

Report to Overview & Scrutiny Committee



Date of meeting: 8 October 2009

Subject: Birchwood, Hoe Lane, Nazeing

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Committee Secretary: A Hendry

SCRUTINY



Recommendation:

- (1) To receive and note the minutes of the meetings of the Planning Services and Safer, Cleaner, Greener Standing Scrutiny Panels in respect of the Birchwood, Hoe Lane, Nazeing site;**
- (2) To note the present situation and the outcome of the most recent multi-agency meeting;**
- (3) To refer the County Council's guidance note "Development Involving County Matters" to the District Development Control Committee for its consideration; and**
- (4) To note the intention of authorised officers of the Environment & Street Scene Directorate to serve pre-emptive abatement notices upon the present operators in order to effectively control any future activities on the site.**

Background

1. This report comes before the Committee following the consideration by the Planning Services Standing Scrutiny Panel and the Safer, Cleaner, Greener Standing Scrutiny Panel of the circumstances surrounding two fires at the site known as "Birchwood", Hoe Lane, Nazeing. See attached location plan of the site.

2. The fires on the site took place in early January and late May 2009 and involved the burning of large amounts of stored waste timber and timber products. Both fires were extensive and caused considerable concern to local residents and adjoining business users on the site. Both fires were attended by the Essex Fire & Rescue Services who were required to deploy considerable resources to manage and contain the fires and prevent its spread to neighbouring business premises. Both fires were also attended by and monitored by officers from the Environment & Street Scene and Planning Directorates.

3. The scale of the fires meant in both cases that the Fire & Rescue Service did not seek to extinguish them but instead adopted a control and contain approach. This approach was adopted for a number of reasons but principally:

- (a) the scale of the fires and the need to ensure the safety of the Fire Fighters;
- (b) the ability to bring sufficient water to bear upon the fire given the location of the site;
- (c) the need to manage the potentially environmentally damaging effects of water run from the site into local water courses and local water table; and
- (d) manpower issues and the need to ensure adequate resources being available within the County to deal with any other major incident which may have arisen.

4. The outcome of this approach and the scale of the fire was that in both incidents the fires remain alight for many days and local residents and business were therefore inconvenienced by the effects of the fire, that being smoke, grit, ash and dust. The presence of these in the atmosphere over an extended period was the cause of considerable concern to local residents regarding potential adverse affects upon their health and wellbeing.

5. Rather than endeavouring to précis all of the outcomes of the meetings which have taken place, attached to this agenda item are:
- (i) the notes of a multi-agency meeting which took place following the second fire and was held on the 11th of June 2009;
 - (ii) the minutes of the meeting of the Planning Services Standing Panel held on the 18th of June 2009;
 - (iii) the minutes of the meeting of the Safer, Cleaner, Greener Standing Panel held on the 23rd of July 2009; and
 - (iv) the letter and FAQ sheet sent to residents in August 2009

6. A second multi-agency meeting was held on the 17th of September 2009. The draft notes of that meeting are attached to the agenda, but Members should note that they have not yet been agreed by all of the Agencies involved in the discussions.

7. A meeting has also taken place with the Planners at Essex County Council who have responsibility for waste planning matters to discuss why this particular operation was not subject to waste planning controls. The position appears to be that because the site has a valid B2 planning consent, and the use of the site clearly falls within that general consent, the County is unable to exercise any additional control. This is a matter which needs careful consideration in the future should this Council have to deal with sites seeking a B2 consent to ensure that if a waste use is possible, the County Council is involved at an early stage. The County Council has produced a guidance note "Development Involving County Matters" (published in March 2009) which makes suggestions/recommendations as to how a local planning authority should proceed in these circumstances. This Committee may wish to refer this matter to the District Development Control Committee for further consideration.

Present situation

8. The regulatory position remains as set out in the various attached notes/minutes. Since the second incident in May 2009, no further materials have been brought onto the site and the operators, Scott and Scott, have co-operated fully with the regulatory agencies. This has included complying with the requirements of the Health & Safety Executive to provide a secure fence around the perimeter of the site.

9. The Council fully recognises the on-going anxiety of local residents and businesses, but the site retains its B2 "General Industrial Use" planning classification and therefore could again be used for the storage and chipping of waste timber as previously. As explained to Members of the two Scrutiny Panels, the ability of the Council to alter this planning situation is both very limited and carries a high financial risk to the Council. Therefore the overriding wish of the local community for "the business to be closed down" is in reality not an option which is available to the Council. The environmental regulation of the site also remains as previously. Given that there are no operations currently being undertaken on site, there are no activities to control. The Council's and the Environment Agency's officers remain extremely vigilant as to activities on site.

10. The notes of the most recent multi-agency meeting set out how matters are expected to proceed, with particular attention being paid to how the remaining ash present on the site should be removed safely for off-site treatment and disposal. The Council is likely to serve a pre-emptive abatement notice on the current operator, Scott and Scott, to seek to ensure that this removal process is undertaken appropriately with suitable protection measures in place to manage the dust which will arise from the process.

11. The difficulties surrounding this site and its use are very clear but all of the Agencies are in some way constrained in the actions they can take to protect local residents and business in the way they would expect.