

London Borough of Barnet
2 Bristol Avenue,
Colindale,
London, NW9 4EW
8 August 2022
Our ref: 8322323

Thank you for your request received on 7 July 2022, for the following information:

I seek all correspondence, both internal and external, including all communication with the inspectorate and legal department in relation to the planning/enforcement of 36 Sunningfields Road, Hendon, London NW4. Also to include all appeal documentation including delegated reports and statements of case.

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 believe that the exceptions detailed below apply to some/all of this information and this is withheld. Please see the Refusal Notice below.

I seek all correspondence, both internal and external, including all communication with the inspectorate and legal department in relation to the planning/enforcement of 36 Sunningfields Road, Hendon, London NW4. Also to include all appeal documentation including delegated reports and statements of case.

The Planning Enforcement appeal procedure can be found here
www.gov.uk/government/publications/enforcement-appeals-procedural-guide

I attach a copy:

Delegated Enforcement Report

Owner Letter_redacted

Appeal Form from the Appellant

- Ground A appeal
- Ground D appeal
- Ground F appeal
- Enforcement Notice
- The Plan

Councils Questionnaire form

- Part 5 19. Details of any consultation carried out on the possibility of planning permission being granted if the appeal is confirmed as valid, Consultation letter, Cllr letter and consultation list
- Part 7 23. A true copy of the Enforcement Notice
- Part 7 24. The Enforcement Notice Plan
- Part 7 25. A list of those served with the Notice

Councils Policies

- Development Plan Front Sheet
- DM01
- DM02
- DM04
- London Plan 3.5
- SPD Residential_Design_Guidance_2016
- SPD Sustainable_Design_and_Construction

Appellants Appeal Statement and Appendices_Part1_Redacted

Appellants Appeal Statement and Appendices_Part2_Redacted

Appellants Appeal Statement and Appendices_Part3_Redacted

Appellants Appeal Statement and Appendices_Part4_Redacted

Appellants Appeal Statement and Appendices_Part5_Redacted

Appellants Appeal Statement and Appendices_Part6_Redacted

Third Party consultation response Dr S Conway_Redacted

Appeal Decision

Refusal Notice

R6(1)(b) - Material already published

Under Regulation 6(1)(b) of EIR, we are not required to provide information in response to a request if it is already reasonably accessible to you by other means.

The information relevant to your request is published online at the following link:

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

12(5)(b) The course of justice, fair trial or inquiry of a criminal or disciplinary nature

We consider that the exception 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.

R13 - Personal data

We have also redacted the names of individuals by virtue of Regulation 13 of the Environmental Information regulations 2004, as disclosure of this information to the public generally, in the Council's view, would not be consistent with the data protection principle found in Article 5.1(a) of the General Data Protection Regulation (GDPR) lawfully, transparently and fairly. We have considered whether disclosure is lawful and fair and whilst it may be lawful under Article 6.1(f) GDPR (legitimate interests) it would not be fair to the individuals concerned who would not expect the names of junior employees to be disclosed as part of such a request.

We consider that regulation 13 (Personal information) applies to the information requested.

Therefore, we have decided to withhold the information.

R12(5)(e) Confidential commercial information

The tenancy agreement submitted by the owner as part of his appeal contains commercially sensitive information e.g rent and deposit paid and clauses specific to the tenant in Assured Tenancy Agreements, Insurance Quotes, Engagement of Managing Agent fees. 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.

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 Council has met the transparency requirements by providing a summary of the tenancy agreements and periods of occupation in the main appeal statement. The disclosure of the full tenancy agreement, insurance quote and dealings with Managing Agent is confidential arrangement between the tenant and the landlord which need to be maintained and they will have a reasonable expectation that this will remain confidential

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.

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.