which is held within correspondence and falls within scope of your request is subject to confidentiality provisions, and therefore section 41 of the FOIA is engaged. Information contained within the Facility Agreement includes information that has been provided to Homes England in confidence and with the expectation that it will not be publicly disclosed. We rely on this exemption to withhold from disclosure the financial and technical information contained in the Facility Agreement.

Although section 41 of the FOIA is an absolute exemption and there is no requirement to conduct a full public interest test, we can confirm that we've considered the public interest as a breach of confidence may not be actionable if there is an overriding public interest in disclosure. We feel that there is no overriding public interest in favour of disclosure.

The full text of the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/41>

Section 42 – Legal Professional Privilege

Under section 42(1) of the FOIA Homes England is not obliged to disclose information that constitutes advice given under legal professional privilege (LPP) which protects confidential communications between lawyers and clients which is a fundamental principle of English law.

Section 42 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 it is in the wider public interest for the information to be disclosed.

Arguments in favour of disclosure:

- 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.



Date: 26 January 2021

Our Ref: RFI3159

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Arguments in favour of withholding:

- Homes England believes that there is a strong argument to withhold the correspondence held in order to safeguard full and frank legal advice, which in turn is fundamental to the administration of justice.

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 the legislation can be found on the following link;

<https://www.legislation.gov.uk/ukpga/2000/36/section/42>

Section 31 – Law Enforcement

Under section 31(1)(a) Homes England is not obliged to disclose information that would, or would be likely to, prejudice the prevention or detection of crime.

Homes England has identified that information contained within correspondence that relates to banking requirements/arrangements of a third party engages section 31(1)(a) of the FOIA as release could result in it being fraudulently used by third parties and result in loss by criminal means to the party concerned.

Section 31 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 information to be disclosed.

Arguments in favour of disclosure:

- 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.

Arguments in favour of withholding:

- The withheld information is bank account information of third parties. To release the information could put these third parties at risk of fraud or theft. It would not be in the public interest to release this information as if third parties felt that confidential information that could put them at risk of fraud would be released to the public it would put current and future partnerships at risk. Homes England have a duty to protect the financial interests of our partners. We would suffer reputational risk if potential future partners thought we would release confidential information. This would not be in the public interest as Homes England would not be able to achieve its objectives as set out in our strategic plan; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.



Homes
England

Making homes happen

Date: 26 January 2021

Our Ref: RFI3159

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

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 – 6th Floor
Windsor House
50 Victoria Street
London
SW1H 0TL

Or by email to 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

OFFICIAL