

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 kind of fire in this type 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 7 August 2009. There has been **no** further chipping operation since the fire in May. At a meeting on 5 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 to 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 were to come 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.gsi.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