

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

Date: 16 November 2017

Public Authority: Hastings Borough Council
Address: Town Hall
Queens Road
Hastings
East Sussex
TN34 1QR

Decision (including any steps ordered)

1. The complainant has requested information relating to a specific caravan park. The Commissioner's decision is that Hastings Borough Council does not hold any further information within the scope of the requests. The Commissioner has also decided that the council breached its obligations in relation to the time for compliance. She does not require the public authority to take any steps to ensure compliance with the legislation.

Request and response

2. On 28 May 2016 the complainant wrote to Hastings Borough Council ('the council') via the WhatDoTheyKnow website¹ and requested information in the following terms:

"According to information sent to the Local Government Ombudsman by Hastings Borough Council as part of the current investigation, a

¹ https://www.whatdotheyknow.com/request/rocklands_caravan_park_site_plan

request to reposition two caravans was made by the site operators on 10 February 2015. (Question 9 refers)

Can you please advise me how this application was dealt with. Please provide the planning application number and relevant documentation.

Can you please advise which caravans were moved and whether a revised site layout plan was provided.

I appreciate that previous FOI requests to release the site plan have been refused on the grounds of commercial confidentiality so I am not asking for sight of the plan for fear of being accused of making vexatious requests.

I am simply asking if a revised site plan was provided,

This request is specific to the two caravans referred to in the ombudsman question pack."

3. The council responded on 8 June 2016 as follows:

"This information is held

Hastings Borough Council were notified of the moves on the 9th February 2015.

Base 22 was removed, Base 23 was turned through 90 degrees and base 30 was removed to make space for car parking. This was all done under permitted development and a new plan submitted and officers have inspected the site and confirmed the changes."

4. There then followed numerous exchanges of correspondence between the complainant and the council in which requests for information were made and many questions were asked.
5. The annex to this decision notice details what the Commissioner considers to be the main points of the exchange of correspondence.

Scope of the case

6. The complainant contacted the Commissioner on 18 April 2017 to complain about the way her request for information had been handled. To summarise, she said that during the time taken to answer her questions, she has been given conflicting, misleading and incorrect information and some of her questions remain unanswered.

7. In light of the complaint in this case, the Commissioner provided clarification to the complainant as to the scope of the FOIA and EIR as follows:

“The FOIA and EIR are concerned with transparency of information held by public authorities. They give individuals the right to access recorded information (other than their own personal data) held by public authorities. The FOIA and EIR do not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold. The legislation is concerned with recorded information that is actually held by a public authority, not the accuracy of that information.

From the correspondence you have provided it seems that the main element of your complaint is that not all of your questions have been answered and that the information provided has been inconsistent and flawed. The Commissioner can only consider whether the council should have answered questions if it already holds information in recorded form which would answer those questions. The Commissioner cannot assess the accuracy of information disclosed in response to a request.”

8. The Commissioner provided the complainant with what she considers to be the main points of the exchange of correspondence (as detailed in the annex to this decision notice). She noted that the complainant had suggested that this is all one request for information; that being the request made on 28 May 2016, and provided the view that the initial request was dealt with by 17 June 2016 as at that point the council had informed her that it dealt with the application as permitted development, that there was no planning application number, told her which caravans were moved and that a new plan was submitted. The Commissioner said that the subsequent questions are much wider than the initial specific request which was focused solely on the two caravans referred to in the ombudsman question pack. She explained that due to the lengthy correspondence and the volume of questions asked, she has taken the further requests to be those clarified by the complainant on 21 December 2016 and the subsequent correspondence of 25 January 2017. The Commissioner informed the complainant that the council has provided narrative information in response to most of the questions on both 24 January 2017 and 24 March 2017 and said the following:

“Taking into consideration the fact that the FOIA and EIR do not require public authorities to generate information or to answer questions, explanations or opinions, unless this is recorded information that they already hold, and that the Commissioner cannot assess the accuracy of information disclosed in response to a request, I would be grateful if you could narrow down the scope of your complaint to those

areas where you believe further recorded information is actually held by the council. This will allow me to progress this complaint in this most efficient manner. I understand that this would include the following:

Question 1:

1. Please can you confirm when exactly in 2015 the moves were carried out as this is vital to my query?
2. Please can you confirm when the subsequent moves took place?

Question 2:

- Please can it be clarified why an informal agreement was made between the Council and the site operators when the owner's site licence conditions requires a formal agreement?
- Please can you confirm how the visiting officer recorded the verbal information given so that he could check whether compliance had been achieved?

Question 3:

- Please can you state [which caravans were moved at this time, and] what their spacing is now following the moves?

I appreciate that the above is only a fraction of the total questions you have asked the council. However, several questions cover the same issues and the questions above are the only ones that I have identified where the council hasn't provided an answer. It is often the case that a requester believes that more recorded information should be held than that which is actually held by a public authority.

Please confirm if you are content for my investigation to focus on the above. I will then look at whether the council holds any further information within the scope of the above requests.

Please note that it is not within the remit of the Information Commissioner to look at wider issues such as whether planning requirements, site licence conditions, and model standards have been met."

9. The complainant's response to the Commissioner explained that she has tried to resolve her complaint with the council directly but it has not been resolved to her satisfaction and included copies of complaint correspondence between her and the council. She agreed that the scope of this complaint can be limited to the requests detailed in the above paragraph but also requested that it includes clarification on the number

of caravans moved during 2014/2015, between the date of the subsequent compliance audit visit to the caravan park in December 2014 and the last visit made by the Licencing Officer in July 2015 to check compliance. The Commissioner therefore identified the following request made on 17 June 2016:

“Please can you confirm how many caravans have been moved within Rocklands Private Holiday Caravan Park”

10. The complainant also said that part of her complaint is about the way in which requests are not answered within 20 days and if further questions are generated or clarification needed another 20 days is then added and that if the requestor prompts the Information Officer for a response, once the 20 days has passed, then another 20 days is added to the timescale for response.
11. Given all of the above, the Commissioner has considered whether, on the balance of probabilities, the council holds further information, in addition to that already provided to the complainant, falling within the scope of the following questions (numbered separately for ease of reference within this decision notice):
 1. Please can you confirm when exactly in 2015 the moves were carried out as this is vital to my query?
 2. Please can you confirm when the subsequent moves took place?
 3. Please can it be clarified why an informal agreement was made between the Council and the site operators when the owner's site licence conditions requires a formal agreement?
 4. Please can you confirm how the visiting officer recorded the verbal information given so that he could check whether compliance had been achieved?
 5. Please can you state [which caravans were moved at this time, and] what their spacing is now following the moves?
 6. Please can you confirm how many caravans have been moved within Rocklands Private Holiday Caravan Park (during 2014/2015, between the date of the subsequent compliance audit visit to the caravan park in December 2014 and the last visit made by the Licencing Officer, in July 2015 to check compliance).
12. The Commissioner has also considered whether the council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA and regulation 5(2) of the EIR.

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

13. 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.
14. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.
15. 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.
16. The Commissioner made detailed enquiries to the council in order to assess whether further information is held. She asked the council to bear in mind the following:

“...the complainant believes that further information regarding the spacing of caravans must be held because ‘If the Council does not have an accurate record of the caravans within the caravan park, and an accurate record of the spacing between the caravans then they will not be able to monitor for breaches, and will not be able to take affective enforcement action should further breaches occur’. She has also stated that the council has told her that 2, 21 or 35 caravans have been moved and that she cannot be ‘expected to believe that 35 caravans were moved during peak season, when the site is likely to be at its busiest, without causing maximum disruption to the caravan owners and their guests, and without any notes being taken, or an accurate site plan being submitted. The reason that there is a closed season is so that this type of operation can be carried out without risk to the caravan site users.’”

17. The council responded to the Commissioner in relation to each of the requests as follows:

Requests 1 and 2 – the council said that it does not hold information of when exactly the caravans were moved by the operators. It explained that it, at various dates, gave permission for the gaps to be corrected by moving the necessary vans, in some cases by only a few inches. It also said that re-inspections have confirmed the gaps as being correct, following the correction exercise by the operators.

Requests 3 and 4 – the council said the 'informal agreement', which it explained to be a 'verbal meeting', over the spacing was made between its officers and the operators as all were on site carrying out an inspection and had a copy of the RH report with them to discuss and agree at the time. It clarified that it did not record the information as they were referring to the gap issues raised in the RH report which all parties held. It also said that compliance was checked at subsequent visits by direct measurement and provided the gaps complied or exceeded the condition, no records were kept. It confirmed that it does not hold the requested information.

Requests 5 and 6 – the council said that it can only give the information already supplied and cannot confirm which exact van was moved but can confirm that the gaps were subsequently achieved. It said that for each gap issue raised there is usually two or three vans involved and movement of any could achieve the desired gap. It confirmed that it holds no information as to which van or how many were moved.

18. The Commissioner enquired as to whether the information has ever been held, the scope, quality, thoroughness and results of the searches carried out by the council, whether information had ever been held but deleted and whether copies of information may have been made and held in other locations. The council said that if the information were held it would be some manual but mostly electronic and explained that all manual and electronic records that are kept in Licensing have been checked. It explained that its Licensing Manager carried out a search on his computer going back to 2012 and searched on Rocklands Caravan Site visit, meetings and East Sussex Fire and Rescue Service. The council confirmed that no information had ever been held which had since been deleted or destroyed.
19. 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 information. It explained that it has a statutory duty to licence caravan sites if they comply with the requirements under the Caravan Sites and Control of Development Act 1960 and therefore it needs to record the basics, such as licence issued, any conditions attached, details of the operator and

the appropriate planning consents, but it has no statutory duty to record other information including the information requested in this case. It also said that the business purpose is caravan licensing but clarified that it has no business purpose to hold the specific information that is being requested.

20. In relation to questions 1 and 2, the complainant believes that the council should be able to be more specific as to when caravans were moved. The Commissioner notes that the council explained to the complainant on 8 June 2016 that it was notified of some of the moves on 9 February 2015 and that it stated on 2 March 2017 that it cannot confirm exactly when the moves were carried out but it was between 16 December 2014 and 5 August 2015. The Commissioner notes the difference between being notified by the site operators that a move has been carried out and being informed of exactly when that occurred and holding that information in a recorded form.

21. Regarding question 3, the complainant has quoted Condition 4 of the Site Licence for Rocklands Private Holiday Caravan Park as stating:

'4. A plan of the layout of the said land showing the position of the caravans, ablution blocks, fire points, roads, refuse points, waste water disposal points and standpipes must be deposited with the Council when making an application for a site licence.

None of the items listed above shall be moved, added to or removed on the said land without the submission of a revised layout plan of the site to the Council and the written approval of the Council being obtained.'

Given the above condition, the Commissioner can understand why the complainant considers that there should have been a formal agreement. However, the council's explanation that its officers and the operators were all on site carrying out an inspection with a copy of the RH report to discuss and agree at the time appears to be feasible. The Commissioner also notes that the council would only be obliged to provide information in response to the question posed ('Please can it be clarified why an informal agreement was made between the Council and the site operators when the owner's site licence conditions requires a formal agreement?') if such information were held in recorded form and that council has confirmed that this is not the case.

22. In relation to question 4, the Commissioner notes that a response under the legislation would be how the visiting officer recorded the verbal information given. The council has explained that it did not record the information. Therefore is it feasible that no recorded information exists as to how verbal information was recorded when the council has stated that it wasn't in fact recorded.

23. Regarding question 5, the complainant considers that the council must have an accurate record of the spacing between the caravans in order for it to be able to monitor for breaches and take enforcement action should further breaches occur. She has also said that the statement made on 24 March 2017 that 'HBC have accurately recorded the vans that were either moved or removed and now measured to ensure compliance, they are now reflected on the new draft plan that is under consultation with the site operators and their representatives' contradicts the council's earlier statements that 'there is no need to know exactly what the measurement was' and 'We were using the audit document as our notes and therefore no other details were required to be noted.' The Commissioner has analysed these statements and does not consider that they are necessarily contradictory. The statement that the council has 'recorded the vans that were either moved or removed and now measured to ensure compliance' does not equate to the council holding information as to the spacing between the caravans. The council has confirmed to the Commissioner that it does not hold the requested information. The Commissioner notes that the council has informed the complainant, on a number of occasions, that the gaps were measured and found to be compliant but this does constitute the specific information requested regarding the spacing of the caravans following the moves.
24. Also in reference to question 5, the council has confirmed to the Commissioner that at the time of the request it did not hold any information in respect of spacing. It explained that following a site visit on the 18 May 2017 it does now hold some information regarding spacing. The Commissioner agrees with the council that such information is outside of the scope of the request in this case as it was recorded after the requests and responses in this case. The Commissioner notes if the complainant now made a request for information relating to the spacing of the caravans, the notes of 18 May 2017 would fall within the scope of such a request.
25. In relation to question 6, the complainant has said that the council has told her that 2, 21 or 35 caravans have been moved and that she cannot be 'expected to believe that 35 caravans were moved during peak season'. The Commissioner notes that the council provided some information regarding caravan movements as follows:
- 8 June 2016 - 'Base 22 was removed, Base 23 was turned through 90 degrees and base 30 was removed to make space for car parking'.
- 3 August 2016 - 'Following the RH environmental audit 21 vans were identified as having spacing issues, these were moved by the operator with our knowledge and have been measured by officers, the moves on most were minimal (inches) so I doubt that to a naked eye they look any different.'

24 January 2017 – 'The following caravan numbers were involved in achieving the required gaps: 1/2, 2/3, 7/9, 7/11, 16 removed, 19/20, 20/21, 21/22, 21/23, 22/25, 22/26, 24/25, 27/28, 27/33, 28/29, 28/32, 30 removed, 31/32, 34/35, 35/36, 38/40, 43/44, 47/52, 28/51, 57/58, 58/59.'

However, given the council's explanation that 'In relation to the number of vans moved, it is not the case that if a set of vans are identified as having a reduced gap that van has to be moved. Dependant on the layout it is possible in areas to move one van and solve several gap issues at once', the Commissioner can appreciate that providing figures as regards to how many caravans have spacing issues does not necessarily equate to the actual number of caravans that have been moved. The council has confirmed that it does not hold information as to how many caravans were moved.

26. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. She has not seen any evidence of wrongdoing surrounding its records management obligations and has not identified any reason or motive to conceal the requested information.
27. 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 the specific requested information. The Commissioner can understand the complainant's view that further information 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.

Section 10(1) and Regulation 5(2) – Time for compliance

28. Section 10(1) of the FOIA states:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

29. Regulation 5(1) states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of request.
30. The Commissioner explained to the complainant in this case that if a public authority does hold requested information, it will need to both issue the requester with written confirmation of this and provide the information promptly, and within 20 working days. She also explained that if a public authority does not hold information which would answer a question then it is required to inform the requester of this in writing promptly and within 20 working days.
31. For each of the requests in this case, the council's position is that it does not hold the specific information requested. In such circumstances the council should have confirmed to the complainant that it does not hold the requested information within 20 working days. The Commissioner has considered each of the six requests and responses in this case and considers that the council did not confirm to the complainant that it does not hold the specific information requested within 20 working days in all instances. Therefore, the council breached the statutory time limits.

Other matters

32. The complainant informed the Commissioner that part of her complaint is that if further questions are generated or clarification needed another 20 days is then added to the time to respond and that if the requestor prompts the Information Officer for a response, once the 20 days has passed, then another 20 days is added to the timescale for response.
33. The Commissioner explained to the complainant that if further questions are posed or further requests for information are made, then provided the information isn't within the scope of the original request for information, the further request should be treated as a new request and the 20 day time limit for complying starts afresh.
34. She also explained that if a requestor prompts a public authority for a response, the 20 working day limit should not be affected. The Commissioner notes that it appears that the council has an automatic response set up on the WhatDoTheyKnow website which states the following in response to any communication sent via that website:

"We aim to respond to requests for information within 20 working days, in accordance with the requirements of the Freedom of Information Act."

35. Although this response appears to have caused confusion, it does not necessarily follow that the council is extending the time limit for responding.
36. The council should consider whether to amend its automatic response to avoid future confusion.

Right of appeal

37. 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

38. 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.

39. 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

**Deborah Clark
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex

1. On 28 May 2016 the complainant requested information in the following terms via the WhatDoTheyKnow website: "According to information sent to the Local Government Ombudsman by Hastings Borough Council as part of the current investigation, a request to reposition two caravans was made by the site operators on 10 February 2015. (Question 9 refers)

Can you please advise me how this application was dealt with. Please provide the planning application number and relevant documentation.

Can you please advise which caravans were moved and whether a revised site layout plan was provided.

I appreciate that previous FOI requests to release the site plan have been refused on the grounds of commercial confidentiality so I am not asking for sight of the plan for fear of being accused of making vexatious requests.

I am simply asking if a revised site plan was provided,

This request is specific to the two caravans referred to in the ombudsman question pack."

2. The council responded on 8 June 2016 as follows:

"Hastings Borough Council were notified of the moves on the 9th February 2015.

Base 22 was removed, Base 23 was turned through 90 degrees and base 30 was removed to make space for car parking. This was all done under permitted development and a new plan submitted and officers have inspected the site and confirmed the changes."

3. On 9 June 2016 the complainant expressed dissatisfaction with the response and asked a further question ('Has the owner of the caravan park notified you of this change?').
4. The council provided a further response on 17 June 2016. It informed the complainant that there is no planning application number as it was dealt with as permitted development.
5. The complainant responded on the same day disputing that the moves are permitted development. She requested a copy of the 'new' site plan and asked further questions.

6. There then followed a series of correspondence in which numerous questions were asked including requests for clarifications and explanations (for example on 6 August 2016 the complainant asked 'Please can you confirm why the Council is reluctant to release details of the site re-measurement or to supply a copy of the new plan?' and on 21 November 2016 she asked '...if this plan has been superseded by a 'new' site plan, as confirmed in your correspondence to the LGO and ICO, then why is it not marked as being 'Cancelled' as to the auditor's requirements').
7. On 20 December 2016, the council noted the 'lengthy correspondence regarding your query and a number of clarifications and follow-up questions' and asked whether the following accurately reflects the points the complainant would like addressed within an internal review:

"Information relating to the moves of caravans that took place during the closed period of 2015 at Rocklands Private Holiday Caravan Park:

1. Details on the number of caravans moved during that period and whether the moves rectified the breaches identified during an audit of the caravan park.
 2. When the moves took place and how the requests were made by the site owners.
 3. The current site plan that shows the position of the caravans after the moves took place.
 4. Confirmation that the Council actually visited the site to physically measure the caravans.
 5. Confirmation of how the caravan site owners are operating without a valid site licence as their licence does not contain details of the relevant planning permissions."
8. The complainant responded on 21 December 2016 stating that the council is correct but she would also like to know whether the density issues have been resolved. She also made further points.

9. On the same day, the council wrote to the complainant as follows:

"The Freedom of Information Act 2000 provides public access to information held by public authorities.

The Act covers any recorded information that is held by a public authority.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

General questions to the Council are not recorded information and do not fall under the remit of Freedom of Information therefore we are

unable to carry out a review until you clarify exactly what recorded information you are trying to obtain.”

10. The complainant’s response of the same day clarified that she is requesting the following information under the EIR:

“Please can you confirm when the requested moves for the 21 caravans identified in the RH Environmental Review audit were made?

Please can you confirm how the request was made, was it in writing, email or telephone call?

Please can you state which caravans were moved at this time, and what their spacing is now following the moves?

Please can you confirm whether the caravans, not identified in the RH Environmental Review, are now correct to the spacing requirements in the owners’ site licence, or have the moves of other caravans compromised them?

Please can you confirm whether all of the caravans, within Rocklands Private Holiday Caravan Park now conform to the 5 metre spacing requirements, as outlined in their planning permission and site licence conditions.

Please can you confirm whether a new site plan has been received following our meeting with the Council on 21 July 2015?

Please can you confirm whether the ‘new’ site plan omits the unauthorised caravans on the lower slopes?

Please can you clarify whether the density of 60 caravans per hectare was taken into consideration when the reviews and audits took place by your licencing manager?”

11. The council provided an internal review response on 24 January 2017 as follows:

“Question 1: Please can you confirm when the requested moves for the 21 caravans identified in the RH Environmental Review audit were made?

The moves were carried out during 2015.

The required moves were agreed verbally with the licence holder during a site visit carried out on 16th December 2014.

Follow-up visits and measurement of the site occurred on 14th July

2015 and 3rd August 2015 to ensure the gap issues had been resolved. These visits showed compliance across the site with one exception, where two caravans were still found to be in breach. This was identified to the licence holder and immediate steps were undertaken to rectify the issue. This was confirmed by email on 5th August 2015.

A follow-up visit was made by the Licencing Manager and Assistant Director on 12th January 2016 as a result of constant notification by complainants that the gap issues had not been resolved. Random gaps were measured and all checked were found to be complying with the conditions.

It should be noted that the gaps were measured on-site by tape measure and provided compliance was achieved, no further notes were recorded.

Question 2: Please can you confirm how the request was made? Was it in writing, email or telephone call?

The required moves were agreed verbally with the licence holder during the site visit carried out on 16th December 2014.

Question 3: Please can you state which caravans were moved at this time, and what their spacing is now following the moves?

The following caravan numbers were involved in achieving the required gaps: 1/2, 2/3, 7/9, 7/11, 16 removed, 19/20, 20/21, 21/22, 21/23, 22/25, 22/26, 24/25, 27/28, 27/33, 28/29, 28/32, 30 removed, 31/32, 34/35, 35/36, 38/40, 43/44, 47/52, 48/51, 57/58, 58/59.

Gaps were measured on-site by tape measure and found to be compliant.

Question 4: Please can you confirm whether the caravans, not identified in the RH Environmental Review, are now correct to the spacing requirements in the owners' site licence, or have the moves of other caravans compromised them?

All gaps, when last measured, were compliant with the conditions.

Question 5: Please can you confirm whether all of the caravans, within Rocklands Private Holiday Caravan Park now conform to the 5 metre spacing requirements, as outlined in their planning permission and site licence conditions?

All gaps, when last measured, were compliant with the site licence conditions.

Question 6: Please can you confirm whether a new site plan has been received following our meeting with the Council on 21 July 2015?

The last site plan provided by the licence holder is dated July 2015. This document is now in the public domain and I have therefore attached a copy for the sake of completeness.

Question 7: Please can you confirm whether the 'new' site plan omits the unauthorised caravans on the lower slopes?

The last site plan provided by the licence holder, dated July 2015, does not show caravans on the lower slopes.

Question 8: Please can you clarify whether the density of 60 caravans per hectare was taken into consideration when the reviews and audits took place by your licencing manager?

Measurements were made on the 'gaps' between caravans, not the overall density."

12. The complainant responded on 25 January 2017. She pointed out that the above response does not include an answer to the following question posed on 18 December 2016:

"Please can you confirm how the caravan park site owners are operating without a valid site licence as their licence does not contain details of the relevant planning permissions, and is over 50 years out of date - being dated 1960 when a previous owner managed the site. The planning permissions identified on the licence show that the site only has permission for 50 caravans and there are over 70 caravans. The owners pp also is for touring caravans and they have installed static caravans."

13. The complainant also asked for clarification of some of the answers, and asked further questions, as follows:

Question 1:

Please can you confirm when exactly in 2015 the moves were carried out as this is vital to my query?

Please can you clarify why the Council visited the caravan park on 16 December 2014 to discuss the moving of caravans?

Please can it be clarified what the purpose of this visit was, and why the details of the visit were not recorded formally, when it was

obviously a follow up visit from the compliance audit that was conducted on 20 August 2014 by RH Environmental Limited?

Please can you confirm when the subsequent moves took place, and whether the email confirmation was in respect of works outstanding, or confirmation that the works had been completed and now complied?

Please can I have a copy of the email, dated 5 August 2015 under EIR as that is the legislation applicable to caravan parks?

Please can you confirm whether the Licencing Manager measured only the caravans identified in the RH Environmental Limited Review, or whether he measured all caravan spacing on the site to ensure that the moving of one caravan to comply had not compromised its neighbour?

Please can you confirm whether the 'random' gap measurement exercise involved caravans that were identified as part of the RH Environmental Audit? If they were caravans identified in the RH Environmental Audit then they were not picked at 'random' but were caravans previously identified as being non-compliant.

Please can it be confirmed why no actual measurements were taken during the re-measurement exercises undertaken on 14 July 2015, 3 August 2015 and 12 January 2016?

Are you stating that every caravan on the caravan park is now five metres from its neighbour or are you stating that there is a minimum of five metre spacing between each caravan and its neighbour?

Question 2:

Please can it be clarified why an informal agreement was made between the Council and the site operators when the owner's site licence conditions requires a formal agreement?

Please can you confirm why a new site plan was not submitted with the verbal request so that the visiting officer could determine on what was actually Proposed?

Please can you confirm how the visiting officer recorded the verbal information given so that he could check whether compliance had been achieved?

Question 4:

Please can you confirm whether all of the caravans within the caravan park were re-measured for compliance, or whether it was only the

caravans identified in the RH Environmental Limited Review that were re-measured?

Question 5:

Please can you clarify whether you are stating that all of the caravans within Rocklands Private Holiday Caravan Park are now at least 5 metres from their neighbour or whether it is only the caravans that were identified in the RH Environmental Review that are at least 5 metres from their neighbour?

Question 8:

Please can you clarify whether the density of 60 caravans per hectare was taken into consideration when the reviews and audits took place by your licencing manager?

Please can you confirm why the density requirements of the caravan park were not taken into consideration when the re-measurement exercises were undertaken as this is a requirement on the operator's site licence conditions?

14. On 24 March 2017 the council provided a further response as follows:

"The questions being raised following [name redacted] Internal Review go beyond the scope of the Freedom of Information Act, however I have asked our Licensing Manager to address each question in turn in the exact way you have laid out:

...

The caravan site owners have a valid licence in place, the correct planning permissions have been granted, there is no legal requirement for these planning permissions to be displayed on the front page of the licence. The new draft licence that has been developed includes all the planning permissions which have been checked with the planning department.

The density requirements come from the Caravan Sites and Control of Development 1960-Model standards. The Act states that a site licence may be issued subject to such conditions as the Authority may think necessary - it is not a requirement of the Act. In this case historically model standards were issued to licences but in relation to density they were amended to read 'The density should be consistent with safety standards and health and amenity requirements. The model licence conditions state that the gross density shall not normally exceed 60 caravans per hectare'

Therefore this requirement is not mandatory and we as the licensing

authority are happy to continue using gap measurements between caravans, this is the measurement used by fire and rescue service for their legislation.

Hastings Borough Council (HBC) cannot confirm when exactly in 2015 the moves were carried out, we can confirm it was between the site visit on 16th December 2014 and the second site visit on the 3rd August 2015 and the last outstanding gap on the 5th August 2015.

The purpose of the site visit on the 16th December was to agree with the operator the required moves as identified by the RH Audit. We were using the audit document as our notes and therefore no other details were required to be noted.

HBC have already commented above about the timescale when the moves occurred.

Together with another officer all gaps identified in the RH audit were checked and some additional ones if we believed that the moves had compromised other gaps (they had not).

The subsequent re measure on the 12th January 2016 was a check of random gaps, some from the RH Audit some not. Two officers taking measurements using a calibrated device are capable of seeing if a gap is 5m or more, if it is the condition is met we have no need to know exactly what the measurement was.

At the time of last measurement there was a minimum of 5 m between caravans. Some clearly are a lot more.

HBC have already answered the question about the visit in December 2014.

The draft plan was submitted in July 2015 to reflect the earlier discussion over moves with the site operator, there was little point in requesting a plan prior to the moves identified in the RH audit.

HBC have accurately recorded the vans that were either moved or removed and now measured to ensure compliance, they are now reflected on the new draft plan that is under consultation with the site operators and their representatives.

HBC make no comment about Google Earth Images, the measurements were taken by hand on site. We cannot comment on the accuracy of the Google Earth images of which we cannot verify. The numbering or re numbering of vans is not an issue for the licence it is their actual positions that are relevant."