London Borough of Barnet
2 Bristol Avenue,
Colindale,
London, NW9 4EW
8 February 2023
Our ref: 9114012

Thank you for your request received on 30 January 2023, for the following information:

I know I am still waiting for your response to my email dated 27 January 2023 and just to reassure you, I am not chasing this up now.

I am submitting a freedom of information request to receive all correspondences between Barnet Council planning and xxxx and his legal representation. The Freedom of Information Act (FOIA) covers almost anything the council creates, holds and processes, including, emails, reports, letters, file notes, faxes, phone calls, videos, audio and digital recordings - everything relevant to this case. This is within my rights and I do not have to explain why I am requesting this. However, one point is this: since all the representations made by neighbours and local residents about the construction work at number 18 Underne Avenue have been sent to the appellant, xxxxx, it seems absolutely right that we can review his documentation.

I understand that under the Act I am entitled to a response within 20 working days of your receipt of this request. If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees. I would prefer to receive the information electronically.

If you require any clarification, I expect you to contact me to provide advice and assistance if you find any aspect of this FOI request problematic.

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.

Planning enforcement case reference ENF/1016/21 for 18 Underne Avenue, London N14 7NE is still under investigation and has not been closed, please Refusal Notice below

There is on-going enforcement work at this premises and has not been closed, please Refusal Notice below

Refusal Notice

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.
- 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.

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.

Please see attached

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.