

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF ENVIRONMENTAL AND PLANNING SERVICES STANDING
SCRUTINY PANEL
HELD ON THURSDAY, 28 FEBRUARY 2008
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 9.40 PM**

Members Present: Mrs P Smith (Chairman), , Mrs A Cooper, R Frankel, P House, Mrs P Richardson, H Ulkun, Mrs J H Whitehouse and B Rolfe

Other members present: Mrs A Grigg and Mrs M Sartin

Apologies for Absence: R Bassett, G Pritchard, Mrs L Wagland and M Woollard

Officers Present J Gilbert (Director of Environment and Street Scene), J Preston (Director of Planning and Economic Development), Ian White (Senior Planning Officer) and A Hendry (Democratic Services Officer)

48. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Mrs J H Whitehouse was substituting for Councillor M Woollard and that Councillor B Rolfe was substituting for Councillor G Pritchard.

49. DECLARATION OF INTERESTS

None were reported.

50. NOTES OF THE LAST MEETING

The notes from the last meeting, held on 6 December 2007, were agreed subject to minute item 44 being amended under the Nazeing Focus Day item to say that it was the Lorry Analysis that was not completed and not the County Freight Strategy.

51. VOSA PRESENTATION

The Panel received a short presentation from Paul Hartley, the Senior Team Leader for the Environmental Team, from the Vehicle and Operator Services Agency (VOSA). He took the Panel through an overview of what VOSA does and what powers they have, or lack.

Operators have to have a licence for any vehicle over 3.5 tonnes (i.e. the maximum permitted total weight when loaded) for use in a business capacity. VOSA aims to promote a safe, fair and environmentally friendly industry, overseen by a Traffic Commissioner.

An operator must show that they are fit to hold a licence, have the financial resources available for and arrangements in place, to maintain their vehicles and where appropriate, professional competence.

An applicant need only advertise in a single newspaper if they wish to operate a site. There is no guidance as to how big a circulation or readership that newspaper must

have, just that it must be local to the proposed operating centre. This has raised and continues to raise, problems with local residents who can reasonably claim that they were unaware of the application.

All applications are published in the appropriate area publication called "Applications and Decisions". This district is covered under the South Eastern and Metropolitan Traffic Area. Currently only three members received this publication. If any members would like to receive a copy they would only need to email Paul Hartley on paul.hartley@vosa.gov.uk . There is a subscription fee.

Once published, the public have three weeks to make any objections. They have to be local to the proposed site, living roughly within a 500 yards radius. They can only make objections based on environmental grounds (noise, dust, smell, vibration, visual impact etc.).

It should be noted that the Traffic Commissioner does not have absolute power over the vehicles, except in terms of maintenance. He does not have the authority to take into consideration environmental suitability or road safety aspects of an application.

The Council as a 'statutory' objector can object on environmental grounds and on 'road safety' grounds. This only applies at the point where vehicles enter or leave the site. Traffic Commissioners are not bound by locally adopted specific measures such as sight lines. Cases are investigated by Traffic Examiners, who will visit the site in question.

It should be noted that Councils have a statutory right to object, non-neighbouring public do not, although council objections must be made by its 'administrative arm' and not by individual Councillors.

Traffic Commissioners have a quasi-judicial role and try and find a middle ground between objector and the applicant and try and impose conditions acceptable to both sides. If there is no agreement then they can be offered a Public Inquiry, where the Traffic Commissioner will formally hear both sides. There is a further appeal option of a High Court Judicial review.

A Traffic Commissioner can only indirectly consider planning matters, if it impinges on the operators repute. This is taken to mean that there is no current enforcement action against activities on the site. Once there is an enforcement notice on the land then it is deemed unavailable. It was suggested that when Councils lodge objections to licence applications, they should give the reasons behind the planning restrictions rather than the restrictions themselves – it is factors like location in mainly residential areas that Traffic Commissioners are more likely to be sympathetic to.

Once granted a licence is valid for five years and Traffic Commissioner cannot look at that licence for five years. Once the five years have been reached, the application process starts again.

Goods vehicles being used under licence cannot be parked in residential areas – they must have licensed off street parking. Exceptions will be made for the odd occasion, but if on-street parking occurs regularly, the operator must apply for a specific area as an operating site to be licensed. The legislation theoretically permits operators to have any number of such sites. A licence can be revoked if parking becomes a problem.

A particular problem for this area is that Traffic Commissioners have no jurisdiction over non-UK registered vehicles (the same applies to ECC's Trading Standards) – issues raised by continental HGVs serving e.g. glasshouses and packhouses will therefore require other solutions.

Operators who wish to increase the number of vehicles on a licensed site need to go through the same procedures as for the original licence. This does not change the 5 –year review period for the original licence.

Mr Hartley assured members that there is regular checking and monitoring of sites and vehicles, although there is something like 2,000 trained staff, at least 25,000 licensed sites with an overall average of 10 vehicles per site.

He agreed to consider re-drafting a standard letter from the Traffic Commissioners which, in particular circumstances can be taken as inferring that Councils, by not making objections to applications, are not fully carrying out their duties especially in terms of environmental health.

The Chairman thanked Mr Hartley for his very interesting presentation and opened the up the discussion to members of the Panel. The following questions were asked:

Q: When will primary legislation be re-examined?

A: The initial newspaper advert that an applicant is obliged to make is currently being examined. They are also looking the Planning Process.

Q: London has different ideas on controlling the movement of large lorries, such as the congestion charge, is there any reason why we can't do anything similar?

A: The Traffic Commissioners encourage low emissions, but cannot enforce it. The Environmental side of the Council may have some say on this.

The Director of the Environment and Street Scene commented that there was very little that the Council could do. From time to time they can combine with the Police to stop and test vehicles. As for environmental issues generally, it boils down to a statutory nuisance, is there a nuisance or not. As long as the operator is doing all that they can, then they have a defence. Highways do have some control but not much.

Q: Is it right that that goods vehicles should not be parked on the highway overnight?

A: That's right they are not allowed to do so. This is one area where the Traffic Commissioners have some teeth, we can write to the operators.

Q: What about foreign operators?

A: Here we have no jurisdiction.

Q: Is there a public register of licence holding operators.

A: No, there is not, but you can ask for a list of operators in a particular area, as we can search postcodes.

Q: Are unlicensed operators a big problem and is there a statute of limitations on their operating without a licence?

A: It used to be a big problem, when we had small fines, but nowadays we can impound their vehicles. There is no statute of limitations on unlicensed operators, when we find out, they get a warning and must apply for a licence within a month.

Q: When were the rules first drawn up?

A: The current rules go back to 1995, before that from 1968.

Q: They are complex and do not join up.

A: Yes and are not very robust. Traffic Commissioners are impotent in many ways. The rules need to be completely rewritten, but it needs the political will.

Q: Can not the 'applications and decisions' document be brought out in post code order?

A: Yes, we should be able to do this. We will speak to our publishers.

Q: Over a five year period, a site is at risk to ground contamination. Who would be responsible for this?

A: It may be the Council or the Environment Agency. It would depend on the type of pollution and where it ends up.

Q: If a site has been granted a licence for two vehicles, what happens if the applicant wants more vehicles? Is it treated as a new application?

A: Yes, each increase is treated as a new application and has to be advertised again.

Q: Is there any monitoring of a site once a licence has been granted?

A: Yes, we do carry out site visits, check records etc. and also check up on any complaints made.

Q: An application for variation, does it sit within the original five year period?

A: Yes.

The Head of Planning and Economic Development commented that London was a well resourced body when it came to enforcing low emission charges. He was not sure that a District Council could do this. It should come within the purview of the County Council.

It was a lot of work for officers to go through the regional list and narrow it down to Epping and then check the Planning backgrounds for each application. Planning Enforcement do now actively check the application list and follow them up.

The Director for the Environment and Street Scene commented that Local Authorities were in some difficulties in cases where we had not objected. This is usually because we do not have sufficient grounds on which to object. We may not have cause for objections at the time but that is not to say that we would not have one in the future. It would be helpful if the Traffic Commissioners took a different view. Mr Hartley agreed, but as VOSA as well as the Local Authorities were under resourced, it was difficult to take every possibility into account. He was happy to consider changing the standard letter sent out to residents to reflect this.

The Panel agreed to put Mr Hartley's contact details in the Members Bulletin.

The Chairman thanked Mr Hartley for his interesting presentation and for answering the Panel's questions.

52. WORK PROGRAMME

The Panel considered the updated work plan.

Item 1: Essex County Joint Waste Procurement Process – another meeting is scheduled for next Tuesday 4th March. A Joint Waste Strategy questionnaire to be put in the members Bulletin.

Item 2: New Local Development Scheme and East of England Plan – this will be progressed, hopefully, after Easter.

Item 3: Reuse of buildings in Green belt / Traffic issues in Roydon and Nazeing – Ian White reported that there was progress on a traffic survey, a report had been published. It was noted that the document had a lot of errors in it.

The ECC Freight Strategy consultation should start in May.

A case is being built up to ask for more Police presence in the Nazeing area.

Item 4: Clean Neighbourhoods – this was essentially complete except for a report on fixed penalty notices.

Item 7: Anti-social behaviour in car parks – this is part of the Safer, Cleaner, Greener initiative. Overview and Scrutiny will get a report asking how they wish to monitor this. It can come to this Panel or go to an altered Crime and Disorder T&F Panel.

Item 8: Parking on Grass Verges/ in residential areas – this is still outstanding. O&S need to decide who will handle highways issues. It may be that larger issues would go to the main O&S Committee and the smaller issues to this Panel. There are future plans to pass responsibilities back from County to District level. In which event we may need a local Highways committee scrutinising how to spend the local highways money; each district may get up to £2million in the 2009/10 financial year.

Item 9: Need to change the title of Climate Change to the Nottingham Declaration, which has now been adopted by Cabinet. Officers are now setting up a “Greener Group” – to monitor the declaration and work out our corporate policy on green issues. They are still formulating the terms of reference and this Panel will be kept informed.

53. LOCAL BETTER REGULATION OFFICE - DRAFT STRATEGY 2008-2011

The Director for the Environment and Street Scene introduced the report on Local Better Regulations Office – Draft Strategy 2008-11. The Panel noted that the draft strategy was tabled, and the Director apologised for its late appearance. It contained nothing really new to come out from the Rogers Review. The Local Better Regulation Office (LBRO) wished to help local authorities change their approach to enforcement to achieve positive outcomes. It saw regulatory activities as needing to be:

- Proportionate
- Accountable
- Consistent
- Transparent and
- Targeted.

The Regulatory Enforcement and Sanctions Bill gives six key functions to the LBRO:

- i) To operate the primary authority scheme;
- ii) Provide advice to central government on local regulatory issues;
- iii) Issue statutory guidance to regulatory authorities;
- iv) Review and revise the (Rogers Review) national and local priorities;
- v) Map the regulatory landscape to better understand how it all works; and
- vi) Work with national regulators and representative and professional bodies to create benchmarks for a ‘world class’ regulatory system.

To achieve this the LBRO will focus its activities around three strategic objectives:

- (1) support for service improvement and change;
- (2) the delivery of consistency; and
- (3) improved services generally.

The LBRO have asked for comments on their draft strategy. The report provided a response to this and the Panel reviewed this response and commented appropriately.

RESOLVED:

- 1) That the Panel agreed the response to the LBRO strategy as set out in paragraph 9 of the report.
- 2) That the Overview and Scrutiny Committee be asked to endorse this Panel's recommendation.

54. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

Report on the VOSA presentation and Local Better Regulation Office – Draft Strategy 2008-2011.

55. FUTURE MEETINGS

23 April 2008 at 7.30 pm.