

London Borough of Barnet
2 Bristol Avenue,
Colindale,
London, NW9 4EW
29 July 2022
Our ref: 8340090

Thank you for your request received on 20 July 2022, for the following information:

Condition 5 of the approval requires Tesco to provide details to LBB to prevent the access to the car park from Colney Hatch Lane to vehicles other than cars, vans, motor cycles and cycles -and NO other vehicles. LBB is required to approve the details. The measures MUST be in place at all times.

- 1. Please provide the details of the restriction measures submitted by Tesco and the date they were submitted.**
- 2. Please supply the date that LBB approved the measures scheme and any detail.**
- 3. Please provide information/dates regarding LBB attempts to get Tesco to keep any such measures permanently in place(as per condition 5). Image show lorry entering and no control measures in place.**

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.

- 1. Please provide the details of the restriction measures submitted by Tesco and the date they were submitted.***

See attached Delegated Powers Report, the name of the officer has been removed – see Refusal Notice below.

- 2. Please supply the date that LBB approved the measures scheme and any detail.***

Refusal Notice below

3. Please provide information/dates regarding LBB attempts to get Tesco to keep any such measures permanently in place (as per condition 5). Image show lorry entering and no control measures in place.

See Refusal Notice below

This is a live enforcement investigation and the Council has served a Breach of Condition Notice. The Council is working with the owner to ensure compliance. If you wish to be added to updates on the enforcement action ref: ENF/1793/19 please email: planning.enforcement@barnet.gov.uk

Refusal Notice -

R6(1)(b) - Readily Accessible

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. Please click on the below link, select Enforcements button, and search for ENF/1793/19.

<https://publicaccess.barnet.gov.uk/online-applications/search.do?action=simple&searchType=Enforcement>

R12 (5) (b) - The course of justice

We consider that regulation 12 (5) (b) (The course of justice) applies to the information requested because we consider that disclosure of the information requested would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature. Until the outcome of the enforcement investigation has been formally determined the Council is not in a position to make available further details of the case available.

The public interest means what is in the best interests of the public not what is of interest to the public.

Factors in favour of disclosure

- Furthering the understanding and participation in the public debate of issues of the day.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.
- Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives.
- Bringing to light information affecting public health and safety.

Factors in favour of withholding

- There is a very strong public interest in protecting the law enforcement capabilities of public authorities.
- The enforcement investigation is ongoing and progress is reported through established mechanisms. If a formal Notice is served or any prosecution action taken only when these processes have been fully completed and appeal routes exhausted will this information will be made available into the public domain.

The planning enforcement investigation is ongoing and progress is reported through established mechanisms. A Breach of Condition Notice has been served and any prosecution action taken will be made public only when these processes have been fully completed and appeal routes exhausted will this information will be made available into the public domain.

- Any information provided by third parties during the course of such investigations should be treated in confidence and only used for the purposes for which it was provided. We believe that people would be discouraged from providing information if they thought their information might be released publicly without a compelling reason to do so. It is therefore important that this information remains confidential.

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

We consider that regulation 13 (Personal information) applies to the information requested. Therefore, we have decided to withhold the information.

R13 - Personal data

The name of the enforcement officer from the Delegated Powers Report (DPR) signing of the Notice has been removed.

[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.

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 Records & Information Management Service, Assurance Group, 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.