



London Borough of Barnet,  
2 Bristol Avenue,  
Colindale,  
London NW9 4EW  
24 March 2021  
Our ref: 6966676

Thank you for your request received on 27 January 2021, for the following information:

**I would like to make a freedom of information request in relation to 84 West Heath Road. I would like all information on your planning file and, in particular, would like:**

- a) details of what amount was spent of public money taking action against Heathside School for non-compliance with planning regulations; and**
- b) copy of the full file related to Heathside's occupancy and planning issues (less anything you are legally permitted to exclude)**
- c) copy of the full file related to the new owner's various planning proposals (less anything you are legally permitted to exclude).**

I look forward to hearing from you with the relevant information.

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

#### **Response**

The council holds the information requested and it is attached/ the answers to your questions are below

**a) *details of what amount was spent of public money taking action against Heathside School for non-compliance with planning regulations; and***

Information not held. The Council does not record time spent by individual officers on specific planning enforcement cases, or planning costs incurred by Re and HBPL are not held.

Regulatory Services are provided under the Re Contract

<https://open.barnet.gov.uk/dataset/e659v/regional-enterprise-ltd-re-contract>

HB Public Law provide legal services on behalf of the Council

<https://barnet.moderngov.co.uk/documents/s34164/Report%20and%20Appendix%201.pdf>

**b) *copy of the full file related to Heathside's occupancy and planning issues (less anything you are legally permitted to exclude)***

See attached Planning Enforcement file, some information exempt see Refusal Notice

Site acquired by new owner to be used as a Boarding school and opened on 8 September 2016.

Reference ENF/01143/16

Address: Land at St Margaret's 84 West Heath Road

The Council reserved an Enforcement notice on 17 January 2017 for Breach of Planning

Control (Without Planning Permission the change of use of the property to a day school (use class D1). The requirement of the notice was to "cease the use of the property as a day school (D1 use)".

Reference 16/5298/192

Address: 84-86 West Heath Road

Decision: Lawful

Decision Date: 27/01/2017

Description: Internal conversion and use of the existing property to provide education and boarding accommodation (C2) Certificate of Lawfulness (Proposed) see <https://publicaccess.barnet.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Reference 17/00091/ENF

Address: 84-86 West Heath Road

Decision: Withdrawn

Decision Date: 15/05/2017

Description: Appeal against "Without planning permission the change of use of the property to a day school (Use class D1)"

Temporary Stop Notice served

The school was sold to an Academy Company in the weeks running up the Court hearing that was to be held on the 29 July 2019. Legal advice was given to Officers that an injunction would not be granted until such a time as the new owners had a chance to undertake their own investigations, be included in the proceedings and have a chance to respond to the enforcement notice

As soon as it has been approved by the Court then the Notice terms will become binding and enforceable and the Council will review the situation regularly to ensure that the School are not acting in breach.

The Council has also agreed a way forward with the School which will ensure that certain steps will be taken by the School to move them towards, and ultimately to ensure, compliance with the original planning enforcement notice.

**c) *copy of the full file related to the new owner's various planning proposals (less anything you are legally permitted to exclude).***

Reference 20/4748/FUL. Full demolition of the existing building (Use Class C2) and the construction of a new building of 7 storeys (5 above ground) to accommodate residential accommodation (Use Class C3) comprising of 45 apartments with basement car parking, associated communal areas, amenity space, refuse/recycling storage and cycle storage. Provision of 53 off-street parking spaces within the basement and 10 further spaces at lower ground level and 5 above ground

Some information relating to the planning application can be found online, see <https://publicaccess.barnet.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Also attached,

- Correspondence with agent
- Consultation responses
- Representations
- Cllr correspondence

See attached Enforcement file, some information exempt see Refusal Notice below.

## **Refusal**

### **R6(1)(b) – Readily Accessible**

I can confirm that London Borough of Barnet holds the information you requested. However, we consider that the following exceptions apply to some of the information requested.

We consider that Regulation 6(1)(b) applies to the information requested because the information requested is already publicly available and easily accessible.

Information regarding planning permission is available online at, see <https://publicaccess.barnet.gov.uk/online-applications/search.do?action=simple&searchType=Application>

### ***R12(5)(a) - International relations, defence, national security or public safety***

The Council has determined that releasing information about security and counter terrorism and public safety measures may lead to it becoming a target for criminal or terrorist activity. Disclosure could prejudice the way the London Borough of Barnet operates with its partners.

This is a qualified exception under the EIR which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption.

The public interest means what is in the best interests of the public, not what is of interest to the public. We have considered the public interest the disclosure of this information. These factors are that the decision making processes of public functions should be transparent and open to scrutiny in order to inform the public debate. The disclosure of information in relation to security, counter terrorism and public safety, would compromise activities in this area. The public interest in withholding the requested information outweighs the public interest in disclosure of the requested information.

### ***12(5)(b) Course of Justice***

The information requested forms part of an enforcement case as it concerns matters of enforcement and investigations into an alleged breach. Disclosure could prejudice the way the London Borough of Barnet conducts investigations and any other matter it has a duty to investigate.

This is a qualified exception under the EIR which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption. The public interest means what is in the best interests of the public, not what is of interest to the public.

We have considered the public interest the disclosure of this information. These factors are that the decision making processes of public functions should be transparent and open to scrutiny in order to inform the public debate. The disclosure of information in relation to enforcement and investigations, would compromise proceedings. In these circumstances of the case it is our view that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### ***R12(5)(e) – Commercial information & R12(5)(f) - The interests of the supplier of the information***

Making commercially sensitive and volunteered information available to the public could inhibit open and constructive discussions between public authorities and third parties. It is recognised therefore that the supply of volunteered information could diminish if information is later published in response to EIR requests. The information we are withholding under this exception was supplied voluntarily without legal obligation, where the London Borough of Barnet had no legal right to request such information.

This is a qualified exception under the EIR which means that consideration must also be given to whether in all the circumstances of the case the public interest favouring disclosure is greater than the public interest in maintaining the exemption. The material was provided to the Council for the purpose of facilitating discussion on this topic and disclosure in these circumstances may impact the willingness of these stakeholders and others to disclose such information in the future. The public interest in withholding the requested information outweighs the public interest in disclosure of the requested information.

## **Regulation 13 – Personal data**

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 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.

### **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.