



London Borough of Barnet,
2 Bristol Avenue,
Colindale,
London NW9 4EW
15 June 2020
Our ref: 6297390

Thank you for your request received on 15 May 2020, for the following information:

Dear Barnet Borough Council,

Under the Freedom of Information Act, please provide me with a copy of the following:

Under the Localism Act 2011, the council is required to maintain a list of Assets of Community Value which have been successfully and unsuccessfully nominated since the act came into force in September 2012.

For all Asset of Community Value (Community Right to Bid) nominations the council has received since 2012 I request the following information:

For each property where a compensation claim has been filed against the council as is the owners right under The Localism Act 2011, Part 5, Chapter 3, Section 99. I request a copy of all documents associated with that claim (initial claim documents & if applicable internal review & first tier tribunal documents) including but not limited to the following points :

- *The result of the compensation claim**
- *A copy of all documents submitted with the claim by the owner**
- *A copy of any additional documents the council considered in deciding the claim**
- *A copy of the council's decision letter to the property owner**
- *If the owner requested an internal review of the compensation claim - A copy of all associated documents**
- *If the owner requested an independent review to the first tier tribunal - A copy of all associated documents**

Please note I am aware that my response from the council may contain redacted information (where redaction time is not included in FOI request time calculation).

I understand that under the Act I am entitled to a response within 20 working days of your receipt of this request.

If my request is denied in whole or in part, I ask that you justify all deletions by

reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would prefer to receive the information electronically.

If you require any clarification, I expect you to contact me to provide advice and assistance if you find any aspect of this FOI request problematic.

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

Response

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

Under the Localism Act 2011, the council is required to maintain a list of Assets of Community Value which have been successfully and unsuccessfully nominated since the act came into force in September 2012. For all Asset of Community Value (Community Right to Bid) nominations the council has received since 2012 I request the following information: For each property where a compensation claim has been filed against the council as is the owners right under The Localism Act 2011, Part 5, Chapter 3, Section 99. I request a copy of all documents associated with that claim (initial claim documents & if applicable internal review & first tier tribunal documents) including but not limited to the following points :

There has been only one instance of compensation being claimed.

****The result of the compensation claim***

£10,185.39 compensation awarded.

****A copy of all documents submitted with the claim by the owner***

In line with the Localism Act 2011 and the Assets of community Value (England) Regulations 2012, the Notice of receipt of a notification under section 95(2) of the Localism Act 2011 was received for

Asset of Community Value: NEW BEVAN BAPTIST CHURCH GROVE ROAD
BARNET EN4 9DF

Asset Nominated By: Unincorporated Group: Friends of the New Bevan
Community Church

Receipt of Asset Disposal Notice: 5th April 2019

Interim Moratorium End Date: 17th May 2019

Potential Full Moratorium End Date: 5th October 2019

Potential Protected Period End Date: 5th October 2020

Notification was received to dispose of New Bevan Baptist Church, Grove Road, Barnet, EN4 9DF that was listed by the Council as an Asset of Community Value under the Localism Act 2011 on 4th April 2019.

The Council has received two eligible community interest groups expressing an interest to be treated as a potential bidder and this had triggered a full moratorium period to 5th October 2019. These expressions of interest and the Register were duly recorded. Whilst the six month moratorium was in place, the owner incurred expenses relating to the upkeep of the asset and later claimed these expenses as part of their compensation claim.

Please find attached emails.

The invoices were subsequently submitted by Legal Representatives acting on behalf of their client and are considered exempt under Legal Professional Privilege, see Refusal Notice below.

****A copy of any additional documents the council considered in deciding the claim***

N/A

****A copy of the council's decision letter to the property owner***

Letter of confirmation to be sent.

****If the owner requested an internal review of the compensation claim - A copy of all associated documents***

N/A

****If the owner requested an independent review to the first tier tribunal - A copy of all associated documents***

N/A

Refusal Notice

We consider that Section 42(1) Legal Professional Privilege and Section 40 (Personal information) and applies to the information requested.

Therefore, we have decided to refuse part of the request.

S42(1) - Legal Professional Privilege

We consider that exemption Section 42(1) (Legal Professional Privilege) applies to this request on the basis that some of the requested information is subject to legal professional privilege as it is communication which contains legal advice for the authority and the communication is made for the sole or dominant purpose of obtaining legal advice. Factors in favour of disclosing

- Facilitate the accountability and transparency of public authorities for decisions taken
- Facilitate accountability and transparency in the spending of public money

- Interest in the Authority's ability to represent the wider interests in an appropriate manner.

Factors in favour of withholding

There is an initial weighting in favour of maintaining the exception due to the importance of the concept behind Legal Professional Privilege, namely safeguarding the right of any person to obtain free and frank advice which goes to serve the wider administration of justice. It is important that public authorities be allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion except in the clearest case. Having weighed the factors both for and against disclosure it is my judgment that the public interest will not be served by disclosing the information requested as detailed above.

S40 - Personal Data

[Part 1 of Schedule 19](#) of the Data Protection Act 2018 amends the personal data exception Section 40 Subsection 2 of the Freedom of Information Act 2000. 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 FOI request.

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 because individuals working for the council have a reasonable expectation of privacy and do not expect that the council would disclose their names or contact details in response to an information rights request, especially as they are relatively junior and not in public facing roles. The council's redaction policy states that officers' names and contact details under the level of Assistant Director will generally not be released. All of the posts redacted are under the Assistant Director level. The names of junior Trust Officers have also been removed from correspondence supplied for similar reasons.

Section 40(2) is an absolute exemption and therefore the information will not be supplied to you.

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

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. 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). There is no charge for making an appeal.