

DRAFT

AVERIES TASK GROUP

INTERIM REPORT

Scrutiny Committee 2015/16 – November 2015

11th November 2015

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CHAIR'S FOREWARD

At a meeting of the Scrutiny Committee on the 9th February 2015, it was agreed that a Task Group would be formed to review the Local Resilience Forum's (LRF) independent, multi-agency debrief of the Averages Fire Incident and investigate the circumstances that led up to the incident.

A Task Group of five Members was set up with support from the Director of Law and Democratic Services, Scrutiny Officer and Committee Officer. As the circumstances that led up to the incident are currently the subject of legal proceedings, the Task Group have decided to issue an interim report in relation to its review of the LRF debrief, and await the conclusion of the legal proceedings before proceeding further.

The Task Group wishes to thank all parties involved for their co-operation in preparing this interim report.

1. TERMS OF REFERENCE / MEMBERSHIP

1.1 The Task Group was asked to:

- 1.1.1 review the Local Resilience Forum's (LRF) independent, multi-agency debrief of the Averages Fire Incident, and
- 1.1.2 investigate the circumstances that led up to the incident. *To be actioned once the criminal proceedings have been concluded.*

1.2 The scope of this review has included:-

- 1.2.1 Identifying whether any further questions in to the incident should be raised, including finance.
- 1.2.2 Seeking further information from Officers, Agencies and the Public, if necessary.
- 1.2.3 Undertaking site visits, as necessary.
- 1.2.4 Reviewing and/or scrutinising decisions made or actions taken in connection with the incident.
- 1.2.5 Preparing reports and recommendations to the Councils relevant partners and/or Government in connection with the discharge of any functions.
- 1.2.6 The Development of appropriate operational protocols, if necessary.
- 1.2.7 Reporting back to a public meeting of the Scrutiny Committee at a future date.

1.3 Members of the Task Group from the Scrutiny Committee were:

- Councillor Maureen Penny (Chair of the Group)
- Councillor Bob Wright (Vice-Chair)
- Councillor Colin Lovell (from 23rd March 2015)
- Councillor Steve Weisinger
- Councillor Des Moffatt (from 2nd June 2015)
- Councillor Mark Dempsey (up to 6th May 2015)
- Councillor Toby Elliott (up to 23rd March 2015)

2. INTRODUCTION

- 2.1 The Task Group is aware that the Environment Agency instituted criminal proceedings against the operator ('Averies') in April 2015 and that the case was referred to the Crown Court from the Magistrates Court on 3rd August 2015.
- 2.2 In the light of those proceedings, the Task Group decided to produce this Interim Report which would solely review the LRF debrief of the incident.
- 2.3 The Task Group agreed that once the criminal proceedings had been concluded, it would be in a position to issue a final report on the circumstances that led up to the incident.
- 2.4 The Task Group has made recommendations as set out in section 6 of this Interim Report.

3. COMMENTS ON THE WILTSHIRE AND SWINDON LOCAL RESILIENCE FORUM DEBRIEF

Based on the evidence summarised in Appendix A of this Interim Report, the Task Group's comments in relation to the debrief are as follows using the same headings as set out in the debrief -

3.1 Pre-Existing Licence Conditions

- 3.1.1 The quantity and volume of waste stored at the Marshgate Site was considered excessive for the size of the site and more than was permitted.
- 3.1.2 The amount of waste stored at the Marshgate Site had a direct impact on the ability of the Fire and Rescue Service (FRS) to efficiently and effectively tackle the fire.
- 3.1.3 The FRS had a restriction placed on them by the Environment Agency (EA) regarding the volume of water that could be used to extinguish the fire. This was due to a nearby brook and issues relating to the possibility of contaminated water entering the sewage system.
- 3.1.4 All partner agencies confirmed they had good established working relationships within the Strategic Co-ordinating Group (SCG). Partner agency relationships had been developed over time and maintained by the attendance of representatives at regular Emergency Planning training events throughout the year and an all partner strategic training event held once a year.

3.2 Examining Decision Making by the Responders

- 3.2.1 The EA agreed to release resources and use their available powers on 13th August 2014, three weeks after the fire started. It was noted that the delay may have been attributed to various authorisations at a senior level being required for the costs incurred and statutory deadlines.
- 3.2.2 The Task Group did not agree with the LRF interpretation that the 'resources of all responders are not unduly stretched...'. The investigations undertaken and evidence gathered by the Task Group indicated that, the prolonged nature of the incident did test the capacity of a number of partner agencies to support the response and recovery whilst maintaining 'business as usual'. It also placed significant drain on staff resources for all partner agencies.

- 3.2.3 It was evident that the officers attending SCG meetings, had only limited authority from their respective organisations to make decisions in relation to an incident of this size and nature, and to incur significant costs. This added to the time taken to resolve the incident.

3.3 Communications

- 3.3.1 It is acknowledged that there was a pressured environment during the incident. However, the investigations undertaken and evidence gathered by the Task Group, indicated that paragraph 13.3 of the LRF debrief report was not accurate.
- 3.3.2 The 'Media Cell' had demonstrated that it was resilient during the incident, receiving appropriate support from SBC officers and partner agencies

3.4 Command and Control

- 3.4.1 The Task Group agrees with the comments made in the Command and Control section of the LRF debrief.

3.5 Public Perception

- 3.5.1 A number of businesses in the vicinity of the Marshgate Site were affected by the fire. Some to a greater extent than others depending on their proximity to the site. Details of the consultation undertaken by SBC with businesses and residents are attached at Appendix B.
- 3.5.2 Details about potential sites considered for the temporary storage on non-hazardous waste are attached at Appendix C.

3.6 Summary

- 3.6.1 The LRF report does not indicate the extent to which cost was a major factor in resolving the incident. The Task Group felt it would have been helpful for this to have been included in the LRF report.

3.7 LRF Recommendations and the Task Group's response

- 3.7.1 **LRF Recommendation 1** - *The EA to pro-actively update other LRF members of on-going legal investigations and circulate any findings or Court judgments.*

Task Group's Response - Agreed

- 3.7.2 **LRF Recommendation 2** – *The LRF to consider re-defining the definition of what may require an SCG to be formed. Any amendments incorporated in their Emergency Multi-Agency Procedures (EMAP).*

Task Group's Response - Agreed

- 3.7.3 **LRF Recommendation 3** – *Clearly define, and record, the “mission statement and values” at the start of any response. This forms the centre of the joint decision model (see EMAP).*

Para 4.22 - ‘Anyone drawing conclusions from this debrief report should bear in mind the following interpretation; The decision-maker’s burden of proof is to make “a reasonable decision, given the information available at the time, not necessarily the right decision”. Therefore they can make any decision they wish providing it is legal, reasonable and justifiable. (see recommendations 3 & 4).’

Task Group's Response - the Task Group has difficulty reconciling the relationship between paragraph 4.22 and recommendation 3 - *the need to define “mission statement and values” at the start of any response* of the LRF Debrief report. The Task Group are disappointed that the LRF did not bring this to a conclusion.

- 3.7.4 **LRF Recommendation 4** – *The LRF to re-emphasise the necessity for each agency to have a clear understanding as to what delegated authority they have to commit finances and other resources on behalf of their organisations. It is recognised that each organisation will need to comply with “threshold” tests to be assured that additional resource/expenditure is justified.*

Task Group's Response - It was not clear how the LRF's need to re-emphasise the necessity for each agency to have a clear understanding as to what delegated authority they had to commit finances and other resources on behalf of their organisations was connected with paragraph 4.22 of the LRF debrief.

- 3.7.5 **LRF Recommendation 5** – *The SCG chair to establish a realistic “battle rhythm” for all levels of the incident response. The needs of the SCG should form the priority for these timings, unless COBR is involved.*

Task Group's Response - Reference to the SCG chair establishing a realistic ‘battle rhythm’ for all levels of the

incident response was unclear in its meaning but the Task Group agreed that the needs of the SCG should form the priority for the timings of such responses, unless COBR is involved.

- 3.7.6 LRF Recommendation 6** – *Undertake a full review of the design and management of the decision log. The version in current use is out-dated and needs refinement. Included in any review, should be a design of their own that provides more intuitive guidance for both loggist and decision-maker.*

Task Group's Response - The debrief's recommendation that a full review of the design and management of the decision log should be undertaken, be noted. A summary of the review undertaken is attached at Appendix D of this Interim Report.

- 3.7.7 LRF Recommendation 7** – *Continue the work started as part of the Exercise Red Kite action plan to introduce a standard "Common Recognised Information Picture" (CRIP) template. This is based on national work currently being undertaken. It links to the development of Resilience Direct, a free national system that all can access. Assistance was offered by the representative from the Department for Communities and Local Government Resilience and Emergencies Division (South). This would also meet a requirement if the SCG needs to "brief up" to the Cabinet Office Briefing Room.*

Task Group's Response - The debrief's recommendation that the work started as part of the Exercise Red Kite action plan to introduce a standard CRIP template, be noted.

- 3.7.8 LRF Recommendation 8** – *Clearly define and record the communication strategy to be adopted for each incident and ensure it fully resourced. The LRF is reminded that public health perception is a key issue in all responses, therefore the communication lead should ensure NHS England, Public Health England and the Director of Public Health for the relevant local health are fully consulted on all health messaging.*

Task Group's Response - The Task Group felt that on the basis of the evidence, the communication strategy for this incident was clearly defined, recorded and fully resourced.

- 3.7.9 LRF Recommendation 9** - *Ensure regular consultation with all communication leads from responding agencies. These consultations should be at pre-designated times and via teleconference. Reliance on the sole use of email is to be discouraged.*

Task Group's Response – Agreed.

4. ACTIONS TAKEN SINCE THE PUBLICATION OF THE LRF REPORT

- 4.1 As a consequence of the Local Resilience Forum (LRF) report, SBC and other partners have reviewed its internal processes and procedures resulting in additional training and resilience being put in place.
- 4.2 The FRS and the EA have subsequently had new guidance about how the two agencies work together to view waste recycling sites. To avoid situations of a similar nature occurring in the future it is intended that regular discussion would be taking place between SBC and the EA and in addition, six monthly meetings held with the EA, Natural England, the Forestry Commission and SBC's Property Department who were undertaking checks on land leased to waste operators. The first meeting has been held.
- 4.3 SBC are addressing comments in the LRF's de-brief report in relation to all participants giving total commitment and having the ability to manage communications whilst in other meetings.

5. MATTERS FOR THE FINAL REPORT

- 5.1 The final report of the Task Group will deal with the circumstances that led up to the incident and this will be issued following the conclusion of the litigation.
- 5.2 In the interim, the Task Group noted that fires at waste recycling sites continue to be a cause of concern nationally and the experiences of the FRS during this incident were shared with the nationally recognised Lead Fire Officer on waste fires.
- 5.3 The Task Group will also look at the following issues:
 - 1. The powers and controls available to the Council as a land owner in assisting the EA during incidents of this nature.
 - 2. The powers and controls available to the EA and partners to regulate existing sites and licence new sites and operators.
 - 3. Whether Waste Operators should be legally required to have insurance cover in place to cover the cost of any such incidents
 - 4. The practicality of formally recording and informing the appropriate partner agency of any concerns identified by local authority officers during routine visits to such sites.
 - 5. A requirement ensuring that the relevant planning permissions are in place before the EA are able to issue a licence.

6. INTERIM RECOMMENDATIONS OF THE TASK GROUP

The Task Group is asked to consider the interim recommendations set out below and decide whether to set out a list of matters for the Council to consider.

- 6.1 That Swindon Borough Council be recommended to consider:
 - 6.1.1 Delegating authority to senior officers, in consultation with relevant Cabinet Members, to manage and resolve similar incidents.
 - 6.1.2 The extent to which Members and the public are consulted and involved in future emergency situations
 - 6.1.3 Identifying all the powers available to a Local Authority and other statutory bodies to require the Environment Agency to review the concerns raised by partners and the public in relation to waste recycling sites.
 - 6.1.4 How to best maintain the relationship with the Environment Agency at the appropriate level.
 - 6.1.5 Reviewing the terms of the leases given by SBC in such situations to provide for the right of revocation in the event of a breach.
- 6.2 That the Local Resilience Forum be asked to review the roles and responsibilities of partner agencies and the level of delegated authority to be given to those representing partner agencies on the Strategic Co-ordinating Group in light of the Averages incident.
- 6.3 That appropriate procedures be reviewed and appropriate records kept and passed to the responsible authority, to improve the flow of knowledge and information, and responses to public concerns about possible breaches of permit conditions at waste recycling sites.
- 6.4 That SBC and the SBC Property Department provide written confirmation to the Task Group that the 6 monthly meetings to check on land leased to waste operators are taking place with the EA, Natural England and the Forestry Commission.

EVIDENCE

1.0 Background

- 1.1 The Averies Waste Recycling Depot is located in part of an industrial and commercial estate, with residential housing on the northwest side and is known as Marshgate, Swindon. For the purposes of this report the Depot will be referred to as the 'Marshgate Site'.
- 1.2 The fire started on Monday 21st July 2014 and a multi-agency response was maintained until Tuesday 16th September 2014. The incident in 2014 generated both local and national interest.
- 1.3 It was noted that Averies owned a second waste recycling site located in Brindley Close, Swindon. This site was subject to a substantial fire in 2013.
- 1.4 The Wiltshire and Swindon LRF held a multi-agency debrief on 5th November 2014 at the County Ground, Swindon, which considered the strategic responses made to the fire at the Marshgate Site, Swindon.
- 1.5 SBC, at its full Council meeting held on 18th September 2014 received a motion from Councillor John Haines and seconded by Councillor Dale Heenan in relation to the incident at the Marshgate Site. The Council considered the motion and following a number of amendments agreed the following:

'(1) The Leader of the Council, with the Director of Law and Democratic Services, investigates all additional legal and regulatory avenues that might enable the Averies site to be closed down and for the principle of the polluter pays to apply.

(2) At the Leader of the Council's request, the Chair of Scrutiny invites the Scrutiny Committee to review the Local Resilience Forum's independent, multi-agency debrief of the Averies Fire incident.'
- 1.6 The Scrutiny Committee, at its meeting held on 13th October 2014 considered the request from Full Council and agreed to add the item to its Work Programme and appointed a Task Group to undertake a review as suggested in paragraph 1.1 above.
- 1.7 The Scrutiny Committee was aware that the LRF multi-agency de-brief was still to take place and that the draft report would be available sometime in March, 2015. In anticipation of the report becoming available the Scrutiny Committee, at its meeting held on 23rd March 2015 updated and confirmed its Task Group membership.

- 1.8 The Task Group held its first planning meeting on 24th March 2015 and considered its Terms of Reference and the LRF draft debrief report. The Task Group amended its Terms of Reference further to include an investigation of the circumstances that led up to the incident.
- 1.9 The Task Group held a further planning meeting on 22nd April 2015 and considered the timescales to receive views from the public affected by the incident and the witnesses to invite to future meetings.
- 1.10 The revised Terms of Reference required Scrutiny Committee approval and these were agreed by the Committee at its meeting held on 27th April 2015, along with a revised membership.
- 1.11 The Task Group held the following evidence gathering meetings and the evidence received by the Task Group is summarised below and set out in more detail in Appendix E:
- Tuesday, 26th May 2015 – Public meeting to gather the views of local residents
 - Tuesday, 2nd June 2015 – Public meeting to gather evidence from selected witnesses
 - Thursday, 18th June 2015 – Public meeting to gather evidence from selected witnesses

2.0 **Public Views**

- 2.1 A public meeting was held in the Council Chamber on 26th May 2015, as indicated in 1.11 above and was attended by 3 members of the public. One couple raised the issue of smoke and the damage that they said had been caused to them and their belongings. Another individual also referred to the issue of smoke and its effect on her long term health.

3.0 **Witness Evidence**

3.1 The Council

- 3.1.1 The Deputy Leader was involved with the incident from an early stage, attending numerous media interviews, receiving regular updates from senior Council Officers and being fully briefed by the Communications Team.
- 3.1.2 A draft legal agreement, prepared by the SBC Legal Department, set out how the removal from and return of waste to the Marshgate Site would be organised and that this would be funded by Averies after initial movement of waste. It soon became evident that there would be a lack of co-operation by Averies in that regard and they were not going to sign the agreement.

- 3.1.3 Environmental Services were aware of the Marshgate Site previously, following complaints to the Environmental Protection Team by the public in relation to the odour of rotting compost and burning of waste on site. The Environmental Protection Team liaised with the EA about issues raised in complaints.
- 3.1.4 The Deputy Leader confirmed that a special Cabinet meeting would be convened in the event of SBC being requested to release financial resources to help with the management of the incident.
- 3.1.5 The EA issued a Regulation 7 Notice on Averies and made arrangements with Hills Waste Solutions for the transfer of 3,000 tonnes of waste to the Hills Waste Solutions Blunsdon Site at the EA's expense.
- 3.1.6 SBC had limited powers in relation to the effective management of incidents of this nature, contrary to public perception, and therefore unable to bring the incident to an earlier conclusion independently from the other partner agencies.
- 3.1.7 Air quality monitoring was undertaken at the start of the incident in the area surrounding the Marshgate Site. The results of the testing indicated that no air borne hazards were present. More continuous monitoring throughout the incident did indicate higher levels of air borne hazard however, these levels were not sustained for longer than one hour at a time and were mainly due to prevailing weather conditions at the time.
- 3.1.8 Contact with NHS services by the public was very limited. However, a number of local businesses and members of the public had been in contact with Swindon Borough Council Public Health about the incident. Public Protection provided reassurance and supplied information about the possible impact of the fire on health.

3.2 Partner Agencies

- 3.2.1 It was suggested that the quantity and volume of waste on site could have been in the region of 15,000 – 20,000 tonnes even though the site was only permitted to hold 5,000. The volume of waste stored at waste recycling sites was an issue for the EA to monitor.
- 3.2.2 There was an expectation from the SCG that Averies would fund the removal of any waste from the site. The EA maintained that it would endeavour to avoid using public funds for this purpose.

- 3.2.3 There was a delay in the FRS accessing the Marshgate Site due to the quantity of waste material on site and industrial action being taken by the FRS officers on the day the incident started.
- 3.2.4 Due to the close proximity of residential and business areas, a decision was made not to let the fire burn out naturally. The quantity of waste stored on site had a negative impact on the FRS's ability to extinguish the fire.
- 3.2.5 The volume of water that the FRS could use to extinguish the fire had been restricted due to a nearby brook and issues concerning contaminated water entering the sewage system.
- 3.2.6 It was noted that the Police, FRS and Ambulance Service had the ability to activate emergency plans rapidly. Category one responders i.e. the EA and SBC were not always in a place where the most appropriate officers could attend the initial stages of an incident.
- 3.2.7 Wiltshire Police's involvement in the incident was limited to first response and the investigation into possible criminal activity. It was recognised at an early stage there was no evidence presented relating to criminal activity in relation to the incident.
- 3.2.8 There was no issue in relation to the plume of smoke from the fire causing restricted vision of drivers in the vicinity of the site and therefore Wiltshire Police did not have to restrict vehicle movements in the area.
- 3.2.9 Partners were aware of previous incidents at other Averies waste recycling sites and of the condition of the Marshgate Site prior to the incident.
- 3.2.10 Permission for sites of this nature to operate and the continual monitoring of compliance with their operating conditions was the responsibility of the EA.

3.3 The Marshgate Site

- 3.3.1 Averies had been prosecuted in November 2013 and fined as a company and individually as Directors of the company about the way the business was operated.
- 3.3.2 The operation of the Marshgate Site was subject to planning permission and an environmental permit being granted. Declarations by Averies indicated that there were only dried products at the Site and rain water run-off.

- 3.3.3 Attempts to remove waste from the site were successful with Averies initially involved in the removal of about 200 tonnes of waste to their waste recycling site in Calne. This was followed by another waste disposal operator agreeing to remove 1000 tonnes of waste but only if this was financed by either the EA or SBC.
- 3.3.4 The connection to the sewage system was continually monitored for contaminants during the incident.

3.4 Communications

- 3.4.1 Press releases were provided on a daily basis from the SBC Communications Team, whereas the media had some difficulty in receiving regular information from the EA. It was suggested that the press would have found it helpful to have received a press release from the SCG.
- 3.4.2 Responses to media queries from the multi-agency partners were sometimes delayed, mainly due to confirmation of the response being required from other partners or from with the partner's organisations.
- 3.4.3 The reasons and context for choosing the Park and Ride site for the temporary storage of the waste material was not fully explained in the press release dated 6th August 2014. This could have led to the perception that SBC was responsible for the management of the incident and the decision to remove the waste to the site.
- 3.4.4 It was accepted that the information supplied by the SBC Communications Team was generally accurate and constructive. A number of teething problems occurring early on in the incident may have been the reason for some negative comments being included in the LRF's de-brief report. However, these issues were soon resolved and feedback received at a later stage was more positive.

3.5 The Park and Ride Site

- 3.5.1 The EA, along with Thames Water (TW), established the key criteria for the assessment of sites for the temporary storage of up to 5,000 tonnes of non-hazardous waste for up to 3 months. The assessment was undertaken by the Tactical Command Group who recommended that the SCG support the use of the Park and Ride Site as it satisfied the agreed criteria.

3.5.2 Alternative temporary storage sites were assessed and the use of the Park and Ride Site was considered to be the least worst option that satisfied the key criteria set by the EA and TW. It was noted that the waste needed to dry out before it could be disposed of and it could not be put into landfill as there was a risk that it could reignite.

3.6 Decision Making

3.6.1 On occasions it was difficult for the partner agencies on the SCG to make swift decisions which may have been a consequence of a number of factors including the protracted negotiations with Averies, the quantity and volume of waste at the Marshgate Site and the level of authority delegated to officers attending the SCG meetings. Subsequently, additional resources and personnel were involved for a longer period of time than would otherwise have been the case.

APPENDIX B

Email from Andy Reeves, Locality Lead – dated 26th August 2014

'Good Evening

For TCG

Quick update on today's consultation.

Focus as agreed on the plan on 121 contact with businesses in the immediate vicinity as well as FAQ mailshots to residents.

121 conversations took place with: **MB Cars, R&L Cars, Swindon Cars, MC Autos, Talent Express (have had to re-site training venue to elsewhere), Treads Tyres, JS Autos, Amec, Baileys Accident Repair, Liberatus, Pro Strength Gym, Swindon 105.5, NHG Storage Ltd, Clearview Windows & Doors.** All informed of plan verbally and appreciated some contact. Several made allegations as to the conduct of Averies which they wish me to pass on. All very unhappy with the length of time but sympathetic to the agencies resolving together.

121 conversations with General managers of Greenbridge Retail Units took place, some feedback for Information.

Gala Casino- Disruption by smoke caused by air ducts on AC getting blocked, suggests he will need new carpets, high ceiling bingo hall is often hazy

Chiquitos- Customers choosing not to sit outside

Brantano- Three staff sent home with suspected respiratory ailments since July

Boots- Boots Corporate H&S from Nottingham monitoring staff exposure and have conducted site visits after complaints from customers

Nuffield Health- AC struggling to keep up, some concern that atmosphere is not conducive to exercise, they are monitoring through their Head Office.

Next- 'Cash office' is out of bounds some days as often full of smoke and has poor ventilation.

Cineworld- Thick haze in vestibule, manager claimed yesterday was the worst day she had seen it, not affecting films.

Homebase- No problems reported

Mothercare- No problems reported, It has been suggested to keep automatic doors on motion sensor rather than permanently open to protect stock which is sited next to front door

Argos- No problems reported,

Residential properties have been mailshot, with thanks for the assistance of Mike Franklin and his excellent team:

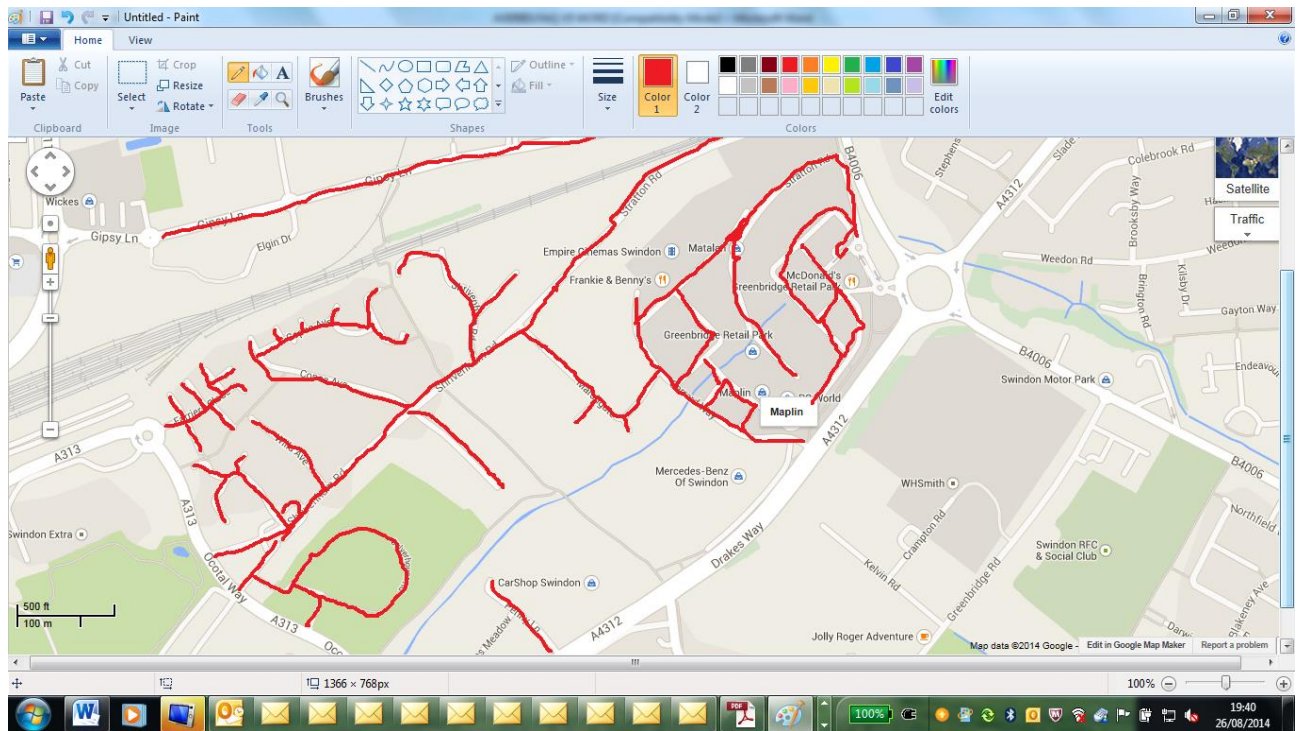
Gipsy Lane

Culverhouse Road

Shrivenham Rd 126+
Stratton Road
Copse Avenue
Farrier Place

Selwood Close
Wills Avenue
Briar Fields

In total 590 properties have been contacted with a further 110 due tomorrow, conversations were lengthy and we simply ran out of daylight.'



Andy Reeves (areeves3@swindon.gov.uk)
Locality Lead- North Central

Civic Offices
Euclid Street
SWINDON
SN1 2JH

APPENDIX C

Assessment of Temporary Sites

Background

Strategic objective to put the fire out at Marsh Gate expeditiously. Scope is to quickly assess sites that could be used temporarily to store up to 5,000 tonnes of non-hazardous waste for up to 3 months (if required). The waste would be extinguish and transported by Averies to the temporary site. Key criteria set by Environment Agency and Thames Water is water management and impermeability of surface, both these criteria must be satisfied.

Multi-agency Criteria (supplementary description in comments)

	Leachate / water management (run-off)	Imperm- eability of surface	Immediately available (no further licence required)	Site Access	Security + commu- nication	Thames Water / other EA requirements (bore holes etc.)	Available space	Amenity / proximity (screening)	Potential for nuisance (pest control / public disorder)	Minimum Haulage distance	Safety of site	Value for Money
Wroughton air strip	N	Y	N	N/K	N	N	Y	Y	N/K	Y	N/K	N/K
Oakfield	N	PART	Y	PART	Y	Y	N	N	PART	Y	PART	Anticipa ted
Park & Ride	Y	Y	Y	Y	Y	Y	Y	PART	Y	Y	Y	Anticip ated
Chiseldon Firs	N	PART	Y	N/K	N	N/K	N	Y	Y	Y	N/K	Anticipa ted

Marconi (Groundwell)	RULED OUT AS RECOGNISED THIS IS NO BETTER THAN PARK & RIDE BUT COMPLICATED AS PRIVATELY OWNED
SCS - Waterside Park	RULED OUT - NO CAPACITY (OTHER THAN PERHAPS 200 TONNES)
Hills - Chapel Farm	RULED OUT - WILL NOT ACCEPT WASTE ON A TEMP BASIS
Crapper & Sons - Wootton Bassett	RULED OUT - WILL NOT ACCEPT WASTE ON A TEMP BASIS
Biffa - Studley Grange	RULED OUT - WILL NOT ACCEPT WASTE ON A TEMP BASIS
RAF Lyneham	RULED OUT - PRIVATELY OWNED AND KNOWN TO HAVE RECEIVED SIGNIFICANT INVESTMENT AS TRAINING CENTRE
Brindley Close	RULED OUT - EA HAVE SUSPENDED THE PERMIT
Calne Site (Averies)	RULED OUT - SITE FULL AFTER 200 TONNES INITIALLY TRANSPORTED THERE
Dorcan Site	RULED OUT - GRASS CRETE SURFACE IMPACTING PERMEABILITY

APPENDIX D

Email from Sam Weller, dated 10th September 2015.

Review of Decision Log

Hi Stuart

A review has been undertaken by the LRF and a new decision log book designed and implemented for use by multi-agency partners in any Strategic/Tactical Coordinating Group meeting environment. Separate to this and on behalf of SBC I have also purchased additional and improved books for use by Council staff on the occasions that it is needed. This is a hard back 'Decision Making Log Book'.

Regards

Sam

AVERIES TASK GROUP

TUESDAY, 24 MARCH 2015

PRESENT:- Councillors Mark Dempsey, Colin Lovell, Maureen Penny (Chair), Steve Weisinger and Robert Wright (Vice-Chair)

1. Appointment of Chair

Councillor Maureen Penny was appointed Chair of the Task Group.

2. Appointment of Vice-Chair

Councillor Bob Wright was appointed Vice-Chair of the Task Group.

3. Draft Terms of Reference

The Director of Law and Democratic Services circulated a copy of the draft debrief report on the response by various agencies and organisations to the fire at the Averages Waste Recycling Plant, Swindon prepared by the Wiltshire and Swindon Local Resilience Forum. The report set out the context and framework that would aid the Task Group in considering its Terms of reference, a copy of which was circulated before the meeting.

The Task Group were informed that the report was private and confidential and in draft form, as there were a number of issues that needed to be clarified before a final version was available. The report was collected from members of the Task Group at the end of the meeting.

The Task Group expressed concern that the Terms of Reference were too restrictive, in that they did not give sufficient scope to allow the Task Group to review the events leading up to the incident at the Marshgate Site and the condition of the site immediately prior to the incident, which in the opinion of the Task Group was a very important aspect of the review.

The Chair indicated that the Task Group had the ability to change the scope of the Terms of Reference; however the revised Terms of Reference would need to be approved by the Scrutiny Committee that established the Task Group.

In considering the Terms of Reference, the Task Group suggested the following amendments:-

- That the Aims and Objectives be amended to read:
 - ‘1. To review the Local Resilience Forum’s (LRF) independent, multi-agency debrief of the Averages Fire incident.

2. To investigate the circumstances that led to the incident – to include how the Averies site got in to the condition that it was in.'
- That the 'The Task Group will' section be amended as follows:
 - To add the words 'including finance' at the end of point 2
 - To make point 4 a new point 8
 - To add a new point 4 to read ' Make site visits, as necessary'
 - To remove the words 'LRF's report' and replace with the word 'incident' at the end of point 5
 - To add the words 'and/or Government' after '...Councils relevant partner....' at point 6

Action:

That the Scrutiny Officer amends the Terms of Reference as detailed above and attached at Appendix A to these minutes, for confirmation by the Task Group at its next meeting and recommendation for approval, by the Scrutiny Committee at its next meeting on 27th April 2015.

4. Next Steps

The Task Group considered its next course of action, in particular the following questions were asked:

- The three areas of the Task Group review
 - Information gathering
 - Fact finding
 - Deliberation and final report
- Who to invite for interview?
- When to hold the meetings?
- Where to hold the meetings?

In considering the above the Task Group recognised that there would be some public interest in the Review and suggested that there would be a public meeting where the Task Group would take note of any issues raised by members of the public so that these could then be put to witnesses appearing before the Task Group in due course. It was felt that invites to the public meeting should be sent to those residents affected by the fire, in particular those living in the area of the Marshgate Site and Groundwell Site.

They also suggested that Task Group meetings where witnesses were questioned would be held in public but that Task Group meetings concerned with drafting the report would not be held in public. The Task Group recognised that such matters could be the subject of litigation, in due course, which could affect what witnesses were able to discuss before the Task Group.

It was further suggested that meetings with the public would be held in the Council Chamber at the Civic Offices.

Resolved:

1. That a public meeting be held to consider and note any issues raised by the public in relation to the fire.
2. That the list of agencies and organisations representatives, attached at Appendix B to these minutes to be invited as witnesses to a future meeting(s) of the Task Group for interview be supported
3. That meetings where witnesses were questioned would be held in public
4. That meetings where the Task Group were drafting their final report would be held in private
5. That the Scrutiny Officer prepare a schedule of dates for future meetings to be considered and agreed by the Task Group
6. That the Scrutiny Officer contact the list of agencies and organisations representatives, attached at Appendix B to these minutes, about the Task Group's desire to interview them as part of the review process, along with the proposed dates agreed in (5) above

**AVERIES TASK GROUP
Scrutiny Committee**

Terms of Reference

Aims and objectives

1. To review the Local Resilience Forum's (LRF) independent, multi-agency debrief of the Averages Fire incident.
2. To investigate the circumstances that led to the incident – to include how the Averages site got in to the condition that it was in.

The Task Group will:-

1. Review the LRF's independent, multi-agency report in to the Averages Fire incident.
2. Identify whether any further questions in to the incident should be raised, including finance.
3. Seek further information from Officers, Agencies and the Public, if necessary.
4. Make site visits, as necessary.
5. Review and/or scrutinise decisions made or actions taken in connection with the incident.
6. Make reports and recommendations to the Councils relevant partner and/or Government in connection with the discharge of any functions.
7. Develop appropriate operational protocols, if necessary.
8. Report back to a public meeting of the Scrutiny Committee at a future date.

Membership

Councillor Mark Dempsey
Councillor Colin Lovell
Councillor Bob Wright
Councillor Steve Weisinger
Councillor Maureen Penny

Resources

Sally Smith, Scrutiny Officer, Swindon Borough Council
Stuart Figini, Committee Clerk, Swindon Borough Council

List of Suggested Agency and Organisation Representatives for Interview by the Averages Task Group

1. Marshgate Site and Groundwell Site
 - Cabinet Member
 - Wiltshire Police
 - Wiltshire Fire & Rescue Service
 - Environment Agency
 - Public Health
 - Health & Safety Executive
 - Averages/Hills
 - Director of Law and Democratic Services – Stephen Taylor
 - Board Director – Service Delivery – Bernie Brannan
 - Board Director – Resources – Stuart McKellar
 - Swindon Borough Council - Chief Executive – Gavin Jones
 - Swindon Borough Council – Communications and Insight - Victoria Tagg
 - Swindon Borough Council – Head of Civil Protection Unit - Sam Weller
 - Swindon Borough Council – Public Health – Ayoola Oyinloye
 - Swindon Borough Council – Environmental Health Manager, Public Protection - Paul Simmonds
2. Alternative Sites
 - Leon Barrett
 - Environment Agency
 - Thames Water
 - Wiltshire Fire & Rescue Service
 - Public Health/NHS England
 - Health & Safety Executive

AVERIES TASK GROUP
WEDNESDAY 22ND APRIL 2015

PRESENT:- Councillors Colin Lovell, Maureen Penny (Chair), Steve Weisinger and Robert Wright (Vice-Chair)

2. Apologies for absence

Apologies received from Councillor Mark Dempsey.

3. Minutes of the meeting of the 24th March 2015

It was confirmed that the witness meetings would be held in public but that the public could be excluded from such meetings should the discussions involve the likely disclosure of exempt information.

4. Update from Scrutiny Officer

Members were provided with an update of work that has been carried out since the last meeting.

LRF report

Members have received a copy of this document and were asked to consider the content prior to this meeting to form discussion on actions they wish to carry out.

Proposed terms of reference

The Scrutiny Officer confirmed that the suggested amendment to the Terms of Reference to include an investigation of the circumstances that led to the fire incident at the Averages site was being reported to the Scrutiny Committee on the 27th April 2015 to seek approval for this amendment.

Potential dates

It was agreed by the Task Group that the following dates would be fixed to obtain further evidence:-

Tuesday 28th May 2015 at 6.30 pm – public meeting to enable the Task Group to hear the views of local residents. To be held in the Council Chamber.

Tuesday 2nd June 2015, 10.30 am to 5.30 pm – meeting open to the public to hear the evidence from selected witnesses.

Thursday 18th June 2015, 10.30 am to 5 pm – second meeting (if required) open to the public to hear the evidence from selected witnesses.

Membership of the Task Group

As Councillor Mark Dempsey is standing down from the Council at the May

elections, a replacement Member for the Task Group is to be sought. The Scrutiny Officer explained that this had been included in a report to the Scrutiny Committee and a replacement sought.

Actions

- The Scrutiny Officer to
 - Draft the notice of the public meeting in consultation with the Chair of the Task Group.
 - Draft a letter to witnesses inviting them to the meetings, to be approved by the Chair of the Task Group.

5. Consideration of the Local Resilience Forum Report

The Director of Law and Democratic Services took Members through the Local Resilience Forum (LRF) Report and the following issues were noted that the Task Group may wish to consider during the course of their review:-

- Whether a debrief was the right course of action or whether an investigation should have been carried out - this was noted as a possible recommendation for the Task Group's final report.
- Query how the medical referral information was obtained - this can be done through questioning of witnesses.
- Was the delay in process detrimental to public health and if so was there a flaw in the process taken?
- There was public concern over the movement of the waste – the Task Group to look in to this further.
- Decision logs to be made available to the Task Group to review the time lines.
- Communications – this was stated as a pressure point in the LRF report and the Task Group may wish to question witnesses on this.
- Public perception – the Task Group felt it was important that their report deals with this.
- The Director highlighted that politicians are not usually involved in major incidents as they do not have delegated powers. They would generally be consulted or informed, as appropriate, but not necessarily directly involved in the incident - a question for the Task Group to consider is whether there needs to be more involvement from Councillors in the future.
- Members asked to view the EMAP document.

Action

- Members were asked to inform the Scrutiny Officer of any specific issues they wanted to raise on further inspection of the report.
- The Scrutiny Officer to contact the Emergency Planning Officer, Sam Weller, to obtain a copy of the EMAP document.

6. List of witnesses (and possible questions)

- Cabinet Member – Councillor Brian Mattock
Were any other Cabinet Members involved? How was the choice made of the alternative site for disposal of the waste?

- Wiltshire Police – Dean Wright, Adrian Burt
What involvement did the Police have? The routing of their vehicles?
- Wiltshire Fire and Rescue Service – Mark Gaskarth, Jim Mahoney, John Aldridge, Ian Jeary
Time line? Actions taken when advised of the incident.
- Environment Agency – Colin Chiverton
Who was responsible for the delays? Time line. Did the delay make matters worse from a health point of view? Why didn't they invoke their statutory powers earlier? What criteria is required when providing licenses to run a waste site?
- Swindon Borough Council – Paul Simmonds, Stephen Taylor, Bernie Brannan, Gavin Jones, Sam Weller, Leon Barrett
Was an investigation of the site already in place before the fire started? If so, who had been contacted in the Council? Had SBC carried out a site visit? Time line for SBC. Why wouldn't Averages let SBC on to the site? What were the procedures when SBC became involved? How well were officers protected by SBC from adverse criticism? Were there alternative sites selected? What paper work was released in respect of moving the waste?
- Swindon Borough Council, Communications – Victoria Tagg
Comms time line.
- Averages
Why did Averages not let SBC on to this site?
- Public Health – Ayoola Oyinloye
Are they confident that they received all the relevant information?
- NHS England – Hayley Bray
Any quantified statistics on any reported health problems?

7. Site visits

The Chair requested that this be left to discussion at a future meeting.

8. Final report – proposed headings

The Chair asked Members to think about possible headings for the final report so that the Task Group can direct their questioning.

Next meeting – Tuesday 26th May 2015 6 pm (30 minutes before the public meeting).

AVERIES TASK GROUP

TUESDAY, 26 MAY 2015

PRESENT:- Councillors, Colin Lovell, Maureen Penny (Chair), Steve Weisinger and Robert Wright (Vice-Chair) Des Moffatt

ALSO PRESENT:- Stephen Taylor, Director of Law and Democratic Services, Sally Smith, Scrutiny Support Officer

The Task Group received evidence from a number of residents who spoke about their experiences and views in relation to the Averages Fire Incident as detailed below:

- Smoke from the fire affected residents in the vicinity of the Marshgate site. Some residents felt that the smoke was severe and directly impacted their health and ability to work. Some residents living closer to the incident had developed severe coughs and shortness of breath. In one case a resident had an x-ray on their chest due to the smoke.
- Residents felt there was a lot of conflicting information being given to them, they questioned the management of the incident and why Wiltshire Fire and Rescue Service were unable to extinguish the fire sooner. The residents indicated that certain materials were burning on the site that could release carcinogenic fumes, which were a danger to all concerned.
- Some residents had been informed that the incident continued longer than necessary due to the WFRS being instructed on a number of occasions to cease treating the fire.
- A number of businesses in the vicinity of the Marshgate site sent staff home because of the effects of the smoke.

The Chair thanked the residents for attending the meeting and speaking about their experiences in a very honest and open manner.

AVERIES TASK GROUP

TUESDAY, 2 JUNE 2015

PRESENT:- Councillors, Colin Lovell, Maureen Penny (Chair), Steve Weisinger and Robert Wright (Vice-Chair) Des Moffatt

ALSO PRESENT:- Stephen Taylor, Director of Law and Democratic Services, Sally Smith, Scrutiny Support Officer

The Task Group received evidence from the following Agencies and Officers who were directly involved with the Averages Fire Incident:

1. Colin Chiverton, Area Environment Manager, Environment Agency (Supported by Lucy Bee, Environment Agency)

The Task Group asked a number of questions to Mr Chiverton. Due to criminal proceedings having been issued against the Averages brothers, Mr Chiverton was limited in the responses he was able to offer.

- The EA Area covers an area of North Hampshire, a length of the River Thames, Banbury and Swindon. Mr Chiverton managed the department that had geographical responsibility for the Swindon area.
- Mr Chiverton reported that one of his team was directly involved and led a subsequent investigation in to the incident
- Mr Chiverton explained that if a permit is issued, operators are given a score based on the sensitivity and activity. There is a prescribed level of compliance required and if the operator performs poorly, there may be more regular inspections. If an operator has not been issued with a permit the site would be classed as an illegal. In this instance the inspection regime would be different and subject to a different funding regime.
- The EA were aware that the operator of the Marshgate site has traded under various company names over the years. They were prosecuted in November 2013 and were fined as an individual and as a company over how they operated.
- The Task Group noted that planning permission and an environmental permit would be required in order to operate a waste site.
- The EA would inform the operator that they believed an offence was being committed under the terms of the operator's permit, if it was evident that waste was being stored that was not permitted. The driver of the waste vehicle and operator had a duty of care in relation to the type of waste allowed on to a site for storage.

- Mr Chiverton confirmed that enforcement action is constantly being taken throughout the Country. This could be in the form of advice, notices or court action. Only the Courts can decide if an illegal activity has taken place.
- The Task Group noted that there are in excess of 450 waste sites covered within the EA West Thames Area and the EA did not have the ability to stop vehicles accessing a site.
- The EA started investigating the operation at the Marshgate site in 2013 but were unable to respond to a question about whether they had information that could stop the fire from happening.
- Mr Chiverton was unable to provide detail on any additional investigations since the previous court hearing in November 2013 due to impending legal proceedings by the EA.
- The EA would expect the operator to inform customers what can be put in to skips. As an individual, the onus is on the customer to fill the skip with what it has been permitted for. In some instances, operators have returned waste such as asbestos to the customer to be disposed of in the most appropriate way.
- The SCG tasked the Tactical Group to explore options for the temporary storage of waste. The Tactical Group identified three sites which were investigated to accommodate the storage of the waste and it was evident from the advice given that the Swindon Borough Council (SBC) owned Park and Ride site was the best option.
- The EA confirmed the principle of polluter pays rather than use of public money. The SCG, through SBC officers were exploring the options for Averages to manage and finance the incident.
- When asked whether the EA were aware of any insurance requirements to operate a waste site, Mr Chiverton confirmed that at no stage did the EA see a loss adjuster on site and the EA has not received confirmation that the operator was insured.
- Mr Chiverton felt that the incident had been handled well but that any delays in extinguishing the fire were directly caused by the delays in the operator not co-operating with the WFRS to remove waste. He felt that appropriate action was taken given the circumstances and that all agencies involved reacted well.

2. Sam Weller, Civil Protection Officer, Swindon Borough Council

Mr Weller provided a presentation to the Task Group and set out the 9 actions that had arisen as a result of the Local Resilience Forum's report. A copy of the action plan was provided to the Task Group. (This has been updated further as actions have been completed).

- Mr Weller confirmed he had attended the Marshgate site and met with Lee Averies who appeared to be cooperative in the early stages of the incident.
- Mr Weller stated that SBC did not have the powers that they are perceived to have and therefore did not have the ability to deal directly with the incident and were unable to bring the incident to a speedier conclusion. He confirmed that the EA remained the responsible agency and all partner agencies were involved in the early stages of an incident.
- The Wiltshire Fire and Rescue Service (WFRS) were delayed in accessing the site due to the volume of waste on site. The Task group noted that the WFRS were taking industrial action on the day the incident started, which may have hampered their efforts in relation to the number of officers available.
- The EA put a limitation on how much water could be used during the incident because of the nearby brook. There was also an issue about contaminated water entering the sewerage system.
- The Task Group noted that one solution suggested by the SCG was to remove the waste once it was extinguished and the operator was initially compliant with moving 200 tonnes of the waste to their site in Calne. However, the site was unable to accept further waste as it became full to capacity. The operator insisted that the waste was returned to the Marshgate site once the fire had been extinguished. Alternative sites were considered to store the waste material including Wroughton air field, Chiseldon, Calne and Oxfordshire. The Swindon Park and ride site was felt to be the best option.
- The WFRS did not wish to let the fire burn out on its own as the site was located in a heavily populated residential area.
- Mr Weller explained that the incident consumed partner agency officer time which led to the officers involved in the incident being away from their day jobs for a long period of time.
- The Task Group noted that fires of this nature were a national problem
- Mr Weller did not think that insurance was required for this type of site. He also felt that there was too much waste which was compacted and caused the fire. He estimated that there was 15,000 to 20,000 tonnes – 5,000 permitted on site. He felt that the Regulatory Authority should have been more attentive to the issues on site.

- As a result of the LRF report, SBC has looked at internal processes and procedures and are putting more training and resilience in place

3. Ian Jeary – Area Manager, John Aldridge – Deputy Chief Fire Officer, Jim Mahony – Area Manager, Mark Gaskarth – Area Manager, Wiltshire Fire and Rescue Service (WFRS)

The WFRS officers provided a time line of the events of the incident to the Task Group.

- The WFRS was first contacted at 5.45pm on the 21st July 2014, during a period of industrial action by the WFRS and a Multi-agency telephone conference was requested at 6.11pm.
- Mark Gaskarth attended the scene of the fire on the evening and liaised with the Police. The Police cordoned off the area and scrambled the police helicopter to use thermal imaging to identify hot spots in the fire.
- The WFRS requested the EA and Local Authority (LA) to provide officer support at 6.18pm, with EA and LA officers arriving on site at 9.38pm. A number of multi-agency teleconferences held during the evening.
- An Air Monitoring Cell was requested at 10.00pm, with a unit from Exeter being requested and setting up by 8.00am the following morning. The results of the air monitoring were available to all partner agencies. Public Health England interpreted the results for the partners and there were no additional air bourn hazards reported.
- WFRS explained that the best way to tackle waste fires is to let them burn out but this wasn't an option in this instance because of the location of the site and its proximity to residential areas.
- It was difficult to manoeuvre around the site to extinguish the fire due to the amount of waste.
- The WFRS visited the site in 2009 and again on 7th January 2014 with the EA. There were no issues to report from those visits.
- Averies were initially involved in arranging to move the waste but the level of enthusiasm to do this decreased. 100 tonnes was removed by Averies by 4.00pm on the 22nd July. The WFRS then encountered difficulty in gaining access to the site due to the operator becoming unhelpful. The operator indicated that the waste material had value and insisted that it had to be returned to the site once dried out
- On the 24th July 2014, Hills offered to remove 1000 tonnes of waste but would only do this if it was paid for by the EA or SBC as they would not deal with

Averies directly. The Tactical Command Group (TCG) carried out risk assessments on the possible alternative sites to store the waste material. The considerations taken into account were safety, minimum cost to the public purse, wind and drainage.

- The WFRS advised that waste that had been burning could not be moved to a landfill site as there is a risk the waste could reignite. The waste needed to be inspected and fully extinguished before it could be disposed of.
- The WFRS felt that the LRF report was a fair assessment of the incident as it unfolded and the action taken by partner agencies to tackle the fire.
- The WFRS explained that the issue with waste fires is a national problem and they had shared their experiences with the CFOA (Chief Fire Officer's Association) Lead Fire Officer on waste fires who is based with London Fire Brigade.
- The WFRS have been called to the site previously within the past year when it dealt with a small fire in the front yard. This was unrelated to the incident being investigated by the Task Group. There is no record as to what the rest of the site looked like
- The WFRS received a call from Lee Averies on the morning of the fire enquiring how much waste the Brindley Close site is licensed to hold and not the Averies site as was incorrectly stated in the time line of Sam Weller.
- The EA and the WFRS now have new guidance about how they will work together to view sites.

4. Paul Williams, Manager of the Wiltshire and Swindon Local Resilience Forum

Mr Williams provided the Task Group with a presentation about local resilience and gave background information about the Civil Contingencies Act 2004.

- Mr Williams explained that Wiltshire & Swindon LRF was established following the introduction of the Civil Contingencies Act 2004. It is not a legal entity in its own right but a collective that brings together a wide array of stakeholders including the Emergency Services, Local Authorities (LAs), Health, the Environment Agency (EA) and many more. It is the principal form of multi-agency cooperation for resilience in a local area and is based on police force boundaries (Wiltshire and Swindon is covered by Wiltshire Police). The partnership's networks and sub-groups ensure a cohesive approach to risk management through the Community Risk Register.
- Any member organisation can declare a major incident and other organisations will support them even though it might not strictly be a major incident for them. There is no legal requirement to declare a major incident.

This is a judgement call and depends on the situation. The definition of an emergency is outlined in *Emergency Preparedness – Guidance on Part 1 of the Civil Contingencies Act 2004*. In any emergency or major incident, the multi-agency Strategic Coordinating Group (SCG) will take actions that are appropriate to resolve the incident.

- As emergency services, the Police, Fire and Ambulance can put emergency plans in place quickly. Other Category 1 Responders can take a little longer to put appropriate resources into place because they are not a 24/7 operation in the same way as the emergency services.
- Operation Link is a process coordinated by Wiltshire Police to quickly bring all local Category 1 Responders together in the event of an emergency or major incident.
- The LRF provided multi-agency training at three levels: strategic, tactical and operational. Once a year they hold a strategic training event.
- Mr Williams outlined the arrangements for single agency and multi-agency command, control and coordination.
- The Chair of the SCG normally defaults to the Police in the first instance, although this may change depending on the nature of the incident, e.g. 2013/14 Flooding – Wiltshire Council, Averages Fire – SBC. Decisions are on a consensus basis because SCG cannot direct individual agencies.
- Relationships built in 'peace time' are invaluable to make the whole process work better when agencies have to deploy in a multi-agency situation. According to legislation, the LRF Executive Group only has to meet twice a year but Wiltshire & Swindon LRF holds three meetings a year and have a monthly teleconference in between. This means that Category 1 Responders engage together at a strategic level on a monthly basis. This is seen as an exemplar of good practice.
- Mr Williams advised that the fire was taken seriously by all agencies. The three key agencies during Averages Fire were SBC, EA and Wiltshire Fire & Rescue Service (WFRS). Others had less involvement. There was full commitment from all agencies to keep the community safe.

5. Stephen Taylor, Director of Law & Democratic Services, Swindon Borough Council

Mr Taylor provided an outline summary of his involvement in the incident.

- He had been involved from the outset following contact from the CEO of SBC and he chaired the SCG from the 5th to 12th August, 2014, which met daily and was supported by the TCG.

- The initial decision to call it a major incident was made by the SCG on 31st July 2014.
- Mr Taylor attended a meeting with Lee Averies, Stuart McKellar, Bernie Brannan, Sam Weller and Mark Gasgarth on 4th August 2014 to discuss removing the waste at Mr Averies' cost. The SBC Legal department was instructed to draw up a document for the company to sign agreeing to the terms that any removal and return of waste to and from the Park and Ride site would be at the company's own cost. It became apparent after some days that the company wasn't going to sign this document.
- Mr Taylor confirmed that once it was clear that company would not be removing the waste, SCG looked at other options. It was felt unlikely that SBC could commit to funding the removal of the waste in view of the cost involved but this was a member decision and a special cabinet meeting was arranged to consider the matter. At that time the EA representatives on SCG did not have the necessary authority to commit such expenditure but the issue had been escalated within the EA in order that a decision could be reached. Eventually the EA decided to fund the cost of removal and disposal of the waste direct to Hills Waste Solutions Site at Blunsdon.
- The public were involved at the request of a Ward Councillor regarding the movement of waste to the Penhill park and ride site.
- The aim was for the WFRS to extinguish what they could on site, remove it, extinguish what remained and then put the removed waste back.
- So far as future incidents are concerned, the level of delegation to officers by their respective agencies is an issue to consider bearing in mind that substantial sums of money were involved. Further, it should also be considered to what extent there should be consultation with councillors and residents in affected areas bearing in mind that in relation to some incidents speed of decision-making could be of the essence.
- On the 15th August 2014 a regulation 7 notice was issued and Hills were instructed to remove waste at the EA's expense.
- Mr Taylor was not aware of any costs incurred by SBC outside of existing budgets.
- Mr Taylor would need to investigate SBC's statutory powers to establish if Averies had requested a permit to run another site in the Borough.

6. Victoria Tagg, Communications, Swindon Borough Council

SBC Comms Team was the lead for this incident, issuing press releases, community engagement, producing FAQs for residents, dealing with media enquiries.

- Ms Tagg reported that the media were supportive and helpful in sharing information and messages from the Comms Team and were generally accurate and constructive in their reporting.
- The Task Group noted that there were teething troubles early on in incident which may have accounted for the minor criticism in the LRF debrief. However, more positive feedback was received in the LRF debrief report at a later stage in the incident.
- The Comms Team encountered a pressured situation and demonstrated resilience and were able to manage with the pressures placed on them. The Team received support by colleagues and partner agencies and worked alongside localities to ensure that they shared updates and on the ground engagement.
- Ms Tagg reported that the Comms Team gave 100% commitment to their role within the SCG, even though they had other day to day commitments and upon reflection of their performance, the Team acknowledged that there was always room for improvement.

7. Bernie Brannan, Board Director Service Delivery, Swindon Borough Council

Mr Brannan explained that he was involved with the incident initially but then went on leave.

- Mr Brannan spoke about a proposal of how to access and move the waste from the site. He explained that Hills, Churches, Crappers had been approached and Hills stated that they could remove the waste but would not trade with Averies. They would only become involved if the removal of the waste was funded by SBC or the EA.
- The Task Group noted that a meeting was organised which Lee Averies attended where discussions were held about moving the waste from the Marshfield site. Lee Averies was willing to move the waste but did not have a facility to accommodate it. If SBC found a suitable alternative site he agreed to move it at a cost to himself. Part of the agreement was that he entered in to a bond so that there was no financial risk to the Council.
- Mr Brannan reported that there was no intention to remove the waste to Waterside as it did not have the capacity to deal with amount of waste needing removal.

- Mr Brannan was not aware that SBC waste had ever been stored at the Marshgate site.
- Mr Brannan felt that SBC did all that they could to assist Averies and he understood that Averies did not engaged their legal team to examine the bond agreement.
- Looking to the future, SBC is taking steps to proactively prevent incidents like this happening again by speaking with the EA and holding 6 monthly meetings with the EA, Natural England, Forestry Commission, SBC's Property Department is carrying out checks on land leased to waste operators.
- The Task Group noted that the debrief report criticised SBC's Highways department for the time it took to receive authorisation to remove the bollards at the Stratton Road entrance.

8. Gavin Jones, Chief Executive, Swindon Borough Council

Mr Jones explained that he was on holiday for three weeks during the initial stages of the incident and on his return, he felt it right that Mr Taylor and Mr Brannan continued with their input as they were more aware of the situation.

- Mr Jones indicated that when it was apparent that the fire was significant, a more strategic view was taken as the main aim was to extinguish the fire in the most appropriate way. He met with EA in first instance before escalating the SCG.
- Mr Jones visited the area of the fire on two occasions and noticed that businesses in the vicinity of the fire had temporarily closed.
- Mr Jones expressed a concern that, in his opinion, the EA, as the regulatory body appeared to not have taken into account the volume of waste at the Marshgate site before the incident. He felt that the EA's actions had a negative impact on SBC's reputation in the eyes of the general public and local business community.
- Mr Jones stated that procedures should be in place for SBC officers to undertake the appropriate action in tackling an incident of this nature, therefore protecting the reputation of SBC. This included good communications with the media and Ward Members. He felt that it was clear that officers on the SCG were not authorised to make the high level decisions that would have helped to resolve the incident.
- Mr Jones felt that SBC should identify the powers available to assist the EA, which would include planning powers where SBC is land owner and therefore has more control over the land use, in order to avoid the situation occurring

again in the future. There was always room to build stronger relationships, especially with the EA and at a senior level.

9. Paul Simmonds, Environmental Services Manager, Swindon Borough Council

Mr Simmonds confirmed that he was heavily involved with the incident and that his team were responsible for the public protection issues, such as the air quality and smell nuisances.

- Mr Simmonds reported to the Director of Public Health. He explained that he had dealt with the Averies site in the past following complaints to the SBC Environmental Protection team and then liaised with the EA about the complaints.
- The Task group noted that SBC would receive and consider the complaints and make reports. The complaints were generally in relation to the smell of rotting compost and dust from the site. In some cases, the allegations were not substantiated and it was felt by SBC officers that they were vexatious.
- SBC can only serve abatement notices which needed approval from the Secretary of State. Mr Simmonds explained that issuing an abatement notice on the operator was not an appropriate course of action in this instance as it would have needed approval from the Secretary of State and, although the fire was within their premises, there was no evidence to suggest that the operator had caused it. As such the operator could not be held responsible for having caused the smoke nuisance. This would be the case whether or not they were responsible for storing excess waste on the site as this is not believed to have been the cause the fire, the excess waste solely hampered the fire from being extinguished.
- An aggregate crusher was licenced up to 2010 but it is no longer in use.
- SBC had no control of the site and the volume of waste stored. This was an issue for the EA. He felt that if the EA had been more successful in preventing the build-up of excess waste on site, tackling the fire would have been an easier task.
- Mr Simmonds confirmed his team had a good relationship with the EA and SBC would report problems to the EA.
- Mr Simmonds explained that the Health and Safety Executive (HSE) was the enforcing body for this type of site and that SBC worked closely with them, but not in relation to the Averies site. He reported that there was one instance when a member of staff reported possible asbestos amongst the waste on site and there were reports of staff climbing over the stack of waste.

AVERIES TASK GROUP

THURSDAY, 18 JUNE 2015

PRESENT:- Councillors Colin Lovell, Des Moffatt, Maureen Penny (Chair), Steve Weisinger and Robert Wright

ALSO PRESENT: Stephen Taylor (Director of Law and Democratic Services) and Stuart Figini (Committee and Member Support Services)

5. Notes of Previous Meeting

The Task Group received the notes of the meeting held on 2nd June 2015.

6. Averies Fire Incident - Evidence Gathering

The Task Group received evidence from the following Agencies and Officers who were directly involved with the Averies Fire Incident:

1. Councillor Brian Mattock - Deputy Leader of the Council and Cabinet Member for Adult Health and Social Care

- Councillor Mattock confirmed that his involvement with the incident started on Friday 8th August, 2014, when Councillor David Renard, Leader of the Council and Gavin Jones, Chief Executive were both on holiday for two weeks, and therefore Cllr Mattock assumed the responsibility of the Leader.
- Councillor Mattock relinquished his responsibility for the incident once the Leader of the Council returned from holiday on 22nd August 2014.
- During the incident Councillor Mattock attended a numerous media interviews, including press, tv and radio. He also received regular updates from senior council officers and briefings from the Communications team.
- A Cabinet meeting had been arranged for 14th August 2014 to formally consider a request for the Council to continue to contribute resources to the incident and to consider the use of the Park and Ride site for the temporary storage of waste materials from the Marshgate site as the least worst option. At this stage the Environment Agency had not agreed to use their resources and available powers.
- Councillor Mattock was advised on 13th August 2014 that following daily dialogue between the partners present at the SCG meetings the Environment Agency had agreed to use their resources and powers for the incident. Therefore, the Cabinet meeting was not required. The Environment Agency and Fire and Rescue Service assumed responsibility for the incident from that point and Councillor Mattock, on behalf of the Council supported the partners in their leading roles.
- Councillor Mattock explained that his one role as a Cabinet member during the incident was public health. The Task Group was informed

that NHS England and Public Health SBC took very swift action in monitoring the air quality in the vicinity of the fire. Once NHS England had completed their initial checking Public Health SBC continued regular air monitoring.

- Councillor Mattock's leadership role in the incident was completed once the Leader of the Council had returned from holiday on 22nd August 2014
- The decision to use the Park & Ride site had already been made by the SCG, following a recommendation from the TCG, as the most appropriate and available temporary site, subject to Averies agreeing to pay for the transportation of the waste material from the Marshgate site to the Park and Ride site
- Averies were expected to sign a formal agreement regarding the payment for the transportation of the waste material, which included specific conditions from the Environment Agency
- Councillor Mattock was unable to answer a question about the mention of a bond, as this was concluded before he was involved in the incident.
- Councillor Mattock confirmed that he became aware of the details of the incident 24 hours before his direct involvement.
- Councillor Mattock explained that he was confident that the Fire and Rescue Service would be effective in containing and extinguishing the fire. However, he noted that it was difficult for the Environment Agency as they had a number of notice periods to comply with before they could take action.
- Councillor Mattock felt that the question about the Environment Agency expectation of the Marshgate site owners and their resistance was one for the Environment Agency to respond to.
- Councillor Mattock suggested that the decision to liaise with the local MP about the incident was the correct one. The roles and responsibilities of partners should be considered further and clarified from a national perspective. There was a need for individual partners to agree with their organisations a way forward during and between meetings of the SCG. Local Authorities and SCG's should be provided with the tools to enable swift and appropriate action to be taken.
- It was confirmed that the correct partners attended SCG meetings
- Councillor Mattock confirmed that he was aware of his duties as a Cabinet Member and explained that Public Health SBC agreed to monitor the site and check the air quality in the vicinity of the site and that appropriate action was being taken
- It was understood that the powers to stop additional material entering the site after the fire had started were with the Environment Agency and the Council did not have powers to stop the use of the site.
- Councillor Mattock reminded that Task Group that he assumed the Leader of the Council's responsibility on Friday 8th August 2014 and received excellent and regular feedback from officers to enable him to carry out his duties and confirmed that he was satisfied with the actions he had taken during the incident.
- Councillor Mattock felt that any criticism of SBC by the media and the

LRF report was unjustified especially as the Communications Team worked particularly well during the incident.

- Councillor Mattock confirmed that the Council were addressing issues surrounding comments in the Wiltshire and Swindon Local Resilience Forum's report on the incident in relation to all participants giving 100% commitment and having the ability to manage communications whilst in other meetings.
- It was noted that Averies had been prosecuted a number of times and on occasions SBC officers had worked in isolation. Councillor Mattock indicated that there was always opportunities to improve partnership working
- The Leader of the Council would be considering and taking on board the recommendation of this Task Group to improve existing procedures
- Councillor Mattock did not have the information available at the time of the meeting about the unlicensed site in Kingsdown lane
- One of the lessons to be learnt from the incident included the roles and responsibilities of each agency needing to be clear.
- It was suggested that a review of the Council processes used during the incident would aid the future monitoring of sites.

2. Ayoola Oyinloye, Consultant in Public Health Medicine – Public Health Swindon Borough Council

- Mr Oyinloye explained that the Interim Director of Public Health was informed of an on-going fire at a waste recycling site on Marshgate road on Monday 21st of July 2014 via Op Link.
- The Interim Director of Public Health was invited to join the Multiagency Tactical Command Group (TCG) at 2200hrs of the same day.
- This was the third TCG of the day but the first involving Public Health.
- SBC Public health team was represented at all TCGs until the Strategic Coordinating Group (SCG) was established and subsequently on the SCG.
- Other Health Agencies involved in the incident included:
 - Public Health England (PHE) - AGW PHEC- Health Protection advice to Scientific Technical advice Cell (STAC)
 - PHE Centre for Radiation, Chemicals and Environmental Hazards (CRCE)- Air quality monitoring (AQM) and toxicology advice
 - PHE Communications- health communications advice
 - NHS England BGSW area team- Primary care usage information
 - Clinical commissioning group- Health Commission advice

- Great Western Hospital – Main acute trust
 - Wiltshire Public health team- mutual aid for AQM
- SBC Public Health Roles in the incident included:
 - Represented at TCG meetings providing public health messaging and local health knowledge to the group
 - Represented at SCG meetings providing strategic health advice to the SCG and coordinating other health partners input to the SCG
 - Chaired STAC, a multiagency forum to provide high quality scientific advice to the SCG
 - Public health messaging to the media cell, and to local schools, residents and businesses, they also coordinated the script for the control room response to calls from members of the public.
 - Coordinated initial detailed AQM from PHE.
 - SBC identified suitable and appropriate AQ monitoring sites, then coordinated the daily routine AQM monitoring initially using only monitoring equipment borrowed from Wiltshire Council via mutual aid and later supplemented with an additional monitor purchased by SBC. SBC also coordinated the interpretation of the data by CRCE. Commissioned monitoring for asbestos following uncertainty about what was in the burning waste.
 - Provided health expertise to the SBC public consultation process
 - SBC Public Health provided public health expertise to the Recovery Cell.
- There were a total of 3 members of the public contacting NHS services, 2 adults at the Great Western Hospital with respiratory issues, 1 call to 111 attributed to the fire at Marshgate. In addition SEQOL provided additional proactive support and reassurance to two community patients on their caseload in advance of the active fire fighting.
- There were a total of 65 reported complaints ranging from Local business and members of the public related to the incident. The majority of the calls were in relation to information and updates from SBC. All were contacted by Public Protection and given information and reassurance regarding health impacts of the smoke plume.
- Mr Oyinloye felt that the incident demonstrated that SBC was capable of responding to a major incident in a swift and coordinated fashion. SBC also earned the respect of multi-agency partners in taking leadership of this incident and coordinating the response.
- However, the incident was prolonged and this tested the capacity of the SBC Public Health to support the response and recovery while maintaining business as usual. In response to this, SBC Public Health lead the implementation of an organisation wide Out of Hours on call system to improve SBC resilience in dealing with major incidents.

A summary of responses to the Task Groups questions from Mr Oyinloye are detailed below.

- Public Health SBC prepared a crib sheet which was made available to NHS England
- NHS England were able to establish a direct link to the incident based on the information received from the members of the public including their proximity to the fire and existing health conditions that had deteriorated due to the smoke
- The 3 public contacts with the NHS appeared to be a low number taking into account the incident continued for 8 weeks, however the low number could have been attributed to Public Health SBC being proactive and taking preventative measures by giving advice to residents before they needed to attend Accident and Emergency Departments or their local Doctor Surgeries
- The air quality monitoring at the start of the incident did not show the constituents of the smoke to be different or levels to be higher than what would be expected from a fire of this type. More continuous monitoring during the incident did show higher levels that may have been considered unsafe, however these levels were not sustained for longer than 1 hour at a time and were due to prevailing weather conditions at the time.
- Mr Oyinloye was not aware of the number of cases from lawyers requesting information about the fire and the impact on residents had been received if any, and was unable to answer the question.
- Contact with Ward Members during a previous Averies waste recycling site at Cheney Manor was carried out through the SCG.
- SBC Public Protection worked with the EA when they were informed of potential problems at other sites. Any powers available to SBC to take action were determined and assessed as appropriate or practical.
- Public Health SBC did have a heightened awareness of the Marshgate site since the fire at the Averies Waste Recycling site in Cheney Manor, however Public Health SBC did not know about the condition of the Marshgate site prior to the incident and there was no need for advice for the public in place prior to the incident based on the information available. Public Health SBC confirmed that they would now be more vocal in the future with incidents of this nature if credible information was available.
- Public Health SBC does not receive information about sites of this nature or the type of behaviours being demonstrated at this site. Their only involvement would be after an incident occurred, as in this case. A lack of resources did not permit the proactive monitoring of sites by SBC Public Protection nor is their responsibility. Permission for the sites and monitoring of compliance with applied conditions rested with the EA.
- It was suggested that the EA should be more involved in providing feedback on sites to Public Health SBC. Following the incident at the Marshgate site there is closer engagement between the EA and Public Protection Officers who have provided information when requested.
- Public Health SBC's role was in support of the SCG. Improvements could have been made with the speed of decision making at the SCG level which may have resolved the incident sooner. It was felt that the fire

fighting was prolonged as the SCG did not come to a swift decision on the strategy to tackle the fire, which may have reduced the number of resources and personnel required during the incident. It should be noted that the SCG were constrained due to the legal challenges from the owners of the Marshgate site.

- It was important to note that decisions were made by the partners of the SCG and if the EA had exercised its powers sooner the fire fighting may have been completed earlier.
- There should be a willingness from the SCG partners to be more engaged with the incident especially as being part of the Local Resilience Forum, partners worked together and had plans covering incidents such as the Marshgate site fire. If partners did not work together then there was potential for extra expense and increased burden on public finances.
- Partners needed to be more clear on the authority they had to take action during the incident
- It was noted that the SCG was stronger when all partners worked together as a group rather than as individual agencies.

3. Christine Moloney, Operational Control Duty Manager – Thames Water

- Ms Moloney explained that she was representing TW and was one of six Duty Managers on shift during the incident. Her specific role was to gather a team of senior officers within TW that Sarah Burchard, Emergency Risk Specialist, Business Resilience and Security Team and Chris Fitzgerald managed.
- TW were involved to provide advice on the likely impact of the incident on the water course, sewage system and drinking water.
- TW attended three of the proposed sites for the temporary storage of waste material and confirmed that the most appropriate site that satisfied the criteria set by TW and the EA was the Park and Ride site as it currently had a bund to contain oil and access to the main sewer system.
- TW continuously monitored the connection to the sewer system from the Marshgate site for contaminants.
- TW had not calculated the additional cost to them of the incident, however officers were in attendance at the Marshgate site for a number of weeks and had continued to monitor the site
- Companies that used water for non-domestic events and had water run-off were expected by TW to apply for Trade Effluent Consent. The companies would need to assess and declare the additional contaminants in the water that would flow from the site. A list detailing the volume of water being discharged and level of contaminate was publically available. Christine confirmed that Marshgate site was on this list and Averies had declared that there were dried products on site and rain water run-off only.
- TW would be involved in planning applications for this type of site particularly in relation to the connection to the sewer system. The planning consent form confirmed that there were no contaminants to be added to the water system, just dried products and rain water run-off. The

Marshgate site did have an interceptor on site for the collection of oil that would have been checked by TW.

- TW confirmed that the Marshgate site was classed as low risk and TW were not aware of the previous prosecutions.
- TW had no involvement in the discharge of water into the nearby brook
- TW confirmed that there was no impact on the water course with extinguishing the fire at the Marshgate site due to unknown issues. Drinking water would not be impacted by the treatment of the fire by the Fire Service as there were clay deposits underground that would stop the water run-off seeping into water courses. There was also no impact on the aquifer
- Ms Moloney was not aware that TW had been invited to any partnership working to prevent this type of incident occurring in the future
- Christine confirmed that TW undertook Trade Effluent visits jointly with the EA to those sites that the EA considered as a risk. TW had not historically investigated the water run-off from similar incidents where the Fire Service were involved in extinguishing fires from sites such as the Marshgate site.
- TW would be involved with sites where they did not meet the necessary consents. TW would have the power to enforce the consent and would increase the monitoring of the site.
- TW confirmed that any company that had a Waste Management Licence had to apply for Trade Effluent Consent.
- There were a number of sites that were highlighted as a concern to TW in Swindon and these received routine visits
- TW explained that companies were expected to discharge water within their agreed consent levels, if the levels were increased over and above the agreed levels then TW could use the information in a court situation. However, TW worked with companies to ensure compliance with the consent within reasonable timescales
- TW confirmed that companies were able to appeal to the Secretary of State if the conditions placed on them by TW were considered too restricting
- A treatment plant would be required on site if the company was discharging a high level of contaminants. The EA would be advised by the TW if this was the case
- The conditions placed on companies to limit the level of water discharged into the foul water system by TW could be costly and potentially affect the commercial viability of a site
- The cost of incorporating a treatment plant on a site could be high dependant on the size of the business
- TW confirmed that the EA undertook soil sampling
- TW confirmed that the consideration of Trade Effluent on the Marshgate site was reasonable at the time based on the information supplied to TW, however it did not take into account any historic information

4. Leon Barrett – Head of Streetsmart – Swindon Borough Council

- Mr Barrett explained that he was a member of the Tactical Command Group (TCG) between 4th–14th August, 2015. His specific role was to lead a multi-agency group to assess sites that could be used to temporarily store up to 5,000 tonnes of non-hazardous waste for up to 3 months. The expected timescale was the waste needed to be moved in 2-3 days.
- The waste would be extinguished by Wiltshire Fire and Rescue and transported by Averies to the temporary site.
- The key criteria set by the Environment Agency and Thames Water was (i) water management and (ii) impermeability of surface. Both of these criteria had to be satisfied when deciding on the appropriateness of a temporary site.
- A desktop exercise was undertaken to identify an appropriate site on Monday 4th August 2014, followed by a visit to the potential sites on the afternoon of Tuesday 5th August 2014.
- A recommendation on a temporary site was made by the TCG to the SCG on the afternoon of Tuesday 5th August 2014.
- The site chosen as the most appropriate temporary site was the Park and Ride site as it satisfied the criteria set by the EA and TW.
- Wednesday 6th August 2014 was spent at the Park and Ride site with the multiple agencies.
- Thursday 7th and Friday 8th August 2014 contractors engaged by the EA were at the Park and Ride site assessing costs and building the plan for the removal of the waste.
- Mr Barrett was asked to find a temporary site on Monday 4th August 2014 as directed by Bernie Brannan, Board Director Service Delivery, SBC who was a member of Strategic Command Group (SCG).
- Mr Barrett was not aware of any dust or other debris falling to the ground as a result of the fire and there was no extra cleaning of highways during the incident.
- Following this Task Group meeting Leon confirmed that there were references to dust/ash on cars and the highway although they were mainly in the context of public health as opposed to street cleaning. Also, there were no cases escalated to Leon as Head of Service.
- Any additional cost incurred by the Streetsmart Team would have been absorbed within existing budgets
- Following this Task group meeting Leon confirmed that SBC did not dispose of any waste or recycling at the Marshgate site.
- Mr Barrett talked through the assessment criteria used by the multiple agencies to assess a temporary site. 12 criteria were considered but only the Park & Ride site satisfied the key criteria.
- Mr Barrett spoke about the other sites considered for the temporary storage of waste material from the Marshgate site and the reasons against using them. The sites included:
 - Oakfield
 - Chiseldon Firs
 - Marconi (Groundwell)

- SCS – Waterside Park
- Hills – Chapel farm
- Crapper & Sons – Royal Wootton Bassett
- Biffa – Studley Grange
- RAF Lynham
- Brindley Close
- Calne Site – Averies
- Dorcan Site
- Mr Barrett confirmed that other permitted waste sites were considered as part of the initial assessment and that those sites would not accept waste on a temporary basis.
- It was suggested that with SBC taking responsibility for the temporary storage of waste material at a Council Park and Ride site, the public perception was that SBC now had a leading role in the incident. It was confirmed that the Park and Ride site was the only site that met the key criteria, was a Council asset and the waste material could be mobilised quickly to that site.
- It was the opinion of Mr Barrett that taking account of the residents and business impacted by the fire, SBC would have been negligent if it had not taken formal responsibility for the temporary storage of the waste material, especially as there was no other site available for the waste material storage.
- Mr Barrett explained that it was good to see partners working together at a tactical level to achieve a common goal. The TCG were instructed to identify a temporary site to remove the waste as quickly as possible and the group he led delivered that task in the given timescales.
- It was suggested that Penhill was the obvious choice for a temporary site. Mr Barrett was not aware that the Penhill site could have been used as a lever to encourage the EA to make use of its powers
- Mr Barrett confirmed that SBC Communications were represented at the TCG meetings, although he had no formal role with the Communications cell, he and other members of TCG did provide information.

5. Adrian Burt – Strategic Support Inspector – Wiltshire Police

- Mr Burt explained that involvement from Wiltshire Police was limited to first response and the investigation into possible criminal activity. It was recognised at any early stage that there was no evidence presented relating to criminal activity in relation to the incident.
- The deliberate overfilling and storage of combustible material on site could have been classed as a criminal offence although this would need to be researched. However, Inspector Burt was not aware. If a report had been submitted by the Fire Service to suggest this.
- Mr Burt confirmed that the cause of the fire was unknown
- The Police service work closely with waste management companies but the Police were not aware of the Marshgate site for criminal activity in the past
- If the Police were called to a site with possible criminal activity, other

agencies would become involved once the site was considered safe; perimeters were set up and dependant on the time of day and urgency of the incident.

- The Police knew of the site but had no involvement in the site other than separate information to be disclose at a later date once police records were interrogated.
- The Police could have restricted vehicle movements around the vicinity of the site and closed roads using emergency powers if the smoke emanating from the site was restricting the vision of drivers. The use of common law powers could have been used to close the entrance to the site once the fire had started.
- The Police would potentially investigate criminal proceedings if the EA were successful in prosecuting Averies. Previous prosecutions of Averies could be taken into account depending on the advice from the Crime Prosecution Service
- Mr Burt confirmed that the Police could act on an unlicensed site, such as the Marshgate site, if they were informed of possible Criminal offences by SBC
- The Police would be available to assist SBC officers and other agencies attending sites where the security on the site deterred official visitors
- Mr Burt confirmed that the Police did everything possible before the outbreak of the fire at the Marshgate site
- The Police agreed that improved knowledge between all partners could help to avoid this type of incident in the future
- The Police were not aware of any phone calls to them by the public during the incident
- Mr Burt reported that SBC Communications team performed very well during the incident
- Mr Burt confirmed that the Police would welcome future information gathering sessions with partner agencies involved in the incident

In addition to the above, the Task Group received comments and thoughts from the press in relation to the incident.

6. Dan O'Brien – Broadcast Journalist, Political Reporter, BBC Wiltshire

- Mr O'Brien felt that the Environment Agency were slightly vague with their responses in relation to the Environment Agency powers
- SBC were always helpful in providing a daily press release, whereas it was difficult for the press to receive information from the Environment Agency. It was suggested that the press would have found it helpful to have received a press release from the SCG.
- Mr O'Brien explained that responses by partners to questions from the press could have been quicker, however delays were experienced due to verification being required from other agencies
- It was felt by the Press that the reasons and context for choosing the Park and Ride site for the temporary storage of the waste material was not fully explained in the press release on 6th August 2014, which could have led

to the perception that SBC was responsible for the management of the incident and the decision to remove the waste to the Park and Ride site.

AVERIES TASK GROUP

WEDNESDAY, 5 AUGUST 2015

PRESENT: Councillors Colin Lovell, Des Moffatt, Maureen Penny and Robert Wright

ALSO PRESENT: Stephen Taylor – Director of Law and Democratic Services and Stuart Figini – Committee Officer

An apology for absence was received from Councillor Steve Weisinger.

7. Exempt Items - Exclusion of Press and Public

Resolved: That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Minute No. 8 and 9 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3, 5 and 7 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned.

8. Draft Interim Report

The Task Group (i) considered the draft Averages Interim Report, prepared following the gathering of evidence from witnesses associated with the Averages incident; and (ii) reviewed the Wiltshire and Swindon Local Resilience Forum (LRF) – Averages Debrief report in light of the comments made by witnesses.

The Chair thanked Councillor Bob Wright for preparing a document detailing his conclusions of the incident and also the Clerk for preparing the first Draft version of the Interim Report.

The Director of Law and Democratic Services presented an overview of the work undertaken by the Task Group and referred to their Terms of Reference as detailed in the Draft Interim Report. He explained that the Task Group had investigated the circumstances that led up to the incident and that the Draft Interim Report was based on the evidence gathered. However, the Task Group were still required to review the LRF Debrief report. It was also reported that the Environment Agency had instituted criminal proceedings against Averages and the case had recently been referred to the Crown Court from the Magistrates Court. The Environment Agency had requested that the Interim Report was not made public in its current format as it could impact the prosecution.

In light of this advice the Task Group decided to divide the Draft Interim Report into two parts. The first part to include the review the LRF report taking into account the findings contained in the Draft Interim Report. The second part focusing on the circumstances that led up to the incident.

The Task Group then considered the findings and recommendations detailed in the

Draft Interim Report and aligned them to sections contained within the LRF report. The following comments were made and changes were suggested:

- a) Interim Finding 2.1 – To be included in Part A of the Report as a comment on Section 3 – Pre-Existing Licence Conditions of the LRF Debrief Report
- b) Interim Finding 2.2 – To be included in Part A of the Report as a comment on Section 3 – Pre-Existing Licence Conditions of the LRF Debrief Report
- c) Interim Finding 2.3 – To be included in Part A of the Report as a comment on Section 3 – Pre-Existing Licence Conditions of the LRF Debrief Report
- d) Interim Finding 2.4 –
 - To be included in Part A of the Report as a comment on Section 3 – Pre-Existing Licence Conditions of the LRF Debrief Report
 - To amend the second sentence to read, '*Partner agency* relationships had been developed over time and maintained by the attendance of *representatives* at regular Emergency Planning training events throughout the year and an all partner strategic training event held once a year.'
- e) Interim Finding 2.5 – To be included in Part B of the Report as a comment on the evidence gathered
- f) Interim Finding 2.6 – To be included in Part A of the Report as a comment on Section 4 – Examining Decision-Making by the Responders of the LRF Debrief Report
- g) Interim Finding 2.7 – To be removed from the Report
- h) Interim Finding 2.8 –
 - To be included in Part A of the Report as a comment on Section 4 – Examining Decision-Making by the Responders of the LRF Debrief Report
 - The Task Group did not agree with the LRF interpretation that the 'resources of all responders are not unduly stretched...'. The evidence gathered by the Task Group indicated that the prolonged nature of the incident did test the capacity of a number of partner agencies to support the response and recovery whilst maintaining 'business as usual' and it placed significant drain on staff resources for all partner agencies.
- i) Interim Finding 2.9 –
 - To be included in Part A of the Report as a comment on Section 7 – Public Perception of the LRF Debrief Report
 - To amend the paragraph to read, '*A number of businesses in the vicinity of the Marshgate site were affected by the fire. Some to a greater extent than others depending on their proximity to the site. Details of the consultation undertaken by SBC with businesses and residents are attached at Appendix*'
- j) Interim Finding 2.10 – To be included in Part A of the Report as a comment on Section 4 – Examining Decision-Making by the Responders of the LRF Debrief Report
- k) Interim Finding 2.11 – To be included in Part B of the Report as a comment on the evidence gathered.
- l) Interim Finding 2.12 – To be included in Part A of the Report as a comment on Section 4 – Examining Decision-Making by the Responders of the LRF Debrief Report

m) Interim Finding 2.13 and 2.14 –

- To be included in Part A of the Report as a comment on Section 4 – Examining Decision-Making by the Responders of the LRF Debrief Report
- To combine the two paragraphs to read, 'The FRS and the EA have subsequently had new guidance about how the two agencies work together to view waste recycling sites. To avoid situations of a similar nature occurring in the future, regular discussions would take place between SBC and the EA and in addition, six monthly meetings be held with the EA, Natural England, the Forestry Commission and SBC's Property Department who were undertaking checks on land leased to waste operators.'
- Concerns were raised that the EA had the power, but not a duty, to move onto a site and take action only if it could be demonstrated there was a risk of serious pollution.

n) Interim Finding 2.15 –

- To be included in Part A of the Report as a comment on Section 5 – Communications of the LRF Debrief Report
- To amend the paragraph to read, 'SBC are addressing comments in the LRF's debrief report in relation to all participants giving *total* commitment and having the ability to manage communications whilst in other meetings.'
- Whilst acknowledging that there was a pressured environment during the incident the Task Group were concerned that the comment made in paragraph 13.3 of the LRF debrief report that 'This was designated a major incident, therefore takes a degree of priority over "day to day" business and all participants should give 100% commitment and perhaps the ability to manage communications whilst in other meetings might need to be addressed' was not accurate.

The evidence gathered by the Task Group, indicated that the 'Media Cell' was resilient during the incident, providing total commitment and received appropriate support from SBC officers and partner agencies

o) Section 6 – Command and Control of the LRF Debrief Report.

- The Task Group agrees with the comments made in the Command and Control section of the LRF debrief report
- The Task group asked for further clarification from Sam Weller, Civil Protection Officer, SBC, on the comment made at paragraph 6.3b 'Understanding and appreciating that non-dynamic incidents are still urgent and should take priority over "day to day" business.'

p) Section 7 – Public Perception of the LRF Debrief Report.

- To include as an appendix to the Draft Interim Report, details about the consultation undertaken by the Localities Team with businesses and residents during the incident
- To include as an appendix to the Draft Interim Report, details about the potential sites considered for the temporary storage on non-hazardous waste
- Comments were made about the format of public meetings during incidents of this nature and the impact on how the public responds

during the meeting.

- q) Section 8 – Summary of the LRF Debrief Report – The evidence gathered by the Task Group indicated that cost was a major factor and this had an impact on the duration of the incident.
- r) Section 9 – Recommendations
 - LRF Recommendation 1 - The Task Group agreed with this recommendation.
 - LRF Recommendation 2 - The Task Group noted this recommendation
 - LRF Recommendation 3 - The Task Group was not clear how paragraph 4.22 of the LRF debrief report aligned with recommendation 3. It was felt that the wording of this paragraph needed to be more explicit in its definition
 - LRF Recommendation 4 – The Task Group agreed with this recommendation; However, the Task Group was not clear how paragraph 4.22 of the LRF debrief report aligned with recommendation 4. It was felt that the wording of this paragraph needed to be more explicit in its definition
 - LRF Recommendation 5 – The Task Group agreed that from the evidence they had gathered, a ‘battle rhythm’ had been established by the SCG; However, the term ‘battle rhythm’ was considered by the Task Group to be unhelpful and difficult to understand and interpret
 - LRF Recommendation 6 – This recommendation was not within the remit of the Task group
 - LRF Recommendation 7 - This recommendation was not within the remit of the Task group
 - LRF Recommendation 8 – The investigations undertaken and evidence gathered by the Task Group indicated that the communication strategy was clearly defined, recorded and fully resourced. The Task Group therefore did not agree with this recommendation.
 - LRF Recommendation 9 – The Task Group agreed with this recommendation
- s) Draft Interim Report – Recommendations
 - Paragraph 3.1.1 - The Task Group agreed with this recommendation
 - Paragraph 3.1.2 - The Task Group agreed with this recommendation
 - Paragraph 3.1.3 - The Task Group amended this recommendation to read, ‘Identifying all the powers available to the Council to *strongly encourage* the Environment Agency to review the concerns raised by partners and the public in relation to waste recycling sites.’
 - Paragraph 3.1.4 - The Task Group agreed with this recommendation
 - Paragraph 3.1.5 - The Task Group agreed with this recommendation
 - Paragraph 3.1.6 - The Task Group agreed with this recommendation, although they felt that it needed to include other areas in addition to insurance
 - To add a paragraph indicating that where concerns are identified during routine visits to sites by SBC Officers, that a formal record is made of the concern and the appropriate partner agency informed

ACTION:

1. That the Draft Interim Report be amended to take into account the revised structure of the Report and the comments detailed above.
2. That the next meeting of the Task Group to consider the revised Draft Interim Report further be scheduled for Friday 4th September 2015, starting at 11:00am.

9. Actions from Previous Meetings

The Task Group received updates on the actions requested at previous meetings where additional information was requested and clarification was required on points raised.

Resolved: That the updates on actions from previous meetings be noted.

AVERIES TASK GROUP
FRIDAY, 4 SEPTEMBER 2015

PRESENT:- Councillors Maureen Penny (Chair), Colin Lovell, Des Moffatt and Robert Wright

Apologies for absence were received from Councillors Steve Weisinger.

10. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 2 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3, 5 and 7 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 11 refers.)

11. Draft Interim Report

The Task Group considered the latest version of the draft Interim Report which incorporated revisions requested at the last meeting on 5th August 2015.

The Task Group agreed to make a number of further revisions to the draft Interim Report which included:

- (a) Amending paragraph 2.4 of the Summary section to read 'The Task Group has made recommendations as set out in Section 6 of this Interim Report', as the current wording was unclear.
- (b) Amending paragraph 3.2.3 of the Examining Decision Making by the Responders section, to indicate that officers attending SCG meetings only had limited authority from their respective organisations to make decisions in relation to an incident of this size and nature and incur significant costs.
- (c) Adding a new Section towards the end of the Interim Report, titled 'Actions Taken Since the Publication of the LRF Debrief Report', and that paragraphs 3.2.4, 3.2.5 and 3.3.1 be added to this new Section.
- (d) Rewording paragraph 3.6.1 of the Summary Section to read 'The LRF Debrief report summary does not indicate that cost was a major factor. The evidence gathered by the Task Group indicates that it was a factor and it had an impact on the duration of the incident.'
- (e) Reformatting the paragraphs of Section 3.7 – LRF Recommendations and the Task groups Response, so that:
 - a. The sub-title 'LRF Recommendation 1 – 9' is bold text
 - b. The recommendations quoted from the LRF Debrief Report is in italics; and

- c. The Task group response is in normal text
- (f) Rewording paragraph 3.7.3 - the Task Group's response to the LRF Recommendation 3 as the Task Group has difficulty reconciling the relationship between paragraph 4.22, detailed below and recommendation 3 (*the need to define "mission statement and values" at the start of any response*) of the LRF Debrief report.

'Anyone drawing conclusions from this debrief report should bear in mind the following interpretation;

The decision-maker's burden of proof is to make "a reasonable decision, given the information available at the time, not necessarily the right decision". Therefore they can make any decision they wish providing it is legal, reasonable and justifiable. **(see recommendations 3 & 4).**'

- (g) Removing the first sentence of the Task Group response to the LRF Recommendation 8 as the wording is repeated further on in the response.
- (h) Amending the title of Section 4 to read 'Matters for the Final Report'
- (i) Adding the following issue to Section 4 – Matters for the Final report, for the Task group to consider, at a later date:
 - a. 'The powers and controls available to the EA and partners to regulate existing sites and licence new sites and operators.'
- (j) Rewording paragraph 5.1.1 – Recommendations, to read, 'Delegating authority to senior officers, in consultation with relevant Cabinet Members, to manage and resolve similar incidents.
- (k) Amending the wording of paragraph 3.1.2 of Section 3 - Witness Evidence in Appendix A, to reflect that Averies were initially involved in the removal of waste from the Marshgate site to their recycling site in Calne.
- (l) Rewording paragraph 3.2.4 of Section 3 - Witness Evidence in Appendix A, to read, 'Due to the close proximity of residential and business areas, a decision was made to let the fire burn out naturally. The quantity of waste stored on site had a negative impact on the FR's ability to extinguish the fire.'
- (m) Amending the wording of paragraph 3.2.9 of Section 3 - Witness Evidence in Appendix A, to indicate that partners were aware of previous incidents at other Averies waste recycling sites.

The Task Group also asked for the following actions to be taken by the Clerk:

- (a) To consider rewording paragraph 3.2.5 of the Examining Decision Making by the Responders section, to make the paragraph easier to understand.

- (b) To ask the Civil Protection Officer, SBC if a full review of the design and management of the decision log has been undertaken, as recommended in the LRF Recommendation 6.

Accordingly, the Clerk was requested to update the interim report in the light of comments made by the Task Group in order that it can be considered at the next meeting of the Task Group.

AVERIES TASK GROUP
MONDAY, 9 NOVEMBER 2015

PRESENT:- Councillors Maureen Penny (Chair), Colin Lovell, Des Moffatt, Steve Weisinger and Robert Wright

12. Draft Interim Report

The Task Group considered the latest version of the draft Interim Report which had incorporated revisions requested at the last meeting on 4 September 2015.

The Task Group agreed to make a number of further revisions to the draft Interim Report which included:

- (a) Adding the words '*To be actioned once the criminal proceedings have been concluded*' at the end of paragraph 1.1.2, page 5.
- (b) Amending the title of Section 2, Page 6 to read 'INTRODUCTION'
- (c) Removing the words 'including from SBC' from line 2, paragraph 3.2.3, page 8
- (d) Adding the word 'to' to line 4, paragraph 3.2.3, page 8
- (e) Adding a comma after the words 'the incident,' line 2, paragraph 3.3.2, page 8
- (f) Amending the spelling of the word 're-emphasis' to 're-emphasise', line 1, paragraph 3.7.4, page 9
- (g) Removing the words 'before it', line 10, paragraph 3.7.8, page 10
- (h) Adding the words 'The first meeting has been held', at the end of paragraph 4.2, page 11
- (i) Adding the word 'legally', after the words 'Whether Waste Operators should be', line 1, paragraph 5.3, point 3, page 11
- (j) Amending paragraph 6.3 to read 'That appropriate procedures be reviewed and appropriate records kept and passed to the responsible authority to improve the flow of knowledge and information, and responses to public concerns about possible breaches of permit conditions at waste recycling sites.', page 12
- (k) Adding the words 'A public meeting was held in the Council Chamber on 26th May 2015, as indicated at 1.11 above and...' to the start of paragraph 2.1, page 14

The Task Group asked the Clerk to update the Interim Report in the light of comments made in order that it could be considered by the Scrutiny Committee at its meeting scheduled for 11th January 2016.

The Task Group also thanked the media for its interest in the work undertaken by the Group.

GLOSSARY

SBC – Swindon Borough Council

EA – Environment Agency

TW – Thames Water

LRF – Local Resilience Forum

SCG – Strategic Co-ordinating Group

TCG – Tactical Command Group

WFRS – Wiltshire Fire and Rescue Service