

**EXTRACT FROM THE MINUTES OF THE PLANNING SERVICES STANDING
PANEL MEETING HELD ON 18 JUNE 2009.**

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.