



Freedom of Information Request Reference N°: FOI 000586-20

I write in connection with your request for information received by Suffolk Constabulary on the 10 February 2020 in which you sought access to the following information:

“Details of any of communication between Babergh Environmental Health team (Chris Cornish) and Sgt Luke Allard, Sudbury Police regarding Caffeine Lounge and Borehamgate Precinct Sudbury”

Response to your Request

The response provided below is correct as of 10 February 2020

Suffolk Constabulary has considered your request for information and the response is below.

The below emails excerpts relate to correspondence that has been received by SGT Luke Allard. Please note that some of the correspondence was received and sent by the licensing team, however it was forwarded to SGT Allard.

Certain names have been redacted as a result of exemptions within the Act to ensure no person can be identified other than those acting in their professional capacity.

8 January 2020 15:52

I've just spoken to **SECTION 40** about the Caffeine Lounge. This follows a conversation that **SECTION 40** had with **SECTION 40** a couple of days ago about noise complaints that **SECTION 40** has received from residents.

SECTION 40 lives close by. **SECTION 40** said that **SECTION 40** is regularly disturbed by the noise and other residents nearby are also concerned, but **SECTION 40** wasn't aware if any had complained to Environmental Health. **SECTION 40** said that some of the people who live nearby don't have computers and may not necessarily contact the Council direct.

I advised that when I have worked with EH previously, residents can be given a diary to fill in detailing noise levels etc.

I explained that Police would monitor any ASB that may be caused by the premises and we will collate any incident reports.

SECTION 40 will keep a log of resident complaints and may contact you.

16 January 2020 13:40

With regards to noise and disturbance in the precinct, there is a condition on the planning permission that states the doors that open into the precinct shall not be used after 23:00. This was placed to prevent noise in the precinct from people and would permit the management company to close the precinct to prevent transient access and potential ASB/noise etc.

However, The caffeine lounge has been operating in contravention of planning permission (under investigation by Planning enforcement). If you or any local officers have evidence that the main entrance has been used after 23:00 it would be useful to our planning enforcement team.

It should be noted that There is a planning application in to remove the condition and permit the front entrance to be used until closing time every day.

The planning application number is DC/20/00123 and can be found on our planning portal at

<https://planning.baberghmidsuffolk.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

the supporting statement is attached. My team were the ones who recommended the condition due to potential loss of amenity caused by noise from people in the precinct below the quietest facades of flats above. The precinct is also an echoey place where reflection will reduce the normal reduction of noise over distance.

It was discussed at planning committee and **SECTION 40** appealed to the members not to place the conditions on, however members granted approval with the condition.

17 January 2020 08:25

I've tried the link twice and it takes me to a council webpage but says 'error server problem'.

I can get onto the planning portal but this appears to be a generic planning one. Am I looking in the right place?



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17 January 2020 12:08

Environmental Health at Babergh have asked if local Police have any comments about an application to change a planning condition on the use of Borehamgate precinct with regards to the Caffeine Lounge.

At present the condition states that the main entrance doors in the precinct shall not be used (except in an emergency) between 23:00hrs and 08:00hrs in the interests of not disturbing neighbouring residents.

Customers should instead leave via a door onto Gt Eastern Road which is at the rear of the Caffeine Lounge.

However Caffeine Lounge have applied to lift this restriction so that the Borehamgate entrance doors can be used from 09:00hrs to 03:30 hrs every day and until 06:00hrs on Bank Holidays.

Environmental Health have received noise complaints from local residents as this condition appears to have been already breached since Caffeine Lounge opened.

This condition was put in place to reduce ASB. Removing it and replacing it with a new condition giving greater access to the precinct will likely lead to an increase in disturbance to residents who live above the shops. ASB will be reduced by customers leaving onto Great Eastern Road.

If you agree with this position can I ask that an SNT officer, preferably Luke as Sgt, updates the planning consultation document on the Babergh website please? It can be reached via the link below and I can help if required. I think a view from the SNT carries more weight than one from a Licensing Officer.

Hope this makes sense.

17 January 2020 13:48

This is the supporting statement from solicitors representing the Caffeine Lounge.

18 January 2020 12:43

I have updated my comments on the planning applications as follows:-

Mr Luke Allard Police Station Acton Lane Sudbury Suffolk CO10 1QN (Objects)

Comment submitted date: Sat 18 Jan 2020

Suffolk Police have reviewed the application to change the planning condition on the use of Borehamgate precinct with regards to the Caffiene Lounge. In this regard we have considered the impact that this will have to the immediate community and whether this is a reasonable request for the business to make. The front of the business property faces onto an enclosed retail area with an open roof. Situated above the shops are several residential flats. Our concern would be the increased Anti-Social Behaviour (ASB) and noise levels should the customers be let out of the front doors after the hours of 23:00 hours. The rear of the premises already has a fire exit in place and this backs out to a main road and more open area where there is less residential properties which would be impacted by increased noise and ASB from customers leaving. We believe therefore, this is a reasonable, necessary and enforceable request to ensure that the local public interest is met in relation to noise and anti-social behaviour. In this regard Suffolk Police's view is that by removing the condition and replacing it with a new condition giving greater access to the precinct will likely lead to an increase in disturbance to residents who live above the shops and ASB will be reduced by customers leaving to the rear of the premises onto Great Eastern Road.

For information.

Section 17 of the Freedom of Information Act 2000 requires that Suffolk Constabulary, when refusing to provide such information (because the information is exempt) is to provide you the applicant with a notice ban which:

- (a) States that fact
- (b) Specifies the exemption(s) in question and
- (c) States (if that would not otherwise be apparent) why the exemption(s) applies.

The information is exempt from disclosure by virtue of the following exemption(s);

Section 40(2) – Personal Information



Section 40 is an absolute; class based exemption and applies to third party personal data. This would not be released under the FOIA unless there is a strong public interest. This is because any release would breach the Principles contained within Article 5(1) of the GDPR and Part 2 of the Data Protection Act 2018.

One of the main differences between the Data Protection Act and the Freedom of Information Act is that any information released under FOI is released into the public domain, not just to the individual requesting the information. As such, any release that identifies an individual through releasing their personal data, even third party personal data, is exempted unless there is a strong public interest in its release. The public interest is not what interests the public but what benefits the community as a whole.

Personal data is defined under the Data Protection Act as data that is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life.

Principle a of Article 5(1) states that information must be processed fairly, lawfully and in a transparent manner. In this case the individuals would have a reasonable expectation that information would not be processed if it resulted in their identification, or equally led to an individual be wrongfully identified as a suspect.

FOIA disclosures are to the world at large and will remain in the public domain indefinitely. Therefore, provision of this information would exceed the original Policing requirement for the processing of the information and would not be lawful or fair to the individuals in question.

It is for these reasons outlined above; that I feel the principle a would be breached by this disclosure and the Section 40 exemption remains in place. I am not obliged to consider any further principle in my arguments.

This is an absolute, class-based exemption and, as such, there is no requirement to consider the public interest test.

Should you have any further queries concerning this request, please contact Clair Pack, FOI Decision Maker, quoting the reference number shown above.

A full copy of the Freedom of Information Act (2000) can be viewed on the 'Office of Public Sector Information' web-site;

<http://www.opsi.gov.uk/>



Suffolk Constabulary is not responsible for the content, or the reliability, of the website referenced. The Constabulary cannot guarantee that this link will work all of the time, and we have no control over the availability of the linked pages.



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Your Right to Request a Review of Decisions Made Under the Terms of the
Freedom of Information Act (2000).

If you are unhappy with how your request has been handled, or if you think the decision is incorrect, you have the right to ask Suffolk Constabulary to review their decision.

Ask Suffolk Constabulary to look at the decision again.

If you are dissatisfied with the decision made by Suffolk Constabulary under the Freedom of Information Act (2000), regarding access to information, you must notify Suffolk Constabulary that you are requesting a review within 40 working days of the date of its response to your Freedom of Information request. Requests for a review should be made in writing and addressed to:

*Freedom of Information Decision Maker
Information Management Department
Suffolk Constabulary
Police Headquarters
Martlesham Heath
Ipswich
Suffolk
IP5 3QS
OR
Email: information@suffolk.pnn.police.uk*

In all possible circumstances Suffolk Constabulary will aim to respond to your request for us to look at our decision again within 20 working days of receipt of your request for an internal review.

The Information Commissioner.

After lodging a request for a review with Suffolk Constabulary, if you are still dissatisfied with the decision, you can apply to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at www.ico.org.uk or contact them at the address shown below:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700