



London Borough of Barnet,
2 Bristol Avenue,
Colindale,
London NW9 4EW
31 March 2020
Our ref: 6147288

Thank you for your request received on 28 February 2020, for the following information:

**Re Enforcement Notice Reference ENF/0615/19, dated 25th April 2019
Land at Hippodrome 3 North End Road London NW11 7RP,**

The above re-served Enforcement Notice, served on the users of the above building, states at Section 3. that the breach of planning control is the breach of a specific condition:

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Use of the land as a cultural centre, not comprising use as a church, to hold concerts, conferences, drama and dance festivals, in breach of condition 2 of planning permission reference C00222W/07, granted on 9 May 2007.

My questions are:

- 1. Why was an Enforcement Notice issued in respect of this breach of condition, and not a Breach of Condition Notice?**
- 2. Which body or individual recommended that an Enforcement Notice be issued and not a Breach of Condition Notice? On what justification?**
- 3. Were any Councillors consulted on the decision to issue an Enforcement Notice be issued and not a Breach of Condition Notice? If so, which Councillors? If in writing, please supply copies of that communication.**
- 4. Was the decision to issue an Enforcement Notice issued and not a Breach of Condition Notice made pursuant to any committee meeting or other meeting at the Council? If so, please supply copies of any minutes or notes taken.**
- 5. In particular, what consideration was given to the fact that issuing an Enforcement Notice might invite an enforcement appeal, whereas a Breach of Condition Notice would permit no right of Appeal to the Planning Inspectorate?**

Central government planning guidance, 'Enforcement and post-permission matters; Responding to suspected breaches of planning control.' states that a Breach of Condition Notice:

'... may also be served in addition to an enforcement notice, perhaps as an alternative to a stop notice, where the local planning authority consider it expedient to stop the breach quickly and before any appeal against the enforcement notice is determined.'

<https://www.gov.uk/guidance/ensuring-effective-enforcement#Breach-of-Condition-Notice>

The planning guidance which preceded this, Annex 4 of Circular 10/97, 'Annex 4: enforcement of planning conditions: the breach of condition notice', stated at paragraph 4.6 that a Breach of Condition Notice:

'... may also be served in addition to the issue of an enforcement notice, perhaps as an alternative to a stop notice, where the LPA consider it expedient to stop the breach quickly and before any appeal against the enforcement notice is determined, because, for example, it is causing serious environmental harm, or detriment to amenity or public safety. It is particularly apt for use where a valid planning condition has clearly been breached and the salutary experience of summary prosecution (or the threat of prosecution) seems likely to compel the person responsible to comply with the condition.'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7709/319295.pdf

My further questions are:

6. Will the Council now issue a Breach of Condition Notice, before the current Enforcement Notice Appeal is determined?

7. If not, why not? In particular, why is it not expedient to stop the breach quickly and before any appeal against the enforcement notice is determined?

8. Which committee or other meeting of the Council will decide whether or not to do so? What measures will be taken to make sure that interested local parties can make their representations to the appropriate body before this decision is taken?

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

Response

I am writing to inform you that we have searched our records and although we hold some of the information requested, some is not held by London Borough of Barnet as some of the decisions made are the professional judgements made by the Planning Enforcement Manager, where this is the case this is clearly identified in the response.

My questions are:

1. Why was an Enforcement Notice issued in respect of this breach of condition, and not a Breach of Condition Notice?

Information not held. The Planning Enforcement Manager professional view is that we do not have the power to serve a Breach of Condition Notice in this instance.

2. Which body or individual recommended that an Enforcement Notice be issued and not a Breach of Condition Notice? On what justification?

The Planning Enforcement Manager made the recommendation, see attached report.

3. Were any Councillors consulted on the decision to issue an Enforcement Notice be issued and not a Breach of Condition Notice? If so, which Councillors? If in writing, please supply copies of that communication.

Councillors are not involved in the decision making process, but were kept informed of the decision taken by professionally qualified planning officers to serve a Notice.

4. Was the decision to issue an Enforcement Notice issued and not a Breach of Condition Notice made pursuant to any committee meeting or other meeting at the Council? If so, please supply copies of any minutes or notes taken.

No, decision made under Delegate Powers as per the Delegated Powers arrangements in place.

5. In particular, what consideration was given to the fact that issuing an Enforcement Notice might invite an enforcement appeal, whereas a Breach of Condition Notice would permit no right of Appeal to the Planning Inspectorate?

All enforcement options would have been considered at the time the breach was investigated and the best tools to resolve the situation deployed and it is worth noting that Enforcement action is at the discretion of the Local Planning Authority. Officers use their professional experience and technical knowledge to decide the best strategy in resolving breaches of planning control and consider all tools available to them with proper regard to LB Barnet Planning Enforcement Policy and the National Planning Guidance on taking enforcement action on www.gov.uk.

The Delegated Powers Report attached sets out the reasoning as to why the serving of an Enforcement Notice was necessary and proportionate to the situation/ harm caused.

My further questions are:

6. Will the Council now issue a Breach of Condition Notice, before the current Enforcement Notice Appeal is determined?

7. If not, why not? In particular, why is it not expedient to stop the breach quickly and before any appeal against the enforcement notice is determined?

The Planning Enforcement Manager is responsible for bringing enforcement actions, which are served under delegated powers, and confirms that there are no plans at the moment to serve any further notices. However, if new evidence comes to light he will consider on a case by case basis if any further action needs to be taken. At the moment the enforcement matter is before a public inquiry. The Council will respect the outcome of the Inquiry process.

8. Which committee or other meeting of the Council will decide whether or not to do so? What measures will be taken to make sure that interested local parties can make their representations to the appropriate body before this decision is taken?

The Planning Enforcement Manager decide under the Delegated Powers available.

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

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

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