

**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 OUTURN 2008-09/IINCOME 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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Minute Item 6

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 wate 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