

Scrutiny Standing Panel Agenda



Planning Services Scrutiny Standing Panel Tuesday, 8th September, 2009

Place: Committee Room 1, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Mark Jenkins - Office of the Chief Executive
Email mjenkins@eppingforestdc.gov.uk Tel: 01992 564607

Members:

Councillors Mrs L Wagland (Chairman), K Chana (Vice-Chairman), A Boyce, M Colling, Mrs A Cooper, R Frankel, Mrs A Haigh, J Hart, Mrs C Pond, W Pryor, Mrs P Richardson and H Ulkun

A BRIEFING FOR THE CHAIRMAN OF THE PANEL WILL BE HELD AT
7.00 PM PRIOR TO THE MEETING

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS

(Assistant to the Chief Executive). To report the appointment of any substitute members for the meeting.

3. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive). To declare interests in any items of the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview and Scrutiny members are asked to pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an Overview and Scrutiny Committee which relates to a decision of or action by another Committee or Sub-Committee of the Council, a Joint Committee or Joint Sub-Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an Overview and Scrutiny meeting purely for the purpose of answering questions or providing information on such a matter.

4. NOTES FROM THE LAST MEETING (Pages 5 - 22)

To agree the notes of the last meeting held on 8 June 2009 (attached).

5. TERMS OF REFERENCE (Pages 23 - 24)

The Terms of Reference are attached.

6. WORK PROGRAMME (Pages 25 - 28)

The Work Programme is attached.

7. BUILDING CONTROL (Pages 29 - 36)

(Director of Planning and Economic Development). To consider the attached report.

The Building Control report was deferred from the last meeting of the Panel.

8. BIRCHWOOD ESTATE FIRE (Pages 37 - 48)

(Deputy Chief Executive). The Safer, Cleaner, Greener Panel discussed the issues surrounding the fires at the Birchwood Estate, Hoe Lane, Nazeing, at their meeting on 23 July 2009. They have referred their views to this Panel. Attached is a copy of the notes from that meeting, a proposed letter to residents living locally to the estate, regarding the fires and a suggested Questions and Answers response to the residents.

9. IMPROVEMENT PLAN (Pages 49 - 56)

(Director of Planning and Economic Development). To note the attached Improvement Plan. The Plan was deferred from the last meeting of the Panel.

10. BEST VALUE REVIEW

(Director of Planning and Economic Development). To receive an update report on the Best Value Review. (Report to follow).

11. STAFFING UPDATE

To receive a verbal report from the Director of Planning and Economic Development on the current staffing situation within the directorate.

12. ANY OTHER BUSINESS

13. DATES OF FUTURE MEETINGS

The next programmed meeting of the panel is on 10 November 2009 and thereafter on:

5 January 2010;
11 February; and
27 March

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**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF PLANNING SERVICES SCRUTINY STANDING PANEL
HELD ON THURSDAY, 18 JUNE 2009
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 11.00 PM**

Members Present:	Mrs L Wagland (Chairman), A Boyce, Mrs A Cooper, R Frankel, Mrs A Haigh, W Pryor, H Ulkun, Mrs P Richardson and K Angold-Stephens
Other members present:	R Bassett, Mrs D Collins, Mrs A Grigg, Mrs M Sartin and J M Whitehouse
Apologies for Absence:	K Chana, M Colling, J Hart and Mrs C Pond
Officers Present	D Macnab (Deputy Chief Executive), J Preston (Director of Planning and Economic Development), J Gilbert (Director of Environment and Street Scene), S Solon (Principal Planning Officer), R Sharp (Principal Accountant), V Willis (Economic Development Officer) and M Jenkins (Democratic Services Assistant)

1. SUBSTITUTE MEMBERS

It was noted that Councillor K Angold-Stephens had substituted for Councillor Mrs C Pond.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Council's Code of Conduct.

3. NOTES FROM THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 12 March 2009 be agreed.

4. TERMS OF REFERENCE

The Panel discussed the Terms of Reference. The following was amended:

1. The last two lines of paragraph 1 – “this is to allow the Portfolio Holder for Planning and Economic Development to remain tuned in to local views,” were amended to state that “those Portfolio Holders with planning and economic development responsibilities to remain tuned in to local views.”

7. It was felt that the following four points required revising in the future:

- The “Hit Squad”
- The Service restructure(s)
- The new IT system
- The application of the Planning Delivery Grant

11. The "Budget Process 2008/09" should read 2009/10.

12/13 Should be amalgamated.

5. WORK PROGRAMME

The Work Programme was noted.

6. FIRE AT BIRCHWOOD ESTATE, HOE LANE, NAZEING

This item had been brought before the Panel at the request of Councillor Mrs A Cooper. The Chairman invited Councillor Mrs A Cooper to introduce the item to the Panel. She outlined the details of the recent fires at Birchwood Estate, Hoe Lane, Nazeing.

There had been two fires on the estate, one on 5 January 2009, the other on 30 May 2009. Councillor Mrs A Cooper advised that there had been considerable impact on local people, some had complained of smells, sore eyes etc. The fire had not been completely extinguished initially, but instead allowed to burn itself out in a controlled manner.

The following officers, of whom three were from external agencies, were present at the meeting to answer questions:

- Alex Chown – Team Leader, Lower Lee Catchment (Environment Agency)
- Susan Day – Environment Agency
- Andrew Senior – Station Manager, Waltham Abbey Fire Station, Essex Fire and Rescue
- John Gilbert – Director of Environment and Street Scene (District Council)

Mr A Chown of the Environment Agency (EA) informed the Panel that deposits of fire debris had been found on local buildings close to the fire, these deposits resembled charcoal. When asked if the EA had taken samples from the area, he confirmed that they had not. He informed the Panel that under legislative criteria there were 4 categories of seriousness with 1 being the most serious, the May 2009 blaze was a Category 2 incident. He advised that smothering the fire area with water until extinguished would lead to a run off of water to surrounding areas and potential pollution of watercourses and water table.

Mr A Senior, Station Manager, Waltham Abbey Fire Station, Essex Fire Services, confirmed that the Fire Service had taken the fire very seriously, there had been 42 appliances at the site during the period of the blaze. He confirmed the EA's concerns about water run off from the site which could cause pollution. A Senior of the Fire Service advised that in this type of incident it was better to allow a fire to burn itself out in a controlled manner rather than extinguish it completely using water. In this instance, a controlled burn was preferable, there were large piles on site, thousands of tons of earth, concrete, steel, mixed in with wood. The Fire Service did not have the mechanisms or budget for turning over and extinguishing a fire of this nature.

Mr J Gilbert, Director of Environment and Street Scene, informed the Panel that his Directorate was limited in what they could do in these circumstances. During the January 2009 fire air quality readings from four places had been taken around the area of the fire, including one at a school adjacent to the fire site, another at a major

road, and one sample was taken from afar to get a normal background reading. The readings had shown that pollutants in the air, particularly PM10 (i.e. matter less than 10 microns in size which can find its way into the inner lung) had not exceeded national standards. The January 2009 fire had been a less clean fire than the May 2009 one because of the scale and nature of the materials on fire. In January 2009 local residents with respiratory conditions had been advised to stay indoors. Evacuating the area had been considered but discounted. The air quality monitoring equipment used during the January fire had not been available to the Council during the incident in May, and therefore no equivalent air quality results are available. However, given the nature of the second fire, environmental health officers would not expect the air quality standards to have differed greatly from those recorded during the first fire.

Eighteen months ago, Environmental Health Officers had investigated a complaint of nuisance dust arising from the Birchwood Estate. The District Council had served an abatement notice, requiring that the then company involved put into operation dust suppression equipment. This notice had not been complied with, and the matter was placed before the Magistrates Court to seek a penalty. However, before the case was heard the company went into liquidation and consequently the legal proceedings had fallen. The District Council had left diaries with local residents to log incidents of dust or other nuisances. However none of the diaries were completed and therefore officers could not take any further action due to a lack of evidence. J Gilbert explained that there had been a recent meeting of all the agencies involved in the regulation of the site, the notes of which would be attached to the notes of this meeting.

Members asked where local people fitted into the operational rationale of this situation. A Chown of the Environment Agency explained that the site operated a wood chipping process with mixed timber, and that they could store a maximum of 20,000 tons on the site at any one time. It was always difficult to accurately estimate exactly how much material was on site at a particular point in time. He explained that the site operated under an exemption from the Environment Permitting Regulations and that the Environment Agency could remove that exemption if it was satisfied that the business was not being operated correctly. However, at the present time, with the current operator co-operating with the EA, there was no immediate justification for removing the exemption. Pressure was being applied, and the operator had agreed with the EA that no more timber would be allowed onto the site until the EA and other agencies were satisfied with site operations and site security. The Environment Agency were not aware of material going onto the site and work had commenced on the erection of security fencing.

Councillor Mrs A Cooper claimed that timber was being brought into the site despite orders not allowing this. She suggested that the adverse health effects from the smoke caused by the fires were serious. Smoke interfered with breathing, depressing the immune system. Even short term exposure had adverse effects. The Councillor cited an American medical report to support these concerns. J Gilbert advised that whilst not wishing to discount the evidence presented, that research alone could not necessarily be applied directly to the circumstances at Birchwood. Therefore advice was being sought from the West Essex Primary Care Trust regarding possible health impacts of the fires. In addition the PCT had also been requested to investigate whether referrals for respiratory illnesses had increased during the period January to May 2009. He reminded the Panel that the two fires at the site were not part of the owner's licensable activities and were therefore not controllable through any regulatory process.

Members were concerned about the on-going nature of the problem. The site owners appeared to be unable to manage the operation safely. There was concern that the right balance should be struck between risks to the health of the residents and to other environmental and logistical risks. The EA representative confirmed that residents had not been interviewed regarding the effects of the fires. A Senior advised that there was no danger of spontaneous combustion with the site's timber and two fires within 6 months at the same place was not particularly unusual. A Chown advised that the site was covered by regulations which were currently under Government review. He hoped that any changes would result in a strengthening of the existing powers. He also explained that there was to be a further site meeting of the agencies where he hoped that further progress would be made.

The Chairman was concerned that the EA was working with the operator rather than processing de-registration and made particular reference to the need for the regulatory agencies to achieve the correct balance between regulatory control and the possible effects of the operation upon local residents, especially where the level of understanding of the latter was limited. J Gilbert understood this point but reminded the Panel that the Agencies could only regulate the controllable activities on site, and the fires were not part of that activity. There was no suggestion that the fire was deliberate and the Fire Service could not confirm that anything suspicious had taken place at the site. Although members acknowledged that enforcement powers were limited, weight should have been applied in this case because of the school nearby.

S Solon, Principal Planning Officer, advised that the site had planning permission for general industrial purposes from the mid-1980s. Following enforcement action a new temporary planning consent was granted which allowed for a combination of storage and chipping but with conditions attached. The fire in January 2009 destroyed much of the material on site, and the occupiers did not take up the new planning permission. The use of the site for wood chipping was entirely lawful.

The Panel was informed that the agencies did not have the authority to stop a company from re-applying for use of a site in the event that an operation was deregistered. It was often better to work with the operator, to form a relationship with them. There were no existing grounds on which to revoke their existing exemption or other permissions to run the business. The EA said there was no record of complaints to them regarding the site.

AGREED:

- (1) That the notes of the multi-agency meeting regarding Birchwood, Hoe Lane, Nazeing be circulated to members of the Panel;
- (2) That the notes of the multi-agency meeting be attached to the notes of this meeting,
- (3) That the issue of environmental regulatory control regarding the Fire at Birchwood Estate, Hoe Lane, Nazeing be referred to the Safer, Cleaner, Greener Scrutiny Standing Panel.

RECOMMENDATIONS:

- (1) That the Safer, Cleaner, Greener Panel discuss the following issues arising from the discussion regarding the Fire at Birchwood Estate, Hoe Lane, Nazeing:

- (a) Understanding of the regulatory framework – the shortcomings of the regulatory need to be passed onto the Government.
 - (b) Balance of judgement, applied to the District Council and other agencies.
 - (c) Involvement of local residents.
 - (d) Better understanding of the authorities' remit.
2. That a joint letter should be sent to residents from agencies regarding the problems at the Birchwood Estate.
3. That a joint letter be sent to the operator of the Birchwood Estate, Hoe Lane, Nazeing expressing joint agency concern and resident's concern about the issues there.

7. PLANNING AND ECONOMIC DEVELOPMENT OUTTURN 2008-09/INCOME AND EXPENDITURE FOR ALL PLANNING AND ECONOMIC DEVELOPMENT SERVICES

R Sharp, Senior Accountant, presented the Planning and Economic Development Portfolio Actual Outturn 2008/09.

Members were informed that the main reason for the actual outturn for 2008/09 being lower than the Revised Estimate was the under-spending on DDF items. The difference between the DDF actual outturn for 2008/09 and the DDF budgets would be carried forward to 2009/10 to meet the re-profiled spending in 2009/10. Members were informed that the carry forwards had already been approved at the Finance and Performance Management Cabinet Committee on 15 June 2009.

It was also reported that the Building Control ring fenced account eventually ended the year with a loss of £10,451 which when added to the deficit rolled forward from 2007/08, gave a shortfall to be recovered in 2009/10 of £25,000. The budget had been aiming at producing a surplus for 2009/10 of £15,000 which, because of the loss in 2008/09 will now need to be increased to £25,000 to clear the deficit rolled forward at 1 April 2009.

8. BUILDING CONTROL

The Building Control report was deferred to the next meeting of the Panel.

9. SUMMARY OF COURSE A PLANNING INVESTIGATION CAN TAKE

Mr S Solon, Principal Planning Officer, presented a report to the Panel regarding the Course a Planning Investigation Can Take.

At the last meeting of the Planning Services Scrutiny Standing Panel, it was resolved that a report should be submitted to the Panel setting out the possible route any planning enforcement investigation could take. S Solon had also provided the Panel with a flow chart of the enforcement process. Members requested that a timescale be attached to the flow chart and the chart re-submitted to the Panel.

S Solon outlined the procedure for investigating breaches of planning rules. An officer was allocated to a case and the site concerned inspected. If no breach was found, no further action was taken, similarly, if there had been a breach but it was time immune, then no action was taken. If a breach identified was not time immune then its planning merits were assessed inviting the owner to submit a planning application. In cases where the breach was unlikely to be given planning permission, the owner was asked to remedy the breach, where the breach was an offence, consideration was given to prosecution.

Enforcement Action

In the event of failure to comply with requests for submittal of an application, or failure to take steps to remedy harm caused, the expediency of taking enforcement action was considered. A report was produced recommending the enforcement action needed for dealing with the breach and setting out the grounds of an appeal open to a person served with a notice.

Following consideration of a report recommending enforcement action, the Director of Planning and Economic Development, or a nominated authorised person authorised the action and the Director of Corporate Support Services was instructed to issue an appropriate notice.

Appeals and Grounds of Appeals

Appeals against enforcement notices and listed building enforcement notices are heard by the Secretary of State who normally appoints an Inspector to deal with the matter. Appeals against S215 notices (“untidy land notices”) are heard in the Magistrate’s Court. Appeals against decisions of the Secretary of State or Magistrate’s decisions are heard in the High Court.

Consequences of Appeals Against Notices

If an appeal was allowed and the notice quashed, the case was reviewed. If further enforcement action was considered expedient then it was taken. If an appeal was dismissed and the notice upheld or varied, the notice became effective on the date the appeal decision was made. Failure to comply with the requirements of a notice was an offence. However in such cases consideration was given to whether it was in the public interest to prosecute those failing to comply. Enforcement notices became effective if no appeal was made within 28 days from service of the notice.

Broadly the time limits for taking enforcement action are 4 years in the case of operational development without planning permission and 10 years in the case of making a material change in the use of land without planning permission. Although there were resource issues within Planning Services it was important that breaches of planning control did not become lawful through being time expired. S Solon confirmed that there were a handful of cases “on the books” that had been there longer than he wished them to be.

AGREED:

- (1) That enforcement cases not currently completed be listed individually for this Panel.
- (2) That the enforcement process flowchart be re-submitted to the Panel with a timescale attached.

- (3) That the timescale be sent to all Members via the Bulletin.

The Chairman asked about breach of condition notices. S Solon confirmed that the District Council had not issued a breach of condition notice because of the low level of fine in the event of non-compliance, preferring instead to rely on enforcement notices and temporary stop notices/stop notices.

S Solon advised there was a risk of costs for the District Council if the wrong notice was issued. However there are safeguards in that where authority is given to take enforcement action, District Council's senior solicitor must be satisfied.

Members requested that this item be put before the Panel again at its next meeting.

AGREED:

That Summary of Course a Planning Investigation Can Take be put before the Panel.

10. STAFFING WITHIN PLANNING ENFORCEMENT

The Panel received a report from Mr S Solon, Principal Planning Officer, regarding staffing within Planning Enforcement.

At the last meeting of the Planning Services Standing Scrutiny Panel, it was resolved that a report should be submitted to the Panel dealing with the matter of planning expertise within Planning Enforcement Team.

The Council's Planning Enforcement Team was part of the Development Control Group of the Planning and Economic Development Directorate and was made up of 7 staff. This comprised a Principal Planning Officer, Senior Enforcement Officer, 3 Enforcement Officers, a Compliance Officer and a dedicated administrative officer.

The Team had only one full time qualified planning officer dedicated to carrying out planning enforcement work, the Team's Senior Enforcement Officer. The role of the Principal Planning Officer normally included responsibility for preparing and presenting reports on planning applications to Committee on a 3 weekly cycle resulting in approximately half that post being used for work outside of the Team. Consequently, the Team had insufficient capacity to deal with peaks of work requiring the input of senior level planning expertise. This constrained the Council's ability to take effective and timely enforcement action, especially where the matter being investigated was complex. It also constrained the Council's ability to defend enforcement action at appeal.

The number of new investigations started and investigations closed over the last 3 years had been consistent at about 750 started and a similar amount closed. However, the proportion of investigations closed for the reason that the breach had been resolved had remained at less than 25% (ranging between 18% and 22%) and the number of enforcement notices issued each year was consistently low at approximately 26. Approximately 60% of all enforcement notices issued were appealed and a similar proportion of planning enforcement appeals were decided by way of a hearing or public inquiry. Although the Council's enforcement appeal success rate was very high with nearly all appeals being dismissed and the notice upheld, that success generated a need for further work to be carried out to be taken

to ensure compliance with the requirements of notices. Such work included court action.

Officers were generally aware from informal discussions with Members and members of the public that there was a desire for the Council to increase its planning enforcement activity. Although that was an unreliable indicator of demand for the service, officers were aware that if the Council failed to take appropriate and timely enforcement action where it was expedient to do so it could be found guilty of maladministration by the local government ombudsman and required to compensate members of the public. Officers were also aware that, from time to time, concern was expressed about the progress and outcome of planning enforcement investigations by members of the public in the form of complaints or even in the local press.

The Panel were presented with 5 options for dealing with the lack of planning expertise in the Planning Enforcement Team:

Option 1:

Delete Existing Post PEF/06 Compliance Officer (0.5 FTE) Grade 5 and replace with new Post PEF/06 Senior Enforcement Officer (1.0 FTE) Grade 8.

It was proposed that the post of Compliance Officer (PEF/06) was replaced by a full time senior enforcement officer position (Grade 8). If implemented this would result in a total increase in salary costs of £24,570 at the mid-point of each grade. This would be met through new funding.

The creation of the post would double the available planning expertise within the Planning Enforcement Team. It would create the capacity for dealing with approximately 100 additional investigations each year and was likely to result in the number of enforcement notices issued each year increasing by at least one third. The new post was likely to result in faster resolution of the harm caused by more complex contraventions since planning expertise could be more readily brought to such cases.

Option 2:

Replace Post PEF/06 with a new Full Time Enforcement Officer Post (Grade 6).

This option would result in a total increase in salary costs of £15,000, which would be met through new funding. While of benefit in terms of an increase in hours worked it was of no value at all in dealing with the lack of planning expertise at a senior level within the Planning Enforcement Team. It would create additional capacity for dealing with less complex investigations and the early stages of complex investigations that would be of benefit in general terms. It would be likely to result in a very small increase in the number of enforcement notices issued (3-4 notices a year).

Option 3:

Make Post PEF/06 (Grade 5) a Full Time Post.

This option would result in a total increase in salary costs of £10,900, which would be met through new funding. The benefits were similar to Option 2, although the expertise attracted to the post was likely to be less than that of a new full time enforcement officer. This option, did, however, offer greater value for money than option 2.

Option 4:**Replace Post PEF/06 with 2 Full Time Trainee Planner (Enforcement) Posts at Grade 3.**

These posts would be aimed at post graduate or under graduate planning students who were required to gain work experience in a relevant position over one year of their degree course. The posts would be filled alternatively on a fixed term 14 month contract. The last 2 months of the contract for one post would overlap with the first 2 months of the other post. It would result in a total increase in salary costs of £7,500, which would have to be met through new funding.

While of benefit in terms of an increase in hours worked it was of no value in dealing with the lack of planning expertise at a senior level within the Planning Enforcement Team. The benefit in terms of hours worked would be undermined by the additional training and coaching that would be given by the permanent staff of the team. It was likely to create additional capacity for dealing with less complex investigations and the early stages of complex investigations, that would be of benefit in general terms. It would be unlikely to increase in the number of enforcement notices issued.

Option 5:**Make no change and fill Post PEF/06.**

This option would not result in any increase in salary costs to the Council. No benefit could be achieved in terms of hours worked or dealing with the lack of planning expertise at a senior level within the Planning Enforcement Team.

Members felt that training people up to a level would be the best solution, the Chairman thought that the hours worked in one area took time from other jobs. An option was to invite university students to the District Council on work experience, although they would go back to their courses when their work experience was over. However basic work could be allocated to them. D Macnab advised that the District Council had consistently underspent on salaries, currently they had to make £300,000 of savings. Councillor K Angold-Stephens suggested that fully trained officers were needed, perhaps an apprenticeship scheme may work, being Government funded. D Macnab advised that some of these schemes were not good and needed to be looked at laterally. Members and officers believed that Option 1 was probably the best. However Members asked for that option to be re-submitted to the Panel with funding implications attached.

AGREED:

That the Staffing within Planning Enforcement Option 1 be re-submitted to the Panel with funding implications attached.

11. RECRUITMENT TO THE ASSISTANT DIRECTOR (CONSERVATION AND POLICY) POST

The Panel received a report from J Preston, Director of Planning and Economic Development, regarding Recruitment to the Assistant Director (Policy and Conservation) Post.

At the last meeting of the Panel on 12 March 2009 the Members requested that a report be put before the Panel explaining the problems encountered in recruiting for

the Assistant Director (Policy and Conservation) Post. Since that meeting the Leader of the Council had agreed that the post should be advertised rather than be frozen.

The post with the amended higher grade was subsequently advertised in:

- The Epping Forest Guardian on 2 April
- Opportunities on 6 and 13 April editions (a small box directed those interested to the website for fuller details)
- The “Careers for Leaders” website
- Job Centre Plus; and
- EFDC’s own website and related Essex links thereto.

The Interview Panel expected that the recession, particularly since last November, would produce a significant response. However, by the closing date of 23 April, only four applications were received, all from external candidates. One of the candidates was not judged to meet the person specification, the individual had experience as a Transport Director for a private company, but did not have the many attributes required in particular experience of Local Planning. Following this the interview panel interviewed the other 3 candidates, but on receipt of the request to provide a presentation on the key threats to EFDC in delivering a Local Development Framework, one candidate dropped out. The other two candidates were tested and interviewed on the week commencing 4 May, but unfortunately, neither persuaded the Panel that they could “hit the ground running” on the prime/essential requirement concerning the Local Development Framework.

The interview panel were concerned that applications did not appear to be made from those with good detailed and recent experience, ready to take the post as the next step on their career path. This could reflect that those with such experience, who live further away, and would need to move house, were not prepared to attempt this in the present climate. However this would not explain why reasonable numbers of candidates from London, Essex or Hertfordshire, within commuting distance, have not applied.

Accordingly an approach now being used, was to ask recruitment agencies to ascertain if they had potential candidates including the Assistant Director (Development Control) vacancy at the same time (although there were likely to be internal applicants for that post).

The continuing absence of such postholders within the Directorate plainly placed constraints on the managerial capacity of the Directorate, and put pressure on the existing managers therein.

The District Council had been advised that this particular role was difficult to fill. The Chairman felt it strange that it had proved difficult to recruit. Contacting firms where redundancies had been issued, may be successful. The Director compared the salary for this post to a similar post at Chelmsford - £62,000 – which although acknowledging the difficulties of raising the salary to that level, did demonstrate the problem of recruiting. It was suggested that recruitment/information packs could be distributed amongst staff facing redundancies in other areas. Because the number of planning applications was down, the staffing situation within Planning Services

should be reviewed. D Macnab advised that the Audit and Governance Panel were looking into this. The members said they would like to get more feedback on this.

12. CURRENT ECONOMIC SITUATION OF THE DISTRICT

The Panel received a report from Ms V Willis, Economic Development Officer, regarding the Current Economic Situation of the District.

The report provided the following:

- (a) Background on the current economic position within the district and highlighted some of the approaches being taken in responses;
- (b) A broader introduction to the remit of the Economic Development function within the Planning and Economic Development Directorate.

Economic Profile of Epping Forest District

The district's economy and in particular, the implications of the current economic situation on the local economy, had been the focus of the new Credit Crunch Task and Finish Group within the Local Strategic Partnership (LSP). The Economic Development function was represented on this group.

General Employment Profile

- Epping Forest District (EFD) had a considerably lower proportion of individuals in the manufacturing sector compared to the national profile (EFD 5.1%, GB 10.6%). Conversely, it had higher employment in the construction industry at 12.6% compared to 4.9% nationally. The district had a stronger than national profile representation in both "distribution, hotels and restaurants" (EFD 24.8%, GB 23.3%) and "finance, IT and other business sectors" (EFD 23.3%, GB 21.6%).
- The district had a lower proportion employed within the "public administration, education and health sectors" (19.6%) compared to the national profile (26.9%).

Unemployment – Rates

- The Jobseekers Allowance (JSA) rate within the district had increased from 1.5% (1,119 individuals) in April 2008 to 3.3% (2,489 individuals) in April 2009. This 122% increase compared to a county increase of 126%. The current county JSA rate was 3.5%.
- The current JSA rates in Essex, London and Hertfordshire (April 2009) were as follows: Harlow (5.4%), Broxbourne (3.5%), Chelmsford (2.9%), Brentwood and East Herts (both 2.3%), Uttlesford (2.2%), Redbridge (4.1%), Waltham Forest (5.5%) and Enfield (4.8%).

Unemployment – Detail on Claimants

- If JSA claimant rates were considered at ward level, there were clear clusters of wards with higher rates in the Waltham Abbey and Loughton/Debden areas. Shelley, Lambourne, Grange Hill and Buckhurst Hill East also had JSA claimant rates higher than the district figure.

- Individuals aged between 25 and 49 years accounted for 53.5% of claimants in Epping Forest in April 2008. This increased to 55% (1,365 individuals) in April 2009 whilst the other two age bands (18-24 years, 50 years+), although clearly increasing in number of claimants, decreased in terms of proportion of total claimants.
- The number of 12 month – plus claimants had decreased slightly in the period April 2008 to April 2009 from 155 to 150 individuals.
- The number of individuals claiming JSA for “less than 6 months” and “between 6 months and 12 months” in Epping Forest had increased by 147% (to 1,955) and 120% (to 385) respectively between April 2008 and April 2009.

Response in the Current Economic Climate

The Task and Finish Group was considering the economy in terms of the needs of local residents as well as businesses. The group was set to report to the LSP Board with proposed “quick win” measures in June 2009 before reporting for a final time in September 2009.

Some of the measures being presented to the LSP Board included:

- The production of a newsletter to effectively signpost businesses/individuals to the support services that were available. This would feature as an “insert” into The Forester and be promoted more broadly.
- The establishment of an Economic Prosperity Champion and other measures ensuring the profile of Epping Forest District was raised and enabled it to “punch its weight” with regard to potential external funding opportunities.
- Development of economic intelligence. This tied in with the broader need for the LSP to be evidence driven and the current priority to produce holistic and robust ward-level profiles.

J Preston advised that companies experiencing problems with payment of their business rates should contact local agencies for assistance, the LSP can assist with advise. Their meetings were currently webcast. He went onto suggest that the district could follow places like Hatfield with high levels of office development, perhaps the council could allow more economic development in Green Belt. Members felt that the district could brand itself, marketing a better image for investment. This may attract middle management people who might settle in the area.

AGREED:

That the Current Economic Situation of the District report be put before the Panel at some stage in the future.

13. IMPROVEMENT PLAN

This item was deferred to the next meeting of the Panel.

14. ANY OTHER BUSINESS

The Chairman requested that an email group should be created for the Members of the Panel for exchanging information etc.

15. DATES OF FUTURE MEETINGS

The next programmed meeting of the Panel was scheduled for:

Tuesday 8 September 2009 at 7.30p.m.;
Tuesday 10 November 2009 at 7.30p.m.;
Tuesday 5 January 2010 at 7.30p.m.;
Thursday 11 February 2010 at 7.00p.m.; and
Tuesday 27 April 2010 at 7.30p.m.

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Notes of meeting regarding Birchwood, Hoe Lane, Nazeing

Location: Epping Forest DC, Civic Offices

Time: 14.00

Present:

John Gilbert - Director of Environment & Street Scene (EFDC) (JG)

Stephan Solon – Planning Enforcement Manager (EFDC) (SS)

Fay Rusby – Environmental Health Officer (EFDC) (FR)

Caroline Skinner - Senior Health Improvement (NHS West Essex) on behalf of Alison Cowie –
Director of Public Health NHS West Essex (West Essex PCT) (CS)

Ruth Shaw – Senior Environment Officer (Environment Agency) (RS)

Richard Rajham – HM Inspector of Health & Safety (HSE) (RR)

Richard Bassett – Cabinet Member for Emergency Planning (EFDC) (RB)

Alex Chown – Team Leader – Lower Lee Catchment (Environment Agency) (AC)

Stuart McMillan – Asst. Divisional Fire Officer (Essex Fire & Rescue) (SM)

JG assumed the Chair of the meeting and all present introduced themselves and their role within their organisations. The meeting then opened by each agency present setting out the present position as regards the history of and involvement in the site.

Agency history and regulatory involvement to date

SS set out the planning situation as follows:

- o the site has consent for “General Industrial Purposes”. This was granted by the Planning Inspectorate on appeal and has no limiting conditions other than some working hours restrictions which include part working on a Saturday and no working on a Sunday
- o Issues started to develop around 3 years ago when the site was being operated by Essex Wood Recycling (EWR). Waste wood was brought onto the site for chipping. EFDC took the view that this activity was waste related and therefore fell outside of the general Industrial Purpose planning approval. However, Counsel’s advice was sought which indicated a contrary view. This contrary view was shared by Essex County Council (as Waste Planning Authority) who concluded that this not a ‘waste operation’.
- o the pile of wood on site got ever larger such that EFDC took the view that the core operation on site was now one of storage and not wood processing. Around this time the operator of the site changed and the new operators Scott & Scott approached EFDC to seek consent for incineration. This was rejected by EFDC and the EA. In October 2007 EFDC issued an enforcement notice for the unauthorised use of ‘storage’. This notice was appealed with a public inquiry scheduled for December 2008. In the meantime a new planning application was made for a temporary consent for a mixed use – storage and general industrial. Unfortunately the date of consideration of this application clashed with the public inquiry, and because the Planning Inspectorate would not rearrange its Inquiry date, the decision was made to withdraw the enforcement notice and proceed with the new application. EFDC gave consent for the new usage and attached a raft of operational conditions. In January 2009, the timber caught fire, and in view of that the new consent was not taken up, leaving the original consent in place, but now without the enforcement notice in being
- o EFDC and the EA were content throughout that chipping was actually taking place on site
- o the most recent fire has resulted in a cessation of use, but once the site is cleared, the original process could recommence as before.
- o Whilst there remains surprise that the County Council do not consider this to be a waste operation, EFDC does not wish to push this point, because of the possible implications on other sites within the district

FR then set out the environmental regulatory position from EFDC's point of view

- o when the site commenced operations EFDC took the view that it was caught by the pollution prevention and control (PPC) legislation. However, the English Regulations, as to differ from Scotland, do not include timber shredding within their remit and therefore PPC did not apply
- o EFDC was therefore left with the nuisance powers within the Environmental Protection Act to deal with dust and similar nuisances. An abatement notice was served upon EWR but just prior to the matter going before the Courts, EWR went into liquidation, and the case could not proceed
- o since Scott & Scott have been on the site complaints have been few, and no evidence to justify the service of notice has been obtained. Local residents have not actively complained, nor kept diaries etc as requested. No quantitative monitoring has been undertaken.
- o recent changes in the law, and the introduction of the Environmental Permitting Regulations (EPR), has resulted in all nuisance matters being dealt with by the EA

AC then set out the EA's regulatory position

- o Alex confirmed that the EPR had shifted lead responsibility from EFDC to the EA. However, they were prepared to act if evidence existed, but residents and other agencies would have to be able to provide / support that evidence.
- o Scott & Scott operated under an exemption under the EPR. This enabled them to bring wood onto the site for chipping, subject to certain controls such as a maximum tonnage (20,000 tonnes on site). The EA accepted that there may be other waste on the site, but unless it could be clearly shown that this was delivered to the site with the waste timber, it was assumed that this was already present on the site. (Within the timber metal arisings should be incidental such as screws, nails, metal straps associated with packing)
- o Government was aware of abuses of the current exemptions process and a consultation was currently underway with a view to tightening regulatory controls. These would not be available for some time.
- o The major power available to the EA was to remove the exemption (deregister). The burden of proof to support this action was high and in any event it did not prevent an immediate reapplication which could be made on-line and would be approved (no facility to take past activities into account!)
- o A part from the fires this year we hold no records of complaint from this site.

SM set out the regulatory position of the Essex Fire Service (EFS)

- o EFS viewed the site as a workplace with its primary concern being the safety of the workforce on site or others visiting the site.
- o The volume of water available in the Nazeing area via water mains for firefighting is as expected for a rural risk area; water supplies for the site itself are as expected by the Essex Fire & Rescue Service given its location. Additional water supplies to the site would be for the occupiers/operators to provide and pay for via the local water company.
- o In terms of managing a fire of such magnitude at such a location, firefighting operations employed are normally to contain and control rather than to seek to extinguish. In managing a fire in this way some of the considerations are: availability of water, risk to fire-fighters and the general public, contaminated water run off, the operational fire cover required for other areas in the county.

RR set out the position of the Health & Safety Executive (HSE)

- o the site had a previous history with the HSE. A prohibition Notice had been served on EWR in respect of the safety of the timber being stockpiled, and the Notice prevented any further addition of timber to then stockpile. As soon as material had left the site, such that the risk had been abated, the Notice was deemed to have been complied with
- o EWR was also served with an Improvement Notice to secure the site. This was not followed up or reserved when the business transferred to Scott & Scott

- o the HSE could be minded to reserve an Improvement Notice again in order to secure the site, but further technical advice would have to be sought

CS explained the concerns of the West Essex Primary Care Trust (PCT)

- o PCT would be concerned about the potential dangers to children from access to the site
- o PCT to seek information on the extent to which there have been additional GP referrals for respiratory illness in the area and also the contention that there may be cancer clusters located in and around the area

General discussion

JG explained that there was a very high level of concern amongst local residents supported by locally elected Members and Members (including prospective members) of Parliament. The local feeling was very clear – they wanted the facility to be closed down and clearly could not understand why the regulatory authorities were unable to achieve this. Following the latest fire this pressure has increased with a number of petitions circulating demanding that something be done.

AC explained that proposed revisions to the EPR would provide the EA with additional regulatory powers. However, these were still subject to consultation and would not be available in the short term.

CS sought information on how the fires started. SM explained that it was likely that there had been “human intervention” but that the who and the how would never be established. Even if it were deliberate, the Police would not pursue since there has been no attempt, as far as is known, to benefit from, the fire e.g. false insurance claims etc.

RR felt that it might be possible to support the service of an Improvement Notice to secure the site, although such a notice would not seek any specific solution. However, he indicated that the minimum sought would mirror the requirements for a building site.

SM added that it would also be beneficial for the stockpiles of timber to be sub-divided into smaller units, thus providing additional fire breaks and an easier to manage situation in the event that a further fire was to occur.

Possible interventions by the regulatory agencies

Each agency was requested to detail what regulatory action it might be able to take:

- o The HSE and Fire Service agreed that some action could be taken to deal with the current levels of site security, possibly, as mentioned earlier, through the HES serving an Improvement Notice on both the site owners and the operators
- o The EA had already “threatened” to remove the existing exemption and effectively deregister the premises. However, they were allowing the operators time to make good on their commitments to improve the management of the site. The EA accepted it was important to maintain their regulatory pressure on the operator. AC also emphasised the importance of the EA receiving usable evidence of nuisance or misuse of the site. Although residents were reluctant on the basis of “what’s the point”, evidence was vital to the EA’s ability to maintain regulatory pressure on the operator.
- o EFDC were asked whether it was possible to seek relocation of the operation. SS explained the options available, but each had its difficulties including the site remaining available to another operator to come in and do the same (or worse!) or the costs of compensation that would need to be paid if a process of discontinuance was pursued

- o EFDC could approach the operator seeking information as to why they had not brought forward previously discussed proposals for site fencing and constructing a building to fully enclose the operation
- o CS asked whether pressure might be applied to the operator on the basis of them wanting to be a welcomed element of the local community and to be seen as a responsible local business

Agreed actions

- (1) a joint letter, from all the agencies, to be sent to the local residents explaining the regulatory position, what could be achieved and any proposed actions. The importance of the provision of evidence would also be included in the letter
- (2) a joint letter, from all the agencies, to be sent to the owner and operator, setting out the regulatory position, and the depth of feeling of local residents and the potential actions of the agencies
- (3) more frequent regulatory inspections carried out jointly by the agencies. This is intended to increase and then maintain the regulatory pressures on the owner/operator
- (4) HSE and Fire Service to seek expert advice from their organisations regarding the nature of action which could be taken now, particularly regarding site security
- (5) EFDC to liaise with the Essex County Council regarding waste planning issues
- (6) WE PCT to seek information on local GP referrals and cancer clusters
- (7) To meet again in 4 to 6 weeks time to discuss progress

TERMS OF REFERENCE - STANDING PANEL

Title: Planning Services

Status: Standing Panel

Terms of Reference:

1. To consider matters which arise through the process that the Government is driving to bring in an East Of England Plan as issued in May 2008; these may range from how to respond to the initiatives or views of those who support or oppose us, and how we may support or oppose the views taken by others, and how to work in partnership with others to secure delivery of the plan with adequate infrastructure. In particular, those Portfolio Holders with planning and economic development responsibilities to remain tuned in to local views.
2. In association with 1, to keep an overview of work associated with securing a sound New Local Development Framework; in particular how the core strategy will cater for the adequate delivery of infrastructure of all types, the limited rolling back of the Metropolitan Green Belt to allow the regeneration and expansion of Harlow, the increased provision of affordable housing, and the maintenance of the existing settlement pattern elsewhere in the District.
3. To consider what changes are practical and desirable to Council policies concerning the Metropolitan Green Belt; including those concerning the extension of existing dwellings, and the reuse of redundant and other buildings; in particular, are further restrictions necessary (changes in policy required) to ensure that such developments are truly sustainable.
4. To consider in detail the provision of Value for Money within the following Planning Services focusing specifically on:
 - Development Control (including Appeals)
 - Forward Planning
 - Building Control
 - Enforcement
 - Administration and Customer Support
 - Economic Development
 - Environment Team
5. To gather evidence and information in relation to these functions through the receipt of:
 - performance monitoring documents,
 - Best Value Review of Planning Services (updated version)
 - benchmarking exercises,
 - consultation with Planning Committee Members, customers and IT Suppliers.
6. To identify problems, possible solutions, barriers to success;
7. To review the measures introduced since 2004 to improve performance within Development Control namely the success of
 - the 'Hit Squad',

- the Service restructure(s),
- the new IT system
- the application of the Planning Delivery Grant.

8. To review a selection of controversial planning decisions to see if lessons can be learnt from their consideration.
9. To consider whether the reporting arrangements for all of the above matters and those for the Section 106s (including how they are negotiated agreed and implemented strategically to secure community benefit), and appeals are sufficient (including how new legislation impacts on these) and to recommend accordingly.
10. To evaluate all relevant facts in relation to the topics under review in an objective way and to produce recommendations for future action accordingly;
11. To establish whether there are any resource implications arising out of the topics under review and advise Cabinet for inclusion in the Budget Process 2009/10;
12. To report to the Overview and Scrutiny Committee at appropriate intervals and to submit an interim report on Development Control in the June 2008 cycle, and a final report on all matters by March 2009. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.

Chairman: Cllr Mrs Wagland

Planning Services Standing Panel

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) (i) New Local Development Scheme and East of England Plan – EFDC Response to Final Version (ii) To consider matters that arise through the East of England Plan (iii) In association with the above, to keep an overview of work associated with securing a sound New Local Development Framework	Regular updating reports	(i) Final version of the East of England plan incomplete. Awaiting the results of a legal challenge and the results from the gypsy/traveller consultation. (ii) To receive a progress report at each meeting. (iii) LDF timeline to be presented.	18th June 2009 8 th September 10 th November 5 th January 2010 11 th February 27 th March
(2) (i) Re use of buildings in the Green Belt/Traffic Issues in the Roydon and Nazeing Areas. (ii) To keep an overview on transport matters that were the subject of a focus day in Nazeing in March 2007, and the action plan.		On going – VOSA attended meeting of the old Environment and Planning Standing Panel on 28 Feb 2008. Awaiting Essex C.C. transport freight strategy for the Nazeing area.	

<p>(3) To consider the provision of Value for Money within the following Planning Services:</p> <p>a) Development Control (including Appeals)</p> <p>b) Forward Planning</p> <p>c) Building Control</p> <p>d) Enforcement</p> <p>e) Administration and Customer Support</p> <p>f) Economic Development</p> <p>g) Environment Team</p>	<p>a) VFM Completed (Subject to annual review in August 2009)</p> <p>b) January 2009 This has had to wait because of staff shortages & work on Gypsy & Traveller issues.</p> <p>c) Deferred to Sept 09.</p> <p>f) Discussed at June meeting</p>	<p>a) VFM Task and Finish report went to September meeting and the November O&S Cttee meeting where it was endorsed.</p> <p>f) To include response to Economic Downturn.</p>	
<p>(4) Update on current staffing situation</p>	<p>Regular agenda item.</p>		
<p>(5) Improvement Plan</p>	<p>Regular agenda item.</p>		
<p>(6) Chairmen and Vice Chairmen of Area Planning Cttees. to be invited to a meeting to provide feedback.</p>		<p>Considered at the March 09 meeting. The next meeting is due in September 2009.</p>	

(7) Update on Gypsy and Traveller Consultation	Regular agenda item.	Update to every meeting.	
(8) Report from legal on performance at Planning appeals.	June 2009		
(9) Comments from the planning agents and amenity groups required matching.			
(10) That a report be produced setting out the benefits of creating an additional Senior Officer post, replacing the Compliance Officer post with reference to outcomes, options for funding the new post with consideration given to alternative options for securing the same benefits	Considered at June 2009 meeting.	Deferred to later meeting.	
(11) That a report be produced for the Panel setting out the possible route any planning enforcement investigation could take	Considered at June 2009 meeting.	Deferred to September 2009 with financial implications.	

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SCRUTINY



Report to Planning Services Scrutiny Standing Panel

Date of meeting: 8 September 2009

Subject: Introduction to Building Control

Officer contact for further information: John Kershaw (Assistant Director – 01992 56 4142)

Committee Secretary: M Jenkins (Democratic Services Assistant – 01992 56 4607)

Recommendations/Decisions Required:

To consider and comment on the Introduction to Building Control Report

Report:

1. The Panel's Terms of Reference had indicated that they were to consider Value for Money within Building Control. This report is designed to give general background on Building Control and to allow the Panel to consider the scope of future discussion.
- 1.2 The Assistant Director (Building) will be in attendance at the meeting and will be able to explain in more detail the contents of the report. Sections of this report and further detail can also be found in the Planning and Economic Development Business Plan.
- 1.3 The Building Control Service is based at Epping as part of the Planning and Economic Development Directorate. The Service provides a number of services and is registered with Lloyds Quality Assurance under ISO 9002 for these. The Service is in direct competition with the private market for the building regulation elements of its work. In the case of formal enforcement action however, the statutory duty remains with the Council.
- 1.4 The main functions of the building control service are:
 - *Full Plans Applications* - These are detailed applications submitted to the Council under the building regulations. The Council must determine an application within a legally prescribed timescale or the application will become "deemed approved". Each application is considered in detail relation to the requirements of the Building Act, the Building Regulations, the Approved Documents, British Standards and Codes of Practice. Following any appropriate negotiation with the applicant the application is Approved, Conditionally Approved or Rejected. Where the application is approved the applicant has the certainty of being able to develop in accordance with the approved plans.
 - *Building Notices* - these are notifications to the Council, under the building regulations, of intentions to carry out building work. Minimum information is initially submitted although additional information may be required to be given. The applicant does not have the protection of building to an approved plan and consequently takes the responsibility for complying with the building regulations.
 - *Inspections* – These consist of the inspection of building work through the construction stages from commencement to completion. The builder has a statutory responsibility to notify the Council at specific stages of construction, although Council officers may inspect at any stage.

- *Contraventions* -This relates to enforcement action to secure compliance with the building regulations, both in terms of building work found not to comply with approved plans/building regulations and also where an appropriate full plans/building notice has not been received and work has been carried out.
- *Initial Notices* – The Council is in competition with the private market for building regulation work. A person carrying out building work may, as an alternative to the Council, chose to use an Approved Inspector. In these circumstances, only two main areas of responsibility remain with the Council. Firstly to ensure that Initial Notice setting out details of the project and the Approved Inspector has been submitted and secondly, where an Approved Inspector has identified a contravention of building regulations in the work under his control, and has been unable to resolve the matter; the building work is handed back to the Council, as the authority of last resort to carry out enforcement action.
- *Demolitions*- Persons intending to carry out the demolition of a building are required to give the Council six weeks notice of the intended date of commencement. The Council may, by notice, require the demolition to be carried out taking into account specific matters.
- *Dangerous Structures* – The Council are empowered, under the Building Act, to deal with dangerous buildings and structures. If informal measures are unsuccessful it may apply to a Court for an order requiring the danger to be remedied. In more urgent cases the powers allow appropriate emergency action to be taken.
- *Access for Disabled People* – In addition to ensuring the building regulation requirements relating to building works are complied with, the building control service also provides the role of Access Officer; regularly meeting with the Epping Forest Access Group to promote improved standards of access and facilities for disabled people in the District.

1.5 The enforcement of the Building Regulations is a statutory requirement for the Council. The main legislative provisions are contained in the Building Act 1984. The Building Regulations 2000 and the supporting Approved Documents made under the Act are subject to the approval of the Secretary of State. These provide the basis for a uniform system throughout England and Wales. The Building Act also provides the legislative means of controlling other associated matters such as drainage, means of escape in case of fire, demolitions, dangerous structures etc. In relation to access and facilities for disabled people the Disability Discrimination Act has particular current reference.

1.6 The main customers of the Building Control Service are the general public, as it is they who benefit from the standards of health and safety etc. of the built environment that the Service seeks to control and improve.

1.7 The main direct users of the Service are building developers and their architects seeking approval to proposed building developments, builders and owners of building work in the constructional stages from commencement to completion and other of the Council's services.

2. The Building Control Team

2.1 As at June 2009 the Building Control Team has an establishment strength of 12 FTE with 9 staff in post, however of these 9 staff, two are consultants, Paul Cattell and John Vanderloo who both work 2 days per week. In addition to this a Senior Building Control Surveyor is on maternity leave until December. Due to this the team at present functions with the equivalent of 6.8 full time posts.

2.2 Staffing Profile

Post Number	Name	Post Title	Qualifications
PBC01	John Kershaw	Assistant Director (Building)	Member of the Association of Building Engineers BSc. Hons. Building Control Engineering
PBC02	Jeff Dixon	Principal Building Control Surveyor	Member of the Royal Institution of Chartered Surveyors Member of the Association of Building Engineers
PBC03	Paul Cattell (Consultant)	Principal Building Control Surveyor	Member of the Association of Building Engineers
PBC04	Sara Myers	Senior Building Control Surveyor	BSc. Hons. Building Surveying BSc Hons. Sociology
PBC05	Barry Hill	Senior Building Control Surveyor	Member of the Association of Building Engineers Bsc. Building Surveying
PBC06	John Vanderloo (Consultant)	Senior Building Control Surveyor	Associate of the Royal Institution of Chartered Surveyors
PBC07	Vacant	Senior Building Control Surveyor	
PBC08	Rob Saunders	Senior Building Control Surveyor	PhD Civil Engineering BEng Hons, 1 st class Civil Engineering
PBC09	Steve Browne	Senior Building Control Surveyor	Advanced Professional Certificate in Construction
PBC10	Jane Gravelle	Technical Co-ordinator (Contaminated Land)	Bsc. Hons. Applied Environmental Science
PBC11	Vacant	Trainee Surveyor	
PBC12	Vacant	Trainee Surveyor	

3. Workload and Performance

3.1 The statistics showing the trends of workflow over the past three years are set out in the following table:

	2006	2007	2008
Full Plans Applications	712	767	631
Building Notices	796	1040	1338
Demolitions	28	27	25
Dangerous Structures	22	45	28
Contraventions	35	26	29
Initial Notices	87	150	133
Regularisation Certificates	61	144	35
Partnership Schemes	44	52	44
Inspections			

3.2 The following internal measures are used in this area of the directorate to measure performance.

Internal Measure	Target 2008/09	Performance			
		2007/08 (Q4 & Outturn)	2008/09 (Q1)	2008/09 (Q2)	2008/09 (Q3)
Registration					
Full Plans: Initial registration, charge assessment and acknowledgement	3 Days	84.12%	84.46%	87.39%	85.11%
Building Notices: Initial registration, charge assessment and acknowledgement	3 Days	83.91%	82.15%	87.90%	86.37%
Initial Notice: Initial registration, assessment and acknowledgement	5 Days	91.71%	94.87%	97.44%	93.97%
Plan Vetting					
Applicant notified of defects/amendments required	15 Days	88.20%	97.94%	93.13%	85.90%
Decision notified within statutory time limits	5 Weeks	71.95%	78.52%	77.16%	83.18%
Decision notified within statutory time limits	2 Months	85.18%	97.14%	97.95%	98.72%
Inspections (Building Regulations)					
'Same day' requests (received before 10.00 a.m.) satisfied.	Same Day	100%	100%	100%	100%
Detailed site inspection record to be made	1 Day	100%	100%	100%	100%
Person responsible, for unauthorised work, notified of discovery	5 Days	Not Monitored	Not Monitored	Not Monitored	Not Monitored
Non-requested in progress visits made to inactive Site	3 Months	Not Achieved	Not Achieved	Not Achieved	Not Achieved
Non-requested in progress visits to active sites	15 Days	Not Achieved	Not Achieved	Not Achieved	Not Achieved
Other Administration					
Dangerous structure call out: response time during working hours	1 Hour	100%	100%	100%	100%
Dangerous structure call out: response time outside normal working hours	2 Hours	100%	100%	100%	100%
Dangerous structure written record made	1 day	100%	100%	100%	100%
Inspection charge invoices raised and issued.	10 days	74.49%	78.15%	84.00%	80.92%
Demolitions issue of Section 81 Notice where appropriate	10 days	Not Monitored	Not Monitored	Not Monitored	Not Monitored

Internal Measure	Target 2008/09	Performance			
		2007/08 (Q4 & Outturn)	2008/09 (Q1)	2008/09 (Q2)	2008/09 (Q3)
Non-application correspondence to be processed	8 days	Not Monitored	Not Monitored	Not Monitored	Not Monitored
Completion certificates issued	5 days	73.61%	70.17%	73.10%	71.99%

4. Budget

4.1 The Building Control Service divides financially into two main areas; Fee Earning and Non Fee Earning. The Fee Earning part of the Service relates to activity related to Income/expenditure in connection with building regulation administration and enforcement.

Under the Building (Local Authority Charges) Regulations 1998 the Council is authorised to fix a scheme of charges in connection with the performance of its functions under the Building Regulations. Income from the charges should be sufficient to meet the costs of the service provided, and must always meet the cost over any three-year rolling accounting period (the break-even target).

4.2 The current position for the three year accounting period for the ring fenced account is as follows:

	Original Est	Rev Otn	Actual	Actual	Actual
	2009/10	2008/09	2008/09	2007/08	2006/07
	£000	£000	£000	£000	£000
Expenditure					
Employee Costs	264	248	303	328	312
Premises	0	0	0	0	1
Transport	17	17	28	18	14
Supplies & Services	46	48	59	84	34
Central & Support Service charges	296	278	216	219	240
Asset Rentals	4	3	3	2	2
Total Expenditure	627	594	609	651	603
Building Regulation Charges	642	594	566	621	550
Other Income	0	0	33	0	12
Total Income	642	594	599	621 0	562
Surplus/(Deficit) for the Year	15	0	(10)	(30)	(41)
Balance B/Fwd	(15)	(15)	(15)	15	56
Balance C/Fwd	0	(15)	(25)	(15)	15

Notes:

This table includes an increase in fees and charges for 2009/10 of 8%.

5. Issues/Challenges

5.1 Budget

5.1.1 As can be seen from table 4.2, the revised out turn for 2008/09 showed a surplus / deficit of zero. The £15,000 deficit brought forward from 2007/08 needs to be recouped over a three year rolling cycle. Cabinet therefore recently agreed to a fee increase of 8%. The Building Control ring fenced account eventually ended up with a loss of £10,451, which when added to the deficit rolled over from the previous year gives a shortfall to be found in 2009/10 of £25,000.

5.1.2 Efforts must now be made to clear £25,000 at least. In addition to this, the month 1 income report shows that a shortfall in income against budget of £11652 was achieved and month 2 shows a shortfall of £5639 to make the position even worse. Measures have however been taken to reduce costs in this period.

5.2 Staffing

5.2.1 With professional/technical staffing levels now at just over 50% of a full establishment and little or no response to national advertisements of vacancies, Service performance is inevitably affected. External consultants can do some work but even with this assistance only a very basic level of service can be provided. There are also consequential effects upon staff in terms of their ability to meet required Continuing Professional Development programmes and the level of pressure and stress they are being expected to work under. This is a very real concern.

5.2.2 Previously in 2003/04 when the surveyors were 50% understaffed the Assistant Head of Planning Services had to make decisions on the best use of the remaining resource. This meant that all full plans applications were vetted by external agencies. This led to a greater cost to the council than if the applications were checked in house and also to a dilution of knowledge within the building control section.

5.2.3 Risk assessments were carried out daily with regard to inspection requests as they could not all be carried out. Each day calls were cancelled and builders are told to progress with the works.

5.3 Competition

5.3.1 The extension of the Approved Inspector Regulations; permitting the private market across the full range of building work has seen an increase in loss of market share. Higher fee earning work, for example, large scale developments and commercial work for the larger chain stores have been lost to Approved Inspectors.

5.4 Performance

5.4.1 The ability to influence the performance indicators is almost totally connected with staffing levels, certainly without sufficient staff managers do not have the raw materials necessary to provide a service.

5.5 Outsourcing of Building Control

5.5.1 The council is considering the outsourcing of Building Control, however officers feel they need a fuller understanding of what is meant by this. It is recognised that there is a number of models that could be undertaken, all of which have pros and cons.

5.6 Changes in local and global economy i.e. recession

5.6.1 There is a continual juggling act to maintain the level of staff to carry out the workload and still be mindful of fee income. Officers do not however, want to cut down staff to a point that they are unable to recruit should there be an upturn in the economy.

5.7 Changes in legislation

5.7.1 Keeping up with new Approved Documents and legislation has proved a challenge as staff have a difficulty finding the time to deal with these complex issues.

6. Matters for scrutiny

6.1.1 This report has provided initial information on Building Control, it is set out with the aim of stimulating discussion. Officers are keen to obtain Member reaction and to engage in the value for money process.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Safer, Cleaner, Greener Scrutiny **Date:** Thursday, 23 July 2009
Standing panel

Place: Committee Room 1, Civic Offices, **Time:** 7.00 - 9.08 pm
High Street, Epping

Members Present: G Pritchard (Chairman), M Colling (Vice-Chairman), R Barrett, Ms J Hedges and D Jacobs

Other Councillors: R Bassett, Mrs M Sartin and Ms S Stavrou

Apologies: - D Bateman, Miss R Cohen, R Frankel, R Law and Mrs E Webster

Officers Present: J Gilbert (Director of Environment and Street Scene), T Carne (Public Relations and Marketing Officer) and A Hendry (Democratic Services Officer)

Also in attendance: A Chown and A White

13. DECLARATIONS OF INTEREST

No declarations of interest were made.

14. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

The Panel noted there were no substitute members.

15. ELECTION OF VICE CHAIRMAN

RESOLVED:

That Councillor M Colling be elected Vice Chairman for the duration of the meeting.

16. NOTE FROM PREVIOUS MEETING

The notes from 23 June 2009 were agreed as a correct record.

17. TERMS OF REFERENCE / WORK PROGRAMME

The Terms of Reference and Work Programme were noted.

18. BIRCHWOOD, HOE LANE, NAZEING

The Director of Environment and Street Scene, Mr John Gilbert, introduced the item on recent fires at Birchwood, Hoe Lane, Nazeing. He introduced Alex Chown and Andy White, both officers of the Environment Agency.

Mr Gilbert summarised the history of the site for the Panel. The site's planning consent for 'general industrial purposes' was granted by the Planning Inspectorate on

appeal and had no limiting conditions imposed on it other than some working hours. Around three years ago when the site was being operated by Essex Wood Recycling (EWR), waste wood was brought onto the site for chipping. EFDC took the view that this activity was waste related and fell outside the general industrial purpose planning approval. However, Counsel advice indicated a contrary view, which was shared by Essex County Council (as the Waste Planning Authority) who concluded it was not a 'waste operation'.

The pile of wood got larger and EFDC took the view that the core operation was now storage and not wood processing. Around this time the operator of the site changed and the new operators, Scott and Scott approached EFDC to seek consent for incineration. This was rejected by EFDC and the Environment Agency (EA). In October 2007 EFDC issued an enforcement notice for unauthorised storage. This was appealed and a public enquiry was scheduled for December 2008. In the meantime a new planning application was made for a temporary consent for mixed use, storage and general industrial. The date of consideration of this application clashed with the public enquiry. The decision was made to withdraw the enforcement notice and proceed with the new application. EFDC gave consent for the new usage and attached a raft of operational conditions. In January 2009, the timber caught fire. The new consent was not taken up leaving the original consent in place but now without the enforcement notice. In May 2009 another (smaller) fire started on this same site.

Local residents do not wish this to continue and have petitioned for closure of the site.

This issue went to the Planning Standing Panel who asked that this Panel look into the environmental impact of the fires on this site.

Alex Chown of the Environmental Agency commented that this was a waste activity producing wood chippings which fits into the Environmental Permitting Regulations 2007 and came under paragraph 13 as an activity seeking to maximise waste recovery. Anyone could apply for permission to carry out such activity under paragraph 13 on line. It had to be timber related and must be a manufacturing activity (in this case chippings). Scott and Scott took over the stockpile and registered last May with the EA. They subsequently had a major fire on site. The EA has since made a number of visits to the site and have made suggestions on dust suppression etc. Things seemed to be operating normally. They then had another fire at the end of May 2009. The EA seriously considered deregistering them, but they could simply reapply on line, which had no facility to take past activities into account. They held meetings on the site with their representatives and produced an action list for them to conform with. They also asked them to stop business immediately until the action list was clarified and agreed. With the legislation as it stands they could not demand improvements but could only ask for it.

Mr Gilbert said that there were some key issues to be considered:

- (a) Use of the site overall (Planning issues). It would be difficult to get them to stop via this route.
- (b) Damage to the public highways by their delivery lorries etc.
- (c) Nuisance from their site activity (dust etc.). EFDC may be able to serve notice on operations on this site. The legal position will have to be checked to see what action the council is allowed to take.
- (d) The two fires affected the local residents. Officers had monitored the air quality of the first fire, and none of the national air quality standards relating to breathable particles were breached; although the scale and nature of the fires

could have had a detrimental affect on local residents already suffering from respiratory conditions and during the fire they were advised to stay indoors.

- (e) The fire in May was smaller but hotter, with a high plume taking materials up and out of the immediate area.
- (f) The Essex Fire and Rescue Service's (EFRS) use of water to put out the fire – the water would then go into the local water courses. The EFRS's policy was not necessarily to put the fire out immediately, but to let it burn out in a controlled manner; their primary consideration was to protect life and property. Using large volumes of water to put out the fire would have repercussions on the local water courses, assuming that they had enough water available to use.

Mr Gilbert had prepared a draft letter and Q&A sheet for the Panel to consider prior to its issue to local residents. This would be sent on behalf of all the agencies concerned explaining what was happening now, some of the history and proposed future action for the site.

There was a need to distinguish between the controls over the regular legal business of the site and the two fires. The agencies could only regulate the bona fide business and the fires could not be controlled as there was no evidence to say how the fire had started. The site was now being secured (fenced around its perimeter) and the Health and Safety Executive (HSE) had served an Improvement Notice requiring the fencing to be completed by 7 August. The site was not secure before.

Councillor Jacobs asked when the government were going to 'beef up' the Environmental Permitting Regulations. Mr Chown said they had begun looking at it from last year. It had been delayed and they were now looking at completing it by April 2010. The proposal for paragraph 13 was that businesses would require a standard permit enabling temporary suspension etc.

Councillor Jacobs asked had the site had ceased operations for the time being, and were they being monitored? He was told that they were, especially by the residents.

Councillor Jacobs then asked if we asked them to move the business, would they be entitled to receive compensation. He was told that they now operate under a fully legal planning consent and if the council were to ask them to move it would be liable to pay compensation.

Councillor Colling said it came down to planning and if the council could put conditions on the site. The site needed to be made secure, the amount of timber on the site needed to be controlled and this could be done by condition. If they handled less tonnage then they would need smaller lorries. Mr Chown agreed. He was also keen to ensure that all the agencies saw the proposed conditions to ensure that it did not happen again. The operators would need to show that they were running a competent business.

It should be remembered that before the first fire they had been offered planning consent with conditions but they did not take them up after the fire.

Councillor Bassett said that there was a history to the site, and when the council tried to take enforcement action they sold the business to another company. They had also brought in all sorts of waste and rubble, which they were asked to take away over a specified period of time. It then burst into flame on the coldest night of the year. After that they brought in more wood and then had the second fire. The residents were concerned that they would build up a big pile of wood again and their lorries would continue to knock down telegraph poles. They were in totally the wrong

location for this type of business. It was also affecting other types of local business, such as the local child minding nursery which had to put the fires down on their risk register. This may cause them to close down. Also, all the ash generated would cause health problems to the local people. We need to guarantee the residents that we are monitoring the site as closely as the law permitted. And we need to tell residents this. Scott and Scott seem to be more responsive and negotiations were better than enforcement.

Mr Gilbert informed the Panel the West Essex PCT had been asked to check with GPs about any abnormal numbers of referrals over the last six months. There were none. They have subsequently asked us to provide information on the nature of the materials concerned so that they could do more research on longer term health effects. Our monitors in January showed no evidence of any harmful particles. As for the traffic problems caused by the delivery lorries, there was not much this Panel could do about that. That was for the Highways Authorities to deal with. It would be taken to the new Highways Panel. This Council and the EA had used whatever regulatory powers they had. They have also asked the residents to keep diaries on what has happened so that a case could be put together. Local residents wished to see the industrialisation of Nazeing brought to an end, but this is not something the council could do.

Councillor Mrs Sartin asked how far back had the PCT been asked to check their records. Mr Gilbert said that they checked from December 2008 to June 2009, there had been no increase. Councillor Bassett said that part of the problem was that the people of Nazeing went to Hertfordshire surgeries. Mr Gilbert said they would ask West Essex PCT to consult with East Herts PCT on these referrals.

Mr Chown said if a vehicle was carrying waste there was a duty of care and they could ask Scott and Scott to write to their customers to improve on their delivery. The EA could also work with the Police and set up roadside checks to check the lorries loading.

Councillor Bassett said it looked like the District Council's hands were tied. The use of small country lanes was an issue but nothing could be done about that. The residents needed to continue monitoring the site, but they feel that the Council was not helping them. That it was the Council's job not theirs. Councillor Ms Stavrou said that she used to live next to a problem site and it took six years of diarising everything, to make any progress. The Council could not do this on its own; it did not have enough employees. It must be borne in mind that this was a legitimate business carrying out its legitimate work.

Councillor Jacobs asked how the business made their money. He was told that they sell the wood chippings. They also charge gate fees but get their profit from the sale of the finished item. There were three grades of wood. The top grade got a good price. The second grade could be mixed with the top grade and sold. The bottom grade was only good for landfill. It should be noted that the fire burnt off all the bottom grade wood.

The Panel then considered the draft letter and Q&A document to be sent to the residents. Officers were trying to get this out to local residents as quickly as possible and had opted for a short covering letter and a Q&A briefing note.

It was noted that:

- There was ongoing co-operation with the current operator of the site (to be put in the last paragraph of the letter);

- The Q&A document referred to Scot and Scott Ltd. This was wrong, they were not a limited company;
- The Council will be actively monitoring the site over time;
- It should be said that the Council had turned down the application initially but this was then agreed by the Planning Inspector;
- There was too much detail about Paragraph 13, people would struggle to understand it. Officers should highlight the bits that apply;
- It also needed a preamble to introduce what Paragraph 13 was;
- Should be added that the rules are to be tightened up by the government by April 2010;
- It should explain why EFDC said that there were no breaches of air quality standards as they were monitoring small particulates.

The Panel were content to endorse the following recommendations. Councillor Bassett concluded that they needed to demonstrate to the public that the council was doing things, give them contact points and to stress to the residents that they should keep monitoring the situation.

The Chairman thanked the two officers from the Environment Agency for coming and advising the Panel.

RESOLVED:

- (1) That the current position regarding activities at the site be noted;
- (2) The Panel noted that the receipt of a petition in respect of the Birchwood Industrial Estate, Nazeing, would be dealt with in accordance with the petitions procedure as set out in the Council's Constitution;
- (3) That the current status of the negotiations between the Environment Agency and Scott and Scott, be noted in respect of:
 - (a) the tonnages of waste timber on the site;
 - (b) site security; and
 - (c) nuisance suppression;
- (4) That, if the current legal framework permits, the Council exercises its powers under the Environmental Protection Act 1990 in respect of any proven current or anticipated future statutory nuisance;
- (5) That, given that many local residents use surgeries in Hertfordshire, the West Essex Primary Care Trust be requested to seek information on unusual levels of GP and hospital referrals in respect of respiratory illness for the period December 2008 to June 2009 inclusive from the East Herts Primary Care Trust;
- (6) That the Epping Forest Safer Communities Partnership be requested to consider what support might be given in respect of the regulatory control of waste vehicles using the Birchwood site; and
- (7) That subject to the inclusion of amendments made, the letter and question and answer background paper to residents be approved and distributed.

19. ANY OTHER BUSINESS

The Director of Environment and Street Scene, Mr John Gilbert, tabled the draft policies for the new wheeled bins. The purpose of the policy was to ensure compliance with Essex Joint Municipal Waste Management Strategy. Officers would like them to go to the September meeting of the Cabinet for ratification.

It was noted that:

- the drafts had been published in a recent Members Bulletin for information;
- the policy was about the use of the containers;
- the wheeled bin capacity was 180 litres, but smaller or larger ones could be asked for depending on the suitability of the property;
- contamination was important, only the residual bin should contain things that cannot be recycled;
- only food and garden waste was to be put in the 'green' bin;
- the kitchen caddy was provided to help residents;
- dry recycling was to use blue boxes and clear sacks;
- if the container was too contaminated, it would not be collected;
- residual side waste was not collected at all, except on special occasions (e.g. religious festivals);
- the exemption policy should say 1 sq. metre and not 1.13 sq. metre;
- there would be an assisted collections;
- all requests for smaller bins would be granted;
- flats and commercial buildings were still under consideration; and
- Members could send in their comments to Mr Gilbert by 14 August.

Councillor Barrett asked if SITA or council officers were going to enforce the rules. He was told that it would be council officers who would do the enforcement if necessary. The council had powers to require people to comply.

Councillor Hedges asked if bags could be used. She was told that only 'compostable' bags with 'trelevan' logo should be used.

Councillor Sartin pointed out that exemption policy 6.2 should have the word "less" inserted to make sense; i.e. 'less' than 1 square metre.

RESOLVED:

Members noted and approved the draft container policy as tabled.

20. FUTURE MEETINGS

The dates of the future meetings of the Panel were noted.

Dear Resident

Birchwood, Hoe Lane, Nazeing

This letter is being sent to you on behalf of the organisations involved in the regulation and monitoring of the wood chipping operation, currently undertaken by Scott & Scott, at the Birchwood Industrial Estate, Hoe Lane, Nazeing. These organisations (The District Council, Environment Agency, Health & Safety Executive and the West Essex Primary Care Trust) have been working in partnership to try to resolve the issues which concern residents and move forward in a way that is acceptable to all. I am writing to you on behalf of these partner organisations to update you on the current situation.

Attached to this letter is a briefing note which sets out some background information as well as providing answers to some of the most commonly asked questions. I have also attached a note from the Environment Agency setting out the content of and an explanation of the Environmental Permitting Regulations as they apply to this operation.

We have tried to answer the questions which have been most routinely raised, but there will be others that we haven't covered. If you have a question which hasn't been answered, please contact the relevant officer using the number/email provided at the end of the question and answer briefing sheet.

In looking at the information provided it is very important to recognise that all of the regulatory controls are applied to the normal operation of the business, that being the chipping of imported waste timber. None of the regulatory authorities are able to control or regulate the impacts of a fire which arises outside of these normal operations.

At this time Scott and Scott are co-operating fully with the Environment Agency, and no new material has been delivered to the site. Regular unannounced visits are being made to the site to ensure this continued co-operation. In addition, works to provide a fence around the site are underway, with a deadline for completion, set by the Health and safety Executive, of the 7th of August 2009.

We do understand the genuine concerns of residents. However, we have to work within the legal framework as it currently stands, even if that appears not to provide the solution that residents would prefer to see. We are however striving, within that framework, to find the best possible outcome possible for all.

YS

J Gilbert
Director of Environment & Street Scene
on behalf of

Epping Forest District Council
The Environment Agency
The Health & Safety Executive
The Essex Fire & Rescue Service
The West Essex Primary Care Trust

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Briefing Note: Fires at Plot C, Birchwood Industrial Estate, Hoe Lane, Nazeing

Background

Two separate businesses have carried out wood chipping at Plot C, firstly Essex Wood Ltd and then Scott & Scott.

Allegations were made that Essex Wood Ltd were causing a dust nuisance. These allegations were taken seriously and the Environment Agency (EA) and Epping Forest District Council (EFDC) investigated them. EFDC started to take enforcement action against Essex Wood Ltd, however, this ended when the company went into voluntary liquidation. This operator left the site in May 2007, leaving a large stock pile of waste mixed timber behind.

A new landlord took over the site around the same time as Essex Wood Ltd left. Scott and Scott then leased the site from the new landlord and have operated on the site since.

What permissions did the wood chipping activity need?

The entire Birchwood Estate has a planning consent for "general industrial purposes". The original application was refused by EFDC but was granted on appeal by a Government Planning Inspector in 1985. That consent unfortunately had no controlling conditions attached to it. Following enforcement action by EFDC, a revised planning application was made for storage and chipping of waste timber. This application was approved by EFDC, on a temporary basis, and it provided for a continual reduction of the material stored on the site. However, the fire in January 2009 effectively dealt with the material on site and the new permission was not taken up.

Waste recovery and disposal activities are regulated by the EA. Under current legislation, the storage and chipping of mixed timber to manufacture a product is a low risk recovery activity that falls within the terms of an exemption, known as a Paragraph 13 Exemption (see separate sheet for the full wording and explanation of this exemption). The end "product" could be bedding for animals or the fuel for an energy-from-waste incinerator, amongst other things. Scott & Scott registered a Paragraph 13 exemption with the EA in May 2008.

The Environmental Permitting Regulations are currently being reviewed by Government, with the intention of strengthening them so that the EA can exercise greater control than at present. It is hoped that these may be available for use during the Spring of 2010.

The January 2009 fire

On 5 January 2009 the large stockpile of wood left by Essex Wood Services caught fire. Essex Fire & Rescue Service (EFRS), the EA and EFDC all attended the incident.

EFRS decided to allow the waste wood pile to burn in a "controlled manner", contain it and protect surrounding properties. They would extinguish it when appropriate. The actions of the EFRS were discussed and agreed with the EA and EFDC. This is an operational approach regularly used by EFRS in dealing with this type of fire in these types of location. The EA worked closely with EFRS and EFDC and monitored the runoff from the fire for its potential environmental impact. Firewater did leave the site and entered a nearby watercourse, but monitoring by the EA showed that no harm was caused.

EFDC had specialist air quality monitoring equipment on loan at the time of the January fire so were able to monitor the impact on the air. This monitoring exercise, which looked only at those particles capable of finding their way into the lung tissue (i.e. not visible ash, smuts and other particles) showed no breaches in air quality standards.

Information about the fire and its environmental impact was provided to both the Health Protection Agency and Food Standards Agency.

The May 2009 fire

A second fire was reported on 30 May 2009. Although smaller than the first fire, it nevertheless resulted in smoke affecting a number of residents for over a 2 week period. This fire was also allowed to burn in a controlled manner. No air monitoring was undertaken in May/June 2009. The EA received approximately 10 telephone calls from Nazeing residents concerned about how the smoke affected them.

The fire in May was not as extensive as the fire in January although the concern caused was no less. The impact of the fire was under constant review by Essex Fire Service, the EA and EFDC until it was safely extinguished. Scott & Scott co-operated with all agencies.

Are fires allowed on site? If not, what enforcement action will follow?

The conditions of the Paragraph 13 exemption do not allow waste wood to be burnt, either as part of a recovery process or a method of disposal. EFRS believes the fires were non-accidental. For enforcement action to be taken evidence is needed as to how the fires started. This evidence has not been found.

What is being done to prevent another fire?

The EA has been working with the Operator to undertake some voluntary improvements since January 2009. Since the second fire all parties have reassessed their approach.

Scott and Scott have agreed not to restart chipping wood until a number of improvements have been made on site. These include the installation of security fencing and dust suppression equipment, including on-site water storage, along with better separation of incoming waste wood and wood products, to minimise the risk of fire. The Health & Safety Executive (HSE) has served an Improvement Notice on Scott and Scott to ensure that the security fencing is in place by no later than the 7th of August 2009. There has been **no** further chipping operation since the fire in May. At a meeting on the 5th of June 2009, Scott & Scott agreed not to accept further deliveries of waste on site.

Will the smoke etc from the fires have been harmful to local residents' health?

EFDC had air specialist quality monitoring equipment on loan at the time of the January fire. This monitoring exercise looked only at those particles capable of finding their way into the lung tissue (i.e. not visible ash, smuts and other particles). Measurements in the area close to the fire and further away downwind did not indicate levels of pollution in breach of national air quality standards. This does not mean that anyone with an existing respiratory condition may not have suffered additional discomfort from the effects of the fires. The PCT have sought information from local General Practitioners as to whether there were additional cases of respiratory illness etc. No increases have been reported. Additionally, referrals from local GPs to hospital for chest and related complaints were no more than normal. Further information is being sought in relation to surgeries in Hertfordshire, since it is known that some residents do not use the Essex based surgeries. The PCT have asked for further data from the EA and EFDC on the nature of the material which was burnt and the other processes on site to enable them to undertake some further detailed research into possible health effects. The outcome of this exercise will be made available to residents when completed.

What is happening to the large ash pile?

EFRS believe that the large ash pile still has heat at its centre. The ash pile poses no harm to air, land or water quality or to human health in its current state. However, the ash cannot remain on site indefinitely. Scott and Scott have been asked to provide the EA with a method to clear the site, which will also be agreed with EFDC. Inevitably, this may mean that residents may smell some smoke; regrettably, this cannot be completely avoided during this clean up operation. However, the Operator has agreed to keep this to a minimum.

Can the EA remove the exemption, and if so under what circumstances?

If the EA believes that Scott & Scott are not undertaking their chipping business in an appropriate manner (i.e. there is a risk of harm to the environment or human health), they can withdraw the exemption. A decision to do so requires clear evidence to be available. As part of their normal operating conditions, the chipping of timber has resulted in only a few complaints to the EA or EFDC. To date Scott & Scott's registered exemption remains. The EA will keep that decision under continuous review and will carry out unannounced site visits with officers from EFDC. If the EA came to the view that the exemption should be removed, the operators would be able to immediately reapply, and under the existing legal framework, the exemption would be immediately re-issued, thereby starting the process all over again. This is clearly unsatisfactory, and it is hoped that the review of the regulations referred to earlier will result in this anomaly being removed. Despite this procedural difficulty, the EA and EFDC will use the powers available to them should problems arise at the site.

Can EFDC require the current use of the site to cease, and if not why not?

In practical terms the answer to this question is no. Whilst it is technically and legally feasible to require the operator to relocate to another location, this has serious financial consequences for the authority due to the requirement to pay compensation to the operator for the forced relocation of the business. In addition, such action would not prevent another person using the site for a similar business.

Is there any other action EFDC can take?

The Council had taken action for dust nuisance against the former operator using its powers under the Environmental Protection Act 1990. This action had to stop when that operator went into liquidation. Changes in the law, and the introduction of the Environmental Permitting Regulations have made it unclear as to whether the Council can any longer exercise those powers against Scott & Scott. This is currently the subject of discussion between the EA and EFDC.

Will the storage and chipping of wood be allowed to start again?

This will depend upon whether Scott and Scott comply fully with the requirements of the EA and HSE. Until all regulatory parties are satisfied with the improved infrastructure and plan of action, the Operator will not be given permission to resume chipping activities.

Is there anything the residents should be doing?

If it becomes necessary in the future to take further enforcement action, the availability of evidence will be very important. It would be of considerable assistance if residents could keep details of any incidents on the site which cause them concern, including dates, times and the nature of the event. Some residents have already been provided with diary sheets by EFDC to note down these details. Please use them. If you do not have diary sheets and would like some, please contact Fay Rushby at EFDC; her contact details are set out below.

Who should I contact if there are future concerns?

The EA has a 24-hr incident number **0800 80 70 60**. This can be used if you witness any environmental emergency or pollution incident. The EA team leader for the catchment area that includes the Birchwood Industrial Estate is Mr Alex Chown. His direct line is 01707 632416. His email address is alex.chown@environment-agency.gov.uk

Fay Rushby is the contact Environmental Health Officer for EFDC. She can be contacted on 01992 564496. Her email address is frushby@eppingforestdc.gov.uk. The Council's emergency call out number is 01992 564000.

Stephan Solon is the contact Planning Officer for EFDC. He can be contacted on 01992 564103. His email address is ssolon@eppingforestdc.gov.uk

Richard Rajham is the contact Inspector for the HSE. He can be contacted on 01245 706200. His email address is Richard.rajham@hse.gov.uk

The Environmental Permitting Regulations

What do they say?

These regulations require certain types of operation, including the handling of waste materials, to have a permit issued by the Environment Agency. However, the regulations provide for exemptions from this requirement for smaller, low risk activities, such as those undertaken by Scott & Scott at the Birchwood site. There are many exemptions described but the one of interest to residents is that described as a “paragraph 13 exemption” which deals with:

“the manufacture and treatment of construction materials and timber products”

The effect of this is that, provided the waste is non hazardous, an operator can use demolition waste, slag, clinker, rock, wood, bark, paper, straw and/or gypsum in the manufacture of timber products, straw board, plasterboard, bricks, blocks or roadstone and aggregate.

The regulations allow waste timber to be brought to the site for treatment

With respect to Birchwood, the final chipped wood can be used for animal bedding or as a fuel for incineration. This is an allowable end use under the regulations.

The regulations allow for maximum tonnages of the above materials to be stored at a location and these are different for the various materials. In respect of waste timber, the maximum permitted at any one time is 20,000 tonnes.

For the exemption to remain in place the operation must be managed so as not to risk or cause harm to the environment or adversely affect the countryside.

Further information on the regulations can be found on the Environment Agency’s website, www.environment-agency.gov.uk/business/topics/permitting

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

AREA OF IMPROVEMENT	ACTION(S)	LEAD RESPONSIBILITY	TARGET FOR COMPLETION	RESOURCES AVAILABLE/ REQUIRED	PROGRESS	
					<input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Fully Achieved Partially Achieved Limited Action

<p>1. Review the measures used within Planning and Economic Development to ensure that Staff are maximising the performance of the Directorate.</p>	<ul style="list-style-type: none"> To ensure that processes are in place to implement the Corporate Performance Management Framework within Planning and Economic Development to include: The development of Key Cabinet Objectives for the Planning and Economic Development Portfolio. To produce a Directorate Business Plan for 2009/2010. To identify Key Performance Indicators for inclusion in the Council's KPI set for 2009/2010. To produce Action Plans for Key Performance Indicators. 	Director of Planning and Economic Development	<p style="text-align: center;">Feb 2009</p> <p style="text-align: center;">April 2009</p> <p style="text-align: center;">Mid March 2009</p> <p style="text-align: center;">April 2009</p>	Within existing resources	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
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EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

AREA OF IMPROVEMENT	ACTION(S)	LEAD RESPONSIBILITY	TARGET FOR COMPLETION	RESOURCES AVAILABLE/ REQUIRED	PROGRESS	
					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
2. Develop and promote a set of service standards for Planning and Economic Development, outlining the minimum levels of service that external and internal customers will receive.	Review previous protocols, (e.g. those re DC and Enforcement)	Directorate Business Manager	End Mar 2009	Within existing resources	<input type="checkbox"/>	Postholder left – tasks are for new postholder.
	Set new Standards		April 2009		<input type="checkbox"/>	
	Report Compliance		Quarterly		<input type="checkbox"/>	
3. Check the effectiveness of the channels of communication used to ensure that all staff are aware of service priorities and quality standards.	Include Staff in the Development of Service Business Plan.	Directorate Management Team	Jan-March 09	Within existing resources	<input checked="" type="checkbox"/>	
	Undertake Staff Survey to assess effectiveness of current communication channels.		June 2009		<input type="checkbox"/>	
	Raise as part of Staff PDR Process		By end of May 09		<input type="checkbox"/>	

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

AREA OF IMPROVEMENT	ACTION(S)	LEAD RESPONSIBILITY	TARGET FOR COMPLETION	RESOURCES AVAILABLE/ REQUIRED	PROGRESS	
					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
4. Improve the mechanisms for regular on-going feedback from users on the quality of service they have received. Ensure officers with the appropriate level of responsibility act upon complaints.	Officer Group within Planning to be established to review Customer Services Issues and recommend areas for improvement.	Directorate Business Manager	End of November 2008	Within existing resources.	<input checked="" type="checkbox"/>	Responses now being received: need to consider reporting framework.
	Refresh Training on Customer Complaint Handling to be undertaken	Director of Planning, Assistant Directors	July 2009		<input type="checkbox"/>	
5. Improve ownership of problems and accountability amongst the Senior Management Team within Planning and Economic Development.	Individual Responsibilities to be clearly articulated at appointment. Part of Performance Development Review interviews to be undertaken by Director of Planning.	Director of Planning	At appointment End of May 2009	Within existing resources.	<input type="checkbox"/> <input type="checkbox"/>	This depends on successful recruitment to the two relevant AD positions.
6. Implement appropriate measures to raise morale and increase staff motivation in achieving service improvements.	Explore the production of a Directorate Newsletter to improve awareness and celebrate success.	Director of Planning	By end Sept 2009	Within existing resources.	<input type="checkbox"/>	

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

AREA OF IMPROVEMENT	ACTION(S)	LEAD RESPONSIBILITY	TARGET FOR COMPLETION	RESOURCES AVAILABLE/ REQUIRED	PROGRESS	
					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input checked="" type="checkbox"/> Limited Action	
7. Develop a systematic approach to workforce planning to address recurring recruitment and retention difficulties. Page 52	Update the previous Workforce development plan.	Reconvene previous team.	By end June 2009	Within existing resources.	<input type="checkbox"/>	Target needs to change because of need to pick up Corporate data which will not be available until July 2009.
	Review recruitment procedures, so that there is an essentially up to date package of information open to all staff that can be used to quickly commence appropriate recruitment campaigns.	Management Assistant	By end Mar 2009		<input checked="" type="checkbox"/>	

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

AREA OF IMPROVEMENT	ACTION(S)	LEAD RESPONSIBILITY	TARGET FOR COMPLETION	RESOURCES AVAILABLE/ REQUIRED	PROGRESS	
					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
8. Improve the standard, content, presentation and consistency of reports to Development Control, Planning Standing Panel and Area Sub Committees. Page 53	Meet regularly with the Chairmen and Chairwomen of these.	Director of Planning and Assistant Directors	1st Meeting February 2009 2 nd meeting early July: Simon Hill to report back on dates.	Within existing resources.	<input checked="" type="checkbox"/>	Requires input from new AD (DC)
	Review the "Standard template" for reports to Committees.		May 2009	Within existing resources.	<input type="checkbox"/>	
	Arrange refresher training for all those compiling or agreeing such reports.		End June 2009	Within existing resources.	<input type="checkbox"/>	

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

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					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
<p>9. Review the Corporate Planning protocol with respect to dealing with applicants, agents, developers and the local business community to ensure that the highest standards of probity and governance are achieved.</p> <p style="text-align: center;">189 54</p>	<p>Report to Standing Panel for their consideration, in liaison with Constitutional Affairs Panel.</p>	<p>Director of Planning and Assistant to Chief Executive</p>	<p>February 2009</p>	<p>Within existing resources</p>	<input type="checkbox"/>	<p>The existing Planning Protocol is already intended to remind staff, and to assure the public that officers, and members, have codes of conduct, professional requirements, financial training and various registers of interests. The protocol is being reviewed/ amended and are being brought to Standing Panel for their consideration.</p> <p>The review is out to consultation right now (May 2009) and the plan is to report back to Standards Committee and the Constitutional Affairs Panel in July 2009 (Ian Willett, 21/5/09)</p>
<p>10. Implement practical measures to improve the public perception and reputation of the Council's Planning Service, particularly with respect to high profile/controversial applications and enforcement action.</p>	<p>To instigate regular reporting on enforcement performance to Members.</p> <p>To publicise the outcome of enforcement action more widely.</p>	<p>Director of Planning and Economic Development</p>	<p>Quarterly Reporting</p> <p>Ongoing</p>	<p>J Preston/ S Solon</p>	<input type="checkbox"/> <input type="checkbox"/>	

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

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					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
11. Take positive action to raise confidence amongst elected Members of the Council with respect to the performance of the service area.	To report planning performance on a regular basis to the Standing Panel and Overview and Scrutiny Performance Management Committee	Director of Planning & Economic Development	Quarterly	Within existing resources	<input checked="" type="checkbox"/>	There needs to be better communication of the successes, such as ICT.
12. Routinely review costs for the different elements of the service, set challenging targets for improved performance and implement effective monitoring arrangements.	To incorporate Value for Money considerations to include Benchmarking and Comparative Data from the Audit Commission within the Service Business Plans	Director of Planning and Principal Accountant	Business Plan completed by 31.3.09	Within existing resources	<input type="checkbox"/>	The Scrutiny Panel has considered costs; further one off reviews are planned. Challenging targets already exist and the monitoring of these has been audited and found to be acceptable. New Business Manager will need to be significantly involved in these.

EPPING FOREST DISTRICT COUNCIL

PLANNING & ECONOMIC DEVELOPMENT IMPROVEMENT PLAN (UPDATED MAY 2009)

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					<input checked="" type="checkbox"/> Fully Achieved <input type="checkbox"/> Partially Achieved <input type="checkbox"/> Limited Action	
13. Ensure that there is a clear focus on the actions contained within the improvement plan by all senior staff within Planning and Economic Development and that priority is given to delivery.	To monitor the Improvement Plan at Directorate Senior Management Team Meetings. Provide updates at the Scrutiny Standing Panel	Director of Planning and Senior staff.	Regular Team Meetings When Standing Panel Meet	Within existing resources	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	