

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 7 December 2017

Public Authority: Brentwood Borough Council
Address: Town Hall
Ingrave Road
Brentwood
Essex
CM15 8AY

Decision (including any steps ordered)

1. The complainants have requested information regarding planning and approvals for a specific development. The Commissioner's decision is that Brentwood Borough Council does not hold any further information relevant to the requests. She does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 16 January 2017, the complainants wrote to Brentwood Borough Council ('the council') and requested information in the following terms:

"I'd like to make a formal FOI request to obtain information about our property and the planning and approvals surrounding it. Our address is as follows

[name and address redacted]

By way of background we moved here just under one year ago at the end of February 2016 and it was a new house built by Cala Homes (Chiltern) Ltd (although it was originally Banner Homes before they were acquired by Cala). We were subsequently advised in August 2016 by a Planning Enforcement Officer from Brentwood Council's Planning Department that about 2/3rds of our rear garden was in fact

illegal. Although we understood that part of the garden was 'green belt' land and couldn't have permanent structures on it, they said that in fact it was 'agricultural use' only and couldn't even have a lawn on it. It was somewhat disappointing to say the least since we were given the garden fully landscaped by Cala, including the turf, stocked borders and a sprinkler system ! We have subsequently submitted a retrospective planning application (16/01381/FUL) for a change of use from agricultural use to domestic garden - even though we haven't changed anything of course ! We are still in discussions with the Planning Department and others about that application but we would like to get a better understanding about some of the background to the original planning process that approved the overall development.

- I have tracked down on-line the original approval at the Planning Committee but there is no detail in the minutes of course. What we'd like to see is the background material and presentation pack that was provided to the Committee to assist them in making their decision.
- Subsequent to the planning approval it is clear that a number of changes were made to the plans. The configuration of the houses and their layout within the site was changed from what was approved and we can only assume that this took place by way of communications between the developer and Brentwood Planning Department. I'd like to see all of that information please.
- The breach as it was advised to us by the Planning Enforcement Officer [name redacted] in early August 2016 was apparently known to the Planning Department some time before we knew. The Enforcement Officer also told us that he'd been in communication with the planning manager at Cala Homes [name redacted] many months beforehand. I'd like to see the nature and timing of all those communications please.
- We'd like to see all relevant information about the development and how it came to be finally approved after multiple rejections. I know that some of the original proposals (and indeed the final approved plan) included a lot of information and references to Trueloves House (a Grade 2 listed building that was proposed for development). There will be a lot of information on file that relates to that house in particular and we've seen quite a bit of that on-line. We are less interested in the detail of that house unless it has some relevance to the overall development and the 11 or 12 detached houses that were approved as part of the final development. It will save a lot of time as there looks to be a lot

of information on that listed house and we don't need you to spend time digging all of that out.

- All correspondence between the Planning Department and Cala Homes regarding the development."
3. The council responded on 17 January 2017 stating that the information required is held on its website.
 4. The complainants replied to the council on the same day stating that they've already been on the site referred to many times and, whilst there is some related information on there, they cannot find any of the specific information requested. They reiterated that they are looking for all the information held by the council in relation to the development, not just the general posted documents.
 5. On 2 February 2017 the council asked the complainant to provide the date the planning application went to Committee.
 6. The complainants replied on the same day as follows:

"I think that the original scheme was approved on 16th March 2010 (application nos. BRW/558/2009 & LB/BRW/33/2009). I also think that there might have been a subsequent approval in December 2013 (13/00336). However I'm sure that the Planning Department can provide more accurate details if necessary to ensure that you use the correct information."
 7. On 7 March 2017, the council provided information as follows:

"A
1 - Officers presentation to Committee
2 - Committee minutes

B
3 – Decision Notice for 09/00558/FUL including layout plan
4 – Report to Committee including layout plan

C
5 – Report to Committee
6 – Officers notes for Chair and Vice Chair
7 – Final Decision Notice

D
8 – Email correspondence between [name redacted] and Cala Homes (14/08/2016 – 05/08/2016)"

8. The complainants expressed dissatisfaction with that response on 14 March 2017 stating that they do not believe that the council has provided everything they asked for. They requested that the council either provide the information straight away or they'd like to formally ask for an immediate internal review. They pointed out specific information which they believed was missing. This is detailed in Annex 1.

9. The council replied on 29 March 2017 with the following information:

"The Decision notice dated 23rd December 2013 refers to reference 13/00336/FUL and a number of plans. All these plans are on the Council's planning application website.

The decision notice dated 23rd December 2013 refers to condition 2 (landscaping) condition 3 (retention of trees) and condition 4 (boundary treatment). These plans can be found on planning application ref 13/00336/COND/2

The report to committee (Document 4). I do not have a date when it went to committee, however it was determined on 13th June 2011. I think the plan you have attached to that document is wrong. However all the plans referring to this report can be found on 09/00033/LBC The original complaint was made on 4th April 2016.

I thought it would be helpful to do a screen shot for the most recent applications submitted on the site. So that you can view each application."

10. On 7 April 2017 the complainants expressed further dissatisfaction. To summarise, the complainants said that the online information shows approval notices for the numerous variations but not the information and correspondence between the parties showing the basis on which changes were made and how the modified plans had been approved. They also said the following:

"...we need to see the Planning Department's internal information with respect to all of these issues. Those changes must have taken place with the full agreement of the Planning Department and presumably there are documents that explain and justify them and also some internal communications that explain why they were not deemed material and so didn't need to go back for any additional committee approvals."

11. Within the email of 7 April 2017, the complainants also made the following requests for information:

"We also need to know the Council's process in relation to carrying out any checks and controls in relation to these plans and the timing of final sign off...

...We need to see what documents exist (if any) that relate to what the Council do in terms of overseeing the developer."

12. Between 7 and 18 April 2017, the complainants spoke with and met the council and said that they were told that all the missing information had been destroyed.

13. On 18 April 2017, the council emailed the complainants as follows:

"I have attached all the attachments marked 'sensitive' on the application 13/00336/FUL. I have also complied an officer's report from our system. Everything else relating to this file is on the web."

14. The complainants responded on 24 April 2017 stating that the information isn't anywhere near enough of what they need and made comments in terms of what they've seen, what they need and next steps. This included the following:

"We are still frankly struggling to fully understand how the Council really have no records at all of the various communications that must have taken place over a considerable period of time and across a number of different individuals. No letters, no documents, no e-mails.....nothing ! Whilst I acknowledge your comments about a 'lack of storage' within the Council I know from my own working experience in a large organisation just how much time and effort has to go into the discipline of actually deleting and destroying all such physical and electronic records. It is not a small task to do so at all but somehow, even with restricted resources, Brentwood Council have managed to achieve that difficult and challenging activity - presumably for every planning case, not just this one ? What makes this case even more surprising to us is that Trueloves House is, of course, a listed building so the sensitivity and requirements to retain the appropriate documentation is usually greater."

15. The complainants then received the council's internal review response dated 21 April 2017. It said the following:

"On 18 April 2017 the Council's Planning Officers invited you to a meeting and I am informed that you now have the entire file contents of planning file 13/00336/FUL. In addition to that I now enclose the remaining documents that the Planning Team have provided me, as

requested by you at that meeting. I am assured by the Planning Team that there are no further responsive documents available.

Having carefully considered each of the separate parts of your request, I am satisfied that the Council has acted reasonably and appropriately in accordance with the requirements of the FOIA in handling your request."

16. The Commissioner understands that the council provided a history of contact with Cala Homes re the Trueloves site (from 4 April 2016 – 5 August 2016) along with copies of the email correspondence.

Scope of the case

17. The complainants contacted the Commissioner on 8 May 2017 to complain about the way their request for information had been handled.
18. The Commissioner considers the requests to cover the following information:
 1. Background material and presentation pack that was provided to the Committee to assist them in making their decision (for the overall development).
 2. All communications between the developer and Brentwood Planning Department regarding changes made to the plans.
 3. The nature and timings of all communications with the planning manager at Cala Homes regarding the breach.
 4. All relevant information about the development and how it came to be finally approved after multiple rejections (only to include detail of the Grade 2 listed building Trueloves House if it has some relevance to the overall development and the 11 or 12 detached houses that were approved as part of the final development).
 5. All correspondence between the Planning Department and Cala Homes regarding the development.
 6. The council's process in relation to carrying out checks and controls in relation to the plans and the timing of final sign off/ documents (if any) that relate to what the council do in terms of overseeing the developer.

19. The Commissioner has considered whether, on the balance of probabilities, the council holds further information, in addition to that already provided to the complainants, within the scope of the above requests.
20. Given that some of the information relates to the complainants property, the Commissioner considered whether the requests are for personal data and as such are outside the scope of the EIR and instead should be dealt with under the Data Protection Act 1998. However, the Commissioner considers that although some of the information may relate to a house that the complainants now own, the information doesn't relate to the complainants. The information was created before the complainants bought the house and it is not, for example, processed with the purpose of learning something about the complainants or determining something about them.

Reasons for decision

Section 1 of the FOIA – General right of access to information held by public authorities

Regulation 5 – Duty to make environmental information available on request

21. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
22. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.
23. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
24. The Commissioner made detailed enquiries to the council in order to assess whether further information is held. She asked the council to

note that the complainants believe they have requested all the information held by the council in relation to the development and it would appear from the wording of the requests (especially request 4) that this is the case.

25. The council set out what it referred to as 'the extensive planning history of the site'. This is reproduced in Annex 2 to this decision notice. It summarised that overall the most relevant application is 13/00336/FUL and that the complainant has had the entire contents of this file. It explained that no other application apart from the original permission (09/00558) is of any relevance and confirmed that there are no records held relating to the requests on any of those other files or elsewhere within the council. It also said that the original permission is of limited relevance as this was superseded by 13/00336/FUL.
26. The Commissioner understands that all information relating to 13/00336/FUL was provided to the complainants in two stages. The decision notice for 13/00336/FUL was provided on 7 March 2017 and then on 18 April 2017 the council provided the entire contents of file 13/00336/FUL.
27. The Commissioner pointed out to the council that its response to her enquiries states that the most relevant application is 13/00336/FUL but the scope of the requests is for all information about the development. The council explained that 09/00558 is the parent application involving 3 areas, namely the refurbishment of the listed building, the new builds, and Amity Lodge, and said that given the context of the requests, the refurbishment of the listed building and Amity Lodge are so far removed from the issue that the responses focus on the new build and the variation of conditions, i.e. 13/00336/FUL. The council reiterated that everything related to the whole development has been disclosed during dealings with the complainants and is publically available.
28. It appears to the Commissioner that the council's interpretation of the requests and the relevant planning files to be appropriate in the context of this case and, in any event, the council has stated that it has provided everything it holds relating to the whole development.
29. In relation to whether any recorded information was ever held relevant to the scope of the complainant's request but has since been deleted or destroyed, the council said that within a meeting with the complainant in April 2017, the complainant was informed that the paper files had been destroyed. It explained that physical documents had been destroyed many years ago in line with its retention policy which is to keep paper files for six months after a decision is made. It emphasised that at no time were any documents destroyed after receipt of the first of the complainant's requests.

30. The complainant expressed to the Commissioner that there was no ambiguity in the statement made in the meeting that all information had been destroyed, not just paper copies. He strongly refutes that only paper files were destroyed but acknowledges that he has no evidence of what was said in the meeting.
31. The council further explained that when a decision is issued the decision notice, plans, drawings and any relevant correspondence is saved electronically and paper copies are destroyed. It said that it does not have the storage facilities to retain paper copies and there is no legal obligation to do so. In order to explain why it doesn't need paper copies, it said that if plans are approved, an appeal isn't an option, and if conditions are imposed, a separate application is made (which in this case was regarding landscaping). The separate application (regarding conditions) and the decision on that are recorded electronically and retained. It reiterated that it was only the paper files, which had been converted to electronic documents, that had been destroyed and those electronic documents were not destroyed and have been provided to the complainant. It also said that given that the latest planning application was determined a few years ago, all paper files would have been long since destroyed.
32. The Commissioner acknowledges that there is a difference of opinion as to what was said in the meeting regarding the destruction of documents. The complainants believe this to include electronic information but the council has confirmed it only destroyed paper documents, in line with its retention schedule, and electronic copies of which were made and have been provided in this case. The Commissioner has no reason to doubt the council's submission and cannot come to the conclusion that it has destroyed electronic information on the basis of what was, or was not, said in a meeting between the council and the complainant.
33. The Commissioner asked the council to confirm whether it holds information that explains and justifies when changes were made and approved (including whether changes weren't deemed material and so didn't need to go back for any additional committee approvals) that isn't available on its website. If such information is held, she asked the council to confirm when it was provided to the complainants and if such information isn't held, she asked the council for an explanation as to why not.
34. The council said that the scheme has been subject to a number of amendments which the planning history (detailed in Annex 2) provides details of. It explained that none of the amended proposals went to committee, but were delegated by officers and said that these amendments are as follows:

- 13/00336: Variation of condition 14 of planning permission 09/00558
 - 14/00216/FUL Variation of condition 7 (revised layout) of application 13/00336/FUL
 - 14/00405/FUL Variation of condition 7 (Approved plans and particulars) of planning application 13/00336/FUL
 - 14/00872/FUL Variation of condition 7 (Approved drawings and particulars) to reposition two approved garages of application 13/00336/FUL
35. It said that the report attached to 13/00336/FUL was sent to the complainants, however the reports relating to the other amendments were not sent as they had no bearing on the complainant's site. It explained that the complainants have not been provided with all the contents of all the files due to the relevance of their complaint but this information is freely available on the council's website, to which they were referred.
36. The council also explained that in terms of any information between the original approval and subsequent approval, assuming the original approval is 09/00588/FUL and the subsequent approval 13/00336/FUL, the layout was changed between the two applications, however there may be a difference in the interpretation of 'significant and material'. It said that the application was not 'called in' as required by members and given the site already had consent for residential use it was not presented to committee. It explained that in the two plans the garden plots of 7-11 are similar, they have not been elongated and the relevant information is contained in those two layout plans and the officer's report for 13/00336/FUL. The council said that the officer's report explains the changes and the officer's assessment and one point the officer makes is that 'it is considered that the amended layout would not materially change the external perception of the development and would not materially detract from the openness of the green belt'.
37. The Commissioner asked the council for further clarification as to whether there is further information relating to amendments to the scheme as the complainant expects there to be. It explained that the parent application goes to Committee but that certain types of applications and conditions are delegated to officers. An officer writes a report on the application/condition which is then signed off by a senior officer and that this report (i.e. what is agreed) forms part of the publically available documents. The council said that there may be negotiation between the officers and the developer regarding the application/condition but it is common practice for this to take place as informal telephone conversations and that details of such conversations are not recorded and there is no requirement to do so.

38. The Commissioner considers the above explanation to be credible. However, the complainant considers that it is highly implausible that there are no emails relating to changes to the scheme and said that the fact that emails regarding the breach have been disclosed demonstrates that emails between the council and the developer do happen.
39. In its initial response to the Commissioner's enquiries, the council said that a search for the planning applications on the site was undertaken by the administrative section and the planning officer provided the complainant with the necessary relevant information requested. It said that all information is held on the councils IDOX system with the Uniform system and explained that all information held on officer's computers would be downloaded onto the IDOX system. It also said that no searches were made on officers' computers as all the information is held on the council's planning system.
40. The Commissioner sought clarification as to whether the IDOX system has been searched and whether officer's emails were searched. The council confirmed that a full search of the IDOX system took place but officer's emails weren't searched because all material emails would be downloaded onto the IDOX system. The council did say that there could be informal emails (such as keeping relevant parties up to date) but such emails would not go to the heart of the decision making process and there is no requirement for such emails to be retained.
41. Given the potential for emails to be held outside of the IDOX system but that fall within the scope of the request, the Commissioner requested that the council conduct a search of its email system in relation to this case. The council then conducted a search from the following dates for each reference using the search words 'Banner', 'Cala', 'Trueloves' and 'Cottrell':

From:	Ref:
25.08.09	09/00558
25.08.09	09/00033/LBC
28.03.13	13/00336
20.02.14	14/00185
27.02.14	14/00216
08.04.14	14/00405
28.07.14	14/00872
11.12.14	14/01437

The council confirmed that no emails are held as far back as 2009.

42. Given that email searches were conducted for each of the planning references for the site (as detailed in the planning history in Annex 2), it

appears to the Commissioner that the searches were adequate in the circumstances of this case.

43. In relation to the requests made on 7 April 2017, in its initial response to the Commissioner, the council said that those requests were responded to during its meeting with the complainant. It also said the following:

"In terms of the Council's process in carrying out checks and controls of the development, the Council approved 13/00336/COND/1 which discharged Conditions 2, 3 & 4 and 13/00336/COND/2 discharged condition 5. Therefore, all the conditions attached to this planning permission have been discharged."

44. The Commissioner made further enquiries as to whether recorded information was provided to the complainant's during the meeting and what that information consisted of. The council said that it would have produced records as the complainant's wouldn't have settled for verbal information only. The Commissioner understands that information was emailed to the complainant's, following the meeting, on 18 and 21 April 2017 (as detailed in paragraphs 13 and 15). The council explained to the Commissioner that the 'checks and controls' are 13/00336/COND/1 and 13/00336/COND/2 and that these are contained within the full file which has been disclosed and therefore the requests of 7 April 2017 have been complied with. It said that the complainant's seem to think that the council must carry out some action in terms of overseeing the developer but confirmed that it doesn't carry out any type of compliance checks in terms of planning and there is no obligation on it to do so. The council confirmed that there are no general documents relating to the council overseeing the developer as there isn't the oversight which the complainant believes there to be.
45. In reaching a decision as to whether the requested information is held, the Commissioner also enquired whether there was any legal requirement or business need for the council to hold the requested information. The council said that there is no business or indeed statutory purpose for which further information should be held. It explained that the only statutory requirement in terms of a planning application is to hold the decision notice and approved plans but that it chooses to hold further information on the uniform system. It reiterated that it is satisfied that it has provided the complainant with all relevant information.
46. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. She acknowledges the complainant's position that they are 'innocent victims' and that the problems with their garden are not of their own doing. However, the

Commissioner has not seen any evidence of wrongdoing surrounding its records management obligations and has not identified any reason or motive to conceal any information. The council has informed the Commissioner that it has been overall sympathetic to the complainants' difficulties and that discussions between it and the complainants have been amicable throughout the process. The council also said that information has been disclosed, even where the exemption for prejudice to commercial interests at section 43(2) of the FOIA could have been applied, and there is absolutely no reason for it to hold anything back.

47. Turning back to the requests as detailed in the 'Scope of the case' section of this decision notice, the Commissioner considers it beneficial to summarise the position in relation to each of the requests as follows:

1. Background material and presentation pack that was provided to the Committee to assist them in making their decision (for the overall development).

Information held, that being the full file for 09/00588/FUL, provided on 7 March 2017.

2. All communications between the developer and Brentwood Planning Department regarding changes made to the plans.

Information not held.

3. The nature and timings of all communications with the planning manager at Cala Homes regarding the breach.

Information held, that being a history of contact with Cala Homes re the Trueloves site (from 4 April 2016 – 5 August 2016) along with copies of the email correspondence, provided on 21 April 2017.

4. All relevant information about the development and how it came to be finally approved after multiple rejections (only to include detail of the Grade 2 listed building Trueloves House if it has some relevance to the overall development and the 11 or 12 detached houses that were approved as part of the final development).

Information held provided in 2 stages which the Commissioner understands to be on 7 March 2017 and 18 April 2017.

5. All correspondence between the Planning Department and Cala Homes regarding the development.

Information not held, other than email correspondence regarding the breach – request 3.

6. The council's process in relation to carrying out checks and controls in relation to the plans and the timing of final sign off/ documents (if any) that relate to what the council do in terms of overseeing the developer.

Information held, that being 13/00336/COND/1 and 13/00336/COND/2, provided within the full file for 13/00336/FUL. No general documents relating to the council overseeing the developer are held.

48. In the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold any further information relevant to this request. The council has conducted searches for the information and confirmed that it has no statutory duty or business purpose to hold further information. The Commissioner can understand the complainant's view that further information, specifically in the form of emails, should be held but acknowledges that there is often a difference between what a complainant believes should be held with what is actually held by a public authority. She considers that the council's explanations as to why it does not hold the specific requested information to be reasonable. The Commissioner is satisfied that on the balance of probabilities, further information is not held by the council. Accordingly, she does not consider that there is any evidence of a breach of section 1 of the FOIA, or in the case of environmental information, she does not consider that there is any evidence of a breach of regulation 5.

Right of appeal

49. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

50. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
51. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

- “The Decision Notice of 23rd December 2013 (document 7) references various drawings. We need to see all the relevant drawings as they pertain to our property or to the general issues of the development.
- The Decision Notice of 23rd December 2013 (document 7) references in no.2 various hard and soft landscaping schemes that needed to be submitted by the developer. We need to see all of those details.
- The Decision Notice of 23rd December 2013 (document 7) references in nos. 3 & 4 various conditions that we'd like to see all of the details of.
- We need to see all of the information between the original approval and this subsequent approval. Somewhere between those 2 approvals there were significant and material changes that somehow didn't need to go back to the Planning Committee for approval. Whilst the number of houses may well have been the same, the original quoted number of bedrooms in the houses and the 'heights' of the houses (i.e. whether they were one, one and a half, two or two and half stories high) has changed considerably, as has the orientation and layout of the houses (not to mention the specific design of each house on each plot). It is in the midst of all of those changes that Cala (and/or Banner Homes) seem to have taken the opportunity to 'elongate the gardens' of plots 7-11. In doing so they appear to have contravened the approved plans and disregarded any approved planting scheme and plan. However, we need to see all of the relevant information, including all the correspondence between the Planning Department and Cala (and/or Banner Homes) which is completely absent from the documents you have provided. In addition we need to see the Planning Department's internal information with respect to all of these issues. Those changes must have taken place with the full agreement of the Planning Department and presumably there are documents that explain and justify them and also some internal communications that explain why they were not deemed material and so didn't need to go back for any additional committee approvals.
- The "Report to Committee' (document 4) doesn't have a date on it but you have 'banded' it below in category B implying that they go together. However, the date on the plan of that document is 15/1/2013 which is much later than the original Decision Notice of document 3. Can you help me understand the inconsistency ?
- The e-mail correspondence (document 8) is useful but we also needed to know the date of the original 'complaint' to the Council about the breach. I can understand that whoever made the complaint/'notification of the potential breach' may have a right of anonymity and we are not trying to challenge that. It is the date and detail of the complaint that we need to see so if you need to redact

parts of the document we will fully understand. We are trying to piece together the chronology of events and what Cala (and/or Banner Homes) knew and when. We also need to know how long the Council knew before the e-mail exchange between messrs. Bates and Cottrell. It was obviously by definition some time before the e-mail exchange.

- We need to see all of the communications between Cala (and/or Banner Homes) and the various Council Departments as they relate to this development (specifically the 'Gardens' part of the development as opposed to the approval for Trueloves House).
- We understand that the Council now allow the developer (in this case Cala and/or Banner) to effectively 'self police' and monitor their own building control. That process obviously doesn't work as it appears to have allowed Cala (and/or Banner Homes) to completely disregard the approved plans and do what they want without any oversight by anyone Brentwood Council. I'm struggling to believe that there is no process at all so we'd like to see what documents do exist (if any) that relate to what the Council do in terms of overseeing the developer. If there really are none and no controls in place at all then we need confirmation of that so that if we end up in Court with Cala then we know who knew what and when."

Annex 2

1. As detailed in paragraph 25, the council set out the following planning history of the site:

"09/00558: Change of Use and Conversion of Trueloves House, Stable and Game Larder from Class C2 (Residential Institution) To Class C3 (Residential) To Create 8 New Dwellings and Erection Of 22 New Dwellings (Including 2 Replacement Buildings and Provision Of 10 Affordable Housing Units) New Access Link Road, Associated Parking, Bin Stores and Landscaping. This application was approved in 2012 as it was subject to a section 106 agreement.

09/00033/LBC Demolition Of 'The Willows' Extension, Internal and External Alterations to Include Gabled Porch Entrance to Trueloves, Internal and External Alterations to The Stables. This was approved to 2011 but has no relevance to [complainant's] property as it relates to a different part of the site.

13/00336: Variation of condition 14 of planning permission 09/00558/FUL to allow the approved development to be undertaken in accordance with revised drawings which includes a variation to the approved layout, design amendments and internal alterations to new houses and apartments. This application was approved in 2013. This permission superseded the layout of the previous consent and the approved layout was the scheme that was implemented. The Council have sent the entire contents of this file to [complainant].

14/00185/LBC Amendment to (Plot 3 Trueloves House) listed building consent reference 13/0335/LBC (Flat roof extension to rear of plot 3 replaced with slate tile pitched roof extension, central bay set back and internal layout and window schedule) and minor alterations to stables. Approved 2014. This application refers to a different part of the site and does not include [complainant's] property.

14/00216/FUL Variation of Condition 7 (revised layout) of application 13/00336/FUL (Variation of condition 14 of planning permission 09/00558/FUL to allow the approved development to be undertaken in accordance with revised drawings which includes a variation to the approved layout, design amendments and internal alterations to new houses and apartments) to increase the use of roof space including additional dormers to Amity Lodge. Approved 2014. This permission

refers to Amity Lodge which is a different part of the site and does not relate to [complainant's] property.

14/00405/FUL Variation of condition 7 (Approved plans and particulars) of planning application 13/00336/FUL (Variation of condition 14 of planning permission 09/00558/FUL (Variation of condition 14 of planning permission 09/00558/FUL to allow the approved development to be undertaken in accordance with revised drawings which includes a variation to the approved layout, design amendments and internal alterations to new houses and apartments) to increase the use of roof space including additional dormers to Amity Lodge which is different part of the site and does not relate to [complainant's] property.

14/00872/FUL Variation of condition 7 (Approved drawings and particulars) to reposition two approved garages of application 13/00336/FUL (Variation of condition 14 of planning permission 09/00558/FUL to allow the approved development to be undertaken in accordance with revised drawings which includes a variation to the approved layout, design amendments and internal alterations to new houses and apartments). Approved 2014. This permission relates to the revised location of two garages but does not involve [complainant's] property.

14/01437/FUL Variation to approved house type relating to Amity Lodge (permissions 13/00336/FUL and 14/00405/FUL refer) to include a side extension. Approved 2014. This permission refers to a different part of the site and does not relate to [complainant's] property."