



London Borough of Barnet,
2 Bristol Avenue,
Colindale,
London NW9 4EW
4 August 2021
Our ref: 7388980

Thank you for your request received on 9 June 2021, for the following information:

This request is made under the provisions of the Freedom of Information Act and Environmental Information Regulations and is submitted on behalf of Friern Barnet & Whetstone Residents' Association.

This request relates to the Council's contractual arrangements for borough wide advertising .

At the meeting of the Council's Environment Committee of 13 September 2018 the Committee resolved-

'10. Provision of Bus Shelters, automatic toilets and borough wide advertising

[]

2. To approve the advertising policy attached at Appendix 2.

3. To delegate authority to the Strategic Director for Environment

to:

(a) Grant consent under the Highway Act 1980 for the erection of objects or structures for the purposes of advertising and to permit advertising to be placed on existing structures in accordance with the policy at Appendix 2 and subject to following statutory processes and obtaining relevant statutory consents.

(b) Enter into contractual arrangements with service providers to facilitate the provision of advertising on highway land and other Council land to facilitate the policy intentions in Appendix 2 (c) Enter into a licence for highway land and lease or licence arrangements for other Council land as appropriate to facilitate the policy intentions in Appendix 2.'

Please provide -

1. a list of Invitations to Tender ('ITTs') issued in respect of Lamp Post Banner advertising opportunities (whether or not also including other forms of advertising) as referred to in section 4 ('Small Format Advertising') of Appendix 2 .

2. lists of those submitting expressions of interest or tenders (whether or not qualifying) in response to such ITTs

3. copies of the relevant ITTs

4. the number of qualifying tenders received in respect of each ITT

5. if any tender process involved the preparation of a short-list of tenders made prior to final selection, a copy of each short list

6. for any tender process that did not involve the preparation of a short-list of tenders made prior to final selection, the names of all tenderers

7. if not included in the ITTs copies of which are provided in response to question 3, copies of the draft terms of contract provided to tenderers

8. a copy of any tender submitted by or on behalf of Bay Media Ltd

9. a copy of any agreement entered into in consequence of any tender submitted by or on behalf of Bay Media Ltd.

It is appreciated that financial information will be redacted.

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. The remaining information is not withheld and is below/attached.

Please provide -

1. a list of Invitations to Tender ('ITTs') issued in respect of Lamp Post Banner advertising opportunities (whether or not also including other forms of advertising) as referred to in section 4 ('Small Format Advertising') of Appendix 2 .

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The Authority have adopted a Policy in respect to introducing various forms off on street Advertising, one of which is allowing banner adverts to be attached to our street lighting assets in return for a fee, thereby making effective use of our existing assets.

The Council operates a 25 year Street Lighting PFI Contract, within which there are provisions for potential innovations and income generation over the life of the contract.

One such income generation proposal is allowing the attachment of banners in return for a fee – which is very much aligned with our recently adopted Advertising Policy.

The PFI Service Provider has worked with Bay Media to propose a commercial offer which would generate an annual income for the Council. Whilst this seemed to provide a reasonable level of income it was not known whether this offer would provide the Council with Best Value – i.e. were the sums being offered aligned with a competitive market rate.

In order to ensure the Authority would achieve best value we tested the market via issuing a competitive tender enquiry. This was directed at the specialist advertising service providers who were included within the Salford Advertising Framework Contract. This contract was set up by Salford Council and allowed any Local Authority in the UK to access the Framework and hence save money in terms of procurement costs. Please find attached the Invitation to Tender (ITT) documents which provides further details on the Authority requirements.

The Authority received two tenders which were evaluated in accordance with the procedure outlined in the ITT documents. The outcome of this exercise identified that neither of these offers would provide better value than proceeding with the commercial offer provided through the PFI contract Service Provider and hence the Authority exercised it's option to not award a contract through the tender exercise.

On that basis the Council has pursued the option to work with the PFI Service Provider and Bay Media as there specialist provider in order to generate income from the attachment of advertising banners onto lighting columns. In addition to advertising banners the Authority have also secured beneficial agreements with the Service Provider/Bay Media for banners to be installed (at cost) as required by the Council to promote Council and Local Community events, including the installation of COVID messaging and more recently the Medieval banners which

have been installed throughout High Barnet High Street. This has also been expanded to other Town Centres where a Town Centre image is being created with local messaging of encouraging people to shop locally and thanking them for doing so and hence assisting in supporting our Town Centre businesses at this difficult time.

In respect to the finalising of the detail to be included in the commercial arrangements with our PFI Service Provider and Bay Media this will only be possible once the number of approved Commercial banners has been established via the ongoing Planning process. Until such time as all of the Planning Applications have been assessed and finalised it is not possible to identify the full extent of the arrangements in respect to the number of street lights where banners can be installed and until this is finalised it is not possible to identify the value of the arrangement as they are interconnected. However, as soon as this detail is known and arrangements confirmed the Authority would be happy to update you in due course. It is also worth stating that as the Authority is not in a position to pre-empt the outcome of Planning Applications it is still possible that the Council will not conclude any such arrangement, especially if all planning applications were to be rejected and/or only small numbers are approved making the proposal unviable.

Refusal Notice

We consider that regulation 13 (Personal information) applies to some of 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.

Regulation 12 (5) (e) (Confidentiality of commercial or industrial information)/

regulation 12 (5) (f) (Interests of person who provided the 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.

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.

Factors in favour of disclosing

- * There is a clear public interest in the work of local government being closely examined to encourage the discharging of public functions in the most efficient and effective way
- * There is an important public interest in the work of public bodies being transparent and open to scrutiny to increase diligence and to protect the public purse
- * There is a public interest in public authorities being accountable for their decision making

Factors in favour of withholding *

- * Releasing sensitive commercial information could prejudice the Council's future negotiation capabilities and reduce confidence third parties have with the Council in order to facilitate the decision making process. Both the Council and the third party would be reluctant to have free and frank discussions if all that is discussed is subject to scrutiny with no safe space for 'confidential communications', the requested information may prejudice pending or future discussions which would be detrimental to the Council or the third party.
- * Preventing others obtaining our contractors and the Council's expertise for free when we have invested significant resources, time, expertise and intellectual property on the same
- * Disclosure would erode trust in the Council's ability to protect the confidentiality of information

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

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.