

8 August 2019  
Our ref: 5480328

Thank you for your request received on 10 July 2019, for the following information:

**Re: Housing and planning matters relating to 58 Sturgess Avenue, London NW4 3TS (The Property)**

**Will you please look through your records and supply the following information with regards to the house at the above address between the period 1st Jan 2013 and 30th October 2017:-**

- 1) Has there ever been a report made to the council regarding (a) housing matters and or (b) the planning use or uses carried out at or from the Property?**
- 2) What precisely was the report? Please supply the full text thereof**
- 3) When was the said report made to the council?**
- 4) What investigative action was taken by both or either of the relevant council department in response to the report?**
- 5) Who took the investigative action? Who was his or her line manager(s)?**
- 6) Please provide full details of what investigative actions the officer(s) undertook**
- 7) What evidence was collated by the officer(s) in response to the report**
- 8) Who supplied the evidence?**
- 9) Please supply copies of all evidence obtained, garnered or supplied to the council, from whatever source, relating to the use and occupation of the property.**
- 10) Please provide copies of all evidence in the council's possession that attest to occupation and or the payment of rent or license fees.**
- 11) What other action, if any, was taken by council officers in consequence of the report from the date of receipt until 30th October 2017? Please provide full details.**
- 12) Was/were the report (s) internally generated by a council department? If so,**

**which department and who in that department?**

**13) Was the report made by a local citizen or local company?**

We have processed this request under the Environmental Information Regulations 2004.

**Response**

I can confirm that London Borough of Barnet holds some of the information you requested. However, we consider that the following exceptions apply to some of the information requested. The remaining information is not withheld and is below

**Re: Housing and planning matters relating to 58 Sturgess Avenue, London NW4 3TS (The Property)**

**Housing** - Please see attached

**Planning** - I can confirm that the London Borough of Barnet holds the information you requested and that there are two open enforcement cases on the property

ENF/0355/18 has been set up to investigate the conversion of the property into eight self-contained flats.

ENF/1894/18 has been set up to investigate the use of the single storey outbuilding aligned along the rear boundary as two dwellings.

However, we consider that the following exceptions apply to the information requested and this information is withheld. Please see refusal notice below

**Refusal Notice**

**R12 (5) (b) (The course of justice)**

We consider that regulation 12 (5) (b) (The course of justice) applies to the information requested because we consider that disclosure of the information requested would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature. Until the outcome of the enforcement investigation has been formally determined the Council is not in a position to make available further details of the case available.

The public interest means what is in the best interests of the public not what is of interest to the public.

**Factors in favour of disclosure**

- Furthering the understanding and participation in the public debate of issues of the day.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.

- Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives.
- Bringing to light information affecting public health and safety.

### **Factors in favour of withholding**

- There is a very strong public interest in protecting the law enforcement capabilities of public authorities.
- The enforcement investigation is ongoing and progress is reported through established mechanisms. If a formal Notice is served or any prosecution action taken only when these processes have been fully completed and appeal routes exhausted will this information will be made available into the public domain.
- Any information provided by third parties during the course of such investigations should be treated in confidence and only used for the purposes for which it was provided. We believe that people would be discouraged from providing information if they thought their information might be released publicly without a compelling reason to do so. It is therefore important that this information remains confidential.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Personal data**

We consider that regulation 13 (Personal information) applies to the information requested.

Therefore, we have decided to withhold the information.

[Part 1 of Schedule 19](#) of the Data Protection Act 2018 amends the personal data exception Regulation 13 of the Environmental Information Regulations 2004. These are consequential amendments designed to ensure that the correct provisions of the GDPR and the new Act are referenced instead of the now repealed DPA 1998. They will not fundamentally impact when personal data can, and cannot, be disclosed in response to an EIR request.

We consider the information is subject to Regulation 13 because to release it would be a breach of the Data Protection Act 2018.

Personal Information is governed by the Data Protection legislation and is defined as any information relating to an identified or identifiable natural person ('data subject')". It adds that: an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location number, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The withheld information is exempt because disclosure would contravene the first data protection principle which requires that personal data is processed fairly and lawfully. Disclosure of the requested information would breach this principle and in particular the requirement of fairness.

### **Advice and Assistance**

Once the Enforcement case ref ENF/0355/18 and ENF/1894/18 has been determined, we will be in position to release most of this information to you.

The update on the enforcement cases can also be obtained on the link below

ENF/0355/18 - <https://publicaccess.barnet.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

ENF/1894/18 - <https://publicaccess.barnet.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

### **Further information**

If you are interested in the data that the council holds you may wish to visit Open Barnet, the council's data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access. <http://open.barnet.gov.uk/>

### **Advice and Assistance : Direct Marketing**

If you are a company that intends to use the names and contact details of council officers (or other officers) provided in this response for direct marketing, you need to be registered with the Information Commissioner to process personal data for this purpose. You must also check that the individual (whom you wish to contact for direct marketing purposes) is not registered with one of the Preference Services to prevent Direct Marketing. If they are you must adhere to this preference.

You must also ensure you comply with the Privacy Electronic and Communications Regulations (PECR). For more information follow this Link [www.ico.org.uk](http://www.ico.org.uk)

**For the avoidance of doubt the provision of council (and other) officer names and contact details under FOI does not give consent to receive direct marketing via any media and expressly does not constitute a 'soft opt-in' under PECR.**

### **Your rights**

If you are unhappy with the way your request for information has been handled, you can request a review within the next 40 working days by writing to the Information Management Team at: [foi@barnet.gov.uk](mailto:foi@barnet.gov.uk). Or by post to Information Management Team (FOI) London Borough of Barnet, 2 Bristol Avenue, Colindale, NW9 4EW

If, having exhausted our review procedure, you remain dissatisfied with the handling of your request or complaint, you will have a right to appeal to the Information Commissioner at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (telephone: 0303 123 1113; website [www.ico.org.uk](http://www.ico.org.uk)). There is no charge for making an appeal.