

26 May 2021
Our ref: 7272404

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

FOI REQUEST FOR PUBLIC RECORD DOCUMENTS

Ref. No: 18/4221/FUL | Carmelite Friars 63 East End Road London N2 0SE

Demolition of 2no two-storey building wings of an existing grade II listed building. Erection of 1no two-storey and 1no single storey extensions (replacement wings) to side elevations of the existing building following removal of existing first floor extension to North elevation to provide conversion of existing listed building (and new wings). Including 5 no single family dwellinghouses and 2 no self-contained flats. Erection of a two-storey block comprising of 7no single family dwellinghouses to the West of existing grade II listed building. Erection of 1no single storey family dwellinghouse to North East of existing grade II listed building. Associated alterations to fenestration Associated alterations to hard and soft landscaping. Provision of amenity space, car parking, cycle storage and refuse and recycling storage. Reduction of rear boundary wall to a height of 1.3m

Ref. No: 19/3081/S73 Carmelite Friars 63 East End Road London N2 0SE

Variation of condition 1 (Approved Plans) of planning permission 18/4221/FUL dated 16/05/19 for 'Demolition of 2no two-storey building wings of an existing grade II listed building. Erection of 1no two-storey and 1no single storey extensions (replacement wings) to side elevations of the existing building following removal of existing first floor extension to North elevation to provide conversion of existing listed building (and new wings). Including 5 no single family dwellinghouses and 2 no self-contained flats. Erection of a two-storey block comprising of 7no single family dwellinghouses to the West of existing grade II listed building. Erection of 1no single storey family dwellinghouse to North East of existing grade II listed building. Associated alterations to fenestration Associated alterations to hard and soft landscaping. Provision of amenity space, car parking, cycle storage and refuse and recycling storage. Reduction of rear boundary wall to a height of 1.3m.' Variation to include sub-division of house number 7 to create 2no two bed houses and conversion of flats 1 and 2 to create 1no. three bed house. Associated changes to access areas and refuse storage areas

I have been trying to find the Viability Assessment submitted in relation to the above applications, but there are no records online.

Please could you respond to this request with the following information:

- A copy of the Viability Assessments submitted in relation to each of the above
- A copy of the independent assessor's report (on behalf of the Council)

If you require any further information please let me know.

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 exceptions apply to some of the information requested.

We consider that Regulation 6(1)(b) applies to some of the information requested because the information requested is already publicly available and easily accessible. The information relevant to your request is published online at the links provided to you below.

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The planning service has added the following financial viability documents to the public register under the planning application reference ref: 7272404

These can be located using the following link:

<https://publicaccess.barnet.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PBG6MRJIJW900>

25.07.2018 East End House, East End Road, East Finchley N2 0SE marked ' **Confidential Viability**'

24.09.2018 East End House, East End Road, East Finchley N2 0SE marked ' **Confidential Viability Appraisal**'

26.10.2018 Marked 'Confidentiality Viability Model Rev Scheme inc Build Cost (Independent Review)'

31.10.2018 Marked 'Confidentiality Viability Model Rev Scheme Sales Sensitivity (Independent Review)'

31.10.2018 Marked 'Confidential Independent Viability Review'

Some of the information within these attachments has been redacted, see refusal notice below.

I have also attached a screenshot of an email sent by the on 26/10/2018 for completeness.

Refusal Notice

R12(5)(e) Confidentiality of commercial or industrial information

Regulation 12 of the Environmental Information Regulations 2004 ("the Regulations") sets out two relevant exceptions that must be considered in this instance. Firstly regulation 12(5)(e) provides that the Council may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial and industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Factors in favour of disclosure

There is a clear public interest in disclosure to promote transparency and accountability of public authorities, greater public awareness and understanding of environmental matters, and more effective public participation in environmental decision making, all of which ultimately contribute to a better environment.

Factors in favour of withholding

The Council considers that disclosure of sensitive information would be likely to prejudice commercial negotiations with other developers if they knew the structure of this negotiation and how their own scheme compared.

Having weighed the factors both for and against disclosure, the Council has concluded that the public interest will not be served by disclosing the information requested as detailed above.

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.

Variation of condition 1 (Approved Plans) of planning permission 18/4221/FUL dated 16/05/19 for 'Demolition of 2no two-storey building wings of an existing grade II listed building. Erection of 1no two-storey and 1no single storey extensions (replacement wings) to side elevations of the existing building following removal of existing first floor extension to North elevation to provide conversion of existing listed building (and new wings). Including 5 no single family dwellinghouses and 2 no self-contained flats. Erection of a two-storey block comprising of 7no single family dwellinghouses to the West of existing grade II listed building. Erection of 1no single storey family dwellinghouse to North East of existing grade II listed building. Associated alterations to fenestration Associated alterations to hard and soft landscaping. Provision of amenity space, car parking, cycle storage and refuse and recycling storage. Reduction of rear boundary wall to a height of 1.3m.' Variation to include sub-division of house number 7 to create 2no two bed houses and conversion of flats 1 and 2 to create 1no. three bed house. Associated changes to access areas and refuse storage areas

I have been trying to find the Viability Assessment submitted in relation to the above applications, but there are no records online.

Please could you respond to this request with the following information:

- A copy of the Viability Assessments submitted in relation to each of the above**
- A copy of the independent assessor's report (on behalf of the Council)**

The application is pending consideration. As such we are unable to provide you with the information requested until such time as the planning application has been determined. I have provided a link to the planning register for what information has been made available on the planning application

<https://publicaccess.barnet.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PSD39ZJIHR800>

Refusal Notice

R12(5)(e) Confidentiality of commercial or industrial information/ R12 (5)(f) Voluntary supply

The viability assessment submitted in respect of the application for Carmelite Friars 63 East End Road, is marked as private and confidential. It is recognised that merely stamping a document private and confidential does not guarantee it will be confidential. However, the Council has gone on to consider this further and believes the information to possess the necessary quality of confidence coupled with commercial sensitivity such that it should be withheld.

Regulation 12 of the Environmental Information Regulations 2004 ("the Regulations") sets out two relevant exceptions that must be considered in this instance. Firstly regulation 12(5)(e) provides that the Council may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial and industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Secondly regulation 12(5)(f) provides that the Council may refuse to disclose information to the extent that its disclosure would adversely affect the interests of the person who provided the information to the public authority, where that person (i) was not under a legal obligation to provide it, (ii) did not supply it in circumstances such that the Council or any other public authority is entitled apart from the Regulations to disclose it; and (iii) has not consented to its disclosure.

The exceptions in regulations 12(5)(e) and (f) have been applied in this instance because the information sought relates to a Financial Viability Assessment in respect of the Planning Application for the site at 63 East End Road. The Council has a number of regeneration schemes at different stages, and disclosure of the terms of this assessment or any other, could adversely affect future negotiations as it would disclose information that would, or would be likely to prejudice the Council's ability to obtain the best outcome from this and future developments.

This is because it would prejudice the Council's ability to obtain full viability information from applicants, where the information contained within the assessment is considered to be commercially sensitive. The planning application for this development is still under assessment by the Council. In respect of the information contained within the viability assessment it is considered that the release of this information would give an unfair advantage to the developer's competitors and would adversely affect the developer's economic interests by compromising negotiations with commercial tenants, bidders and suppliers. The Council has released a considerable amount of information regarding the proposed development scheme which can be viewed on its website.

Public Interest Test

Factors in favour of disclosure

There is a clear public interest in disclosure to promote transparency and accountability of public authorities, greater public awareness and understanding of environmental matters, and more effective public participation in environmental decision making, all of which ultimately contribute to a better environment.

The factor against disclosure

The public interest in planning applications for the local area is adequately protected by the planning application process itself. Such interests are safeguarded by the role the Council plays on behalf of the public in reviewing and discussing the application. The information relates to a commercial activity, concerning a development proposal which is currently under assessment and disclosure of such information is likely to be injurious to the commercial and economic interests of the Council, and the developer in securing and negotiating terms for this and future developments, particularly in the competitive environment which now exists. The information requested contains a quality of confidence and is not available in the public domain; it is therefore protected under the common law of confidence in that there is an explicit obligation of confidence.

With the passage of time, the commercial sensitivity of some information decreases, however in this case the timing of the disclosure is of critical importance as the assessment of the proposed development scheme and negotiations are still on-going. The Council considers that disclosure of sensitive information would be likely to prejudice commercial negotiations with other developers if they knew the structure of this negotiation and how their own scheme compared.

Having weighed the factors both for and against disclosure, the Council has concluded that the public interest will not be served by disclosing the information requested as detailed above.

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.

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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.

