



**THE CHARTERED INSTITUTE OF LOSS ADJUSTERS**

**LIABILITY SPECIALIST INTEREST GROUP CONFERENCE**

**31 OCTOBER 2007**

As working adjusters you will all be familiar with, and have investigated losses in Claimstown. Over recent years, the town has been the subject of some considerable regeneration, with former light industrial and commercial estates being transformed into residential developments; taking full advantage of Claimstown's road and rail links to Bigsville, to create a commuter haven.

The success of a number of residential developments has been such that brown field sites are now at a premium, and as is often the case, developers have started to consider the purchase of land outside of what was initially thought to be the prime development area. Champagne Estates PLC have the reputation for buying in the right place at the right time, and purchased a large plot housing a redundant warehousing facility facing onto Tort Lane, with the River Deep, and the main railway line to Bigsville, running to the rear. Simultaneously, on the understanding that the nearby FSA Colliery was scheduled to close in 2010, they negotiated an option to purchase adjoining land owned and occupied by the Wheretheres Coke and Chemical Company. The option to buy was granted by the Wheretheres Coke and Chemical Company as, if the FSA Colliery closes as planned, it is their intention to make the Tort Lane site redundant, and for all operations to be transferred to the new facility under construction in Safeville; approximately 150 miles away from Claimstown. This larger facility will take full advantage of Safeville's proximity to an alternative local colliery, and is schedule to be completed by the latter part of 2009.

Similar to the existing Tort Lane site, the Safeville facility will be a base for the production of a series of smokeless fuels for both industrial and domestic applications from coal. Similar to the



Tort Lane site, beyond a number of coke ovens, there will be a combined heat and power plant, which utilises by-product gas as an energy source to power the plant, with residue power sold onto the National Grid.

By way of explanation, coke is produced by heating bituminous coal at a temperature of 1,280°C in ovens. The absence of air ensures carbonisation rather than oxidation. All the volatile components are driven off, producing a gas rich in hydrogen and methane. Wherever Coke and Chemical Company extract tar, benzyl and ammonia from the gas for subsequent sale. After further processing to remove pollutants, the gas becomes a useful energy source.

The gas is used to heat coke ovens (40% at each plant), with the balance diverted to the CHP plant. Two CHP boilers each are designed to produce 31 tonnes of super-heated steam (400°C) at 40 bar, which is expanded through a turbine coupled to an alternator rated at 11MW. At capacity, 1.4MW is required for on-site demand, with the remainder being sold via British Energy.

At the existing Claimstown plant, and at the Safeville site under construction, use of above ground installations is avoided for risk management reasons, with the gas transferred throughout each site via a series of underground welded steel pipes.

The plot purchased by Champagne Estates PLC in Tort Lane is separated from the Claimstown Wherever Coke and Chemical Company plant by a 3m high rendered block wall.

Champagne Estates PLC have secured planning approval to redevelop the plot purchased; with the approved plan allowing for the construction of a 6 above ground level block comprising a steel framework, with 3 underground levels for use as car parking. The ground level is planned to be utilised for retail space (shops and/or restaurants) with the upper levels given over to residential accommodation.



By the time that the upper residential units are completed and ready for sale, Champagne Estates PLC hope that they will have finally secured the Wheretheres Coke and Chemical Company site and have approval to undertake a similar development in that location. Consequently, the hope is that the value of the flats will not be diminished by the continued presence of industrial buildings between that location and the foothills of Mountain High.

Currently, approximately 5m beyond the wall separating the 2 plots of land there is a relatively modern steel framed single storey industrial unit to house the CHP plant, located towards the Tort Lane elevation, and equi-distant between the sites, albeit towards the rear and close to the River Deep, is a similar single storey unit for the storage of equipment and chemicals. Between those structures and the slopes of Mountain High, is the main single storey production facility and associated offices.

At the beginning of 2007, Champagne Estates PLC let a contract to Erectit Ltd to initially demolish existing structures on the plot adjacent to the Wheretheres Coke and Chemical Company plant, and subsequent to ground remediation work, to commence the construction of the planned mixed use block. By mid October 2007, enabling works were complete, and during the week commencing Monday, 8 October 2007, Erectit Ltd's groundworks Sub-Contractors, McDuff Ltd, began work on a secant piled wall to enable the construction of the below ground car parking facilities by the top down construction method.

To ensure maximum profit levels, the approved plan allows Champagne Estates PLC to construct the new block with a footprint encompassing virtually the whole of the site, with only a 0.5m spacing between the side elevation and the existing boundary wall between that plot and the Wheretheres Coke and Chemical Company.



Initially, work in this regard proceeds well, and at a pace. However, by Friday, 26 October 2007, as excavations proceed along the boundary line, movement in the secant wall is noticed by McDuff Ltd's operatives, together with cracking within the boundary wall. All excavation work ceases at approximately midday, and a system of raking shores installed to avoid any continued movement of both the secant piled wall and the boundary wall. Once Erectit Ltd's in-house engineers were satisfied that the site had been stabilised, the site was closed at approximately 1630 hours pending reconsideration of the method of working and/or design.

As you know, the offices of the CIL A Insurance Company are at the end of Tort Lane at the junction with Premium Street. As you would expect from a diligent, hard-working, albeit poorly paid, claims manager, Mr Roberts, is in the office during the afternoon of Saturday, 27 October 2007 putting the final touches to a tender to be submitted to adjusters as part of an ongoing review of procurement procedures. His offices face into Tort Lane, and as a consequence, he was a first hand witness to the events that unfolded at roughly 1435 hours.

As you know from local and national news coverage, there was an explosion within the Wheretheres Coke and Chemical Company materials store close to the River Deep. It is well known that the factory was not operational at the time, and that, a maintenance worker suffered severe burns to his hands and face as he entered the facility just prior to the explosion. Despite the degree of remoteness between the 3 units on that site, fires then developed in both the CHP plant shed, and the main factory. Fortunately, as you know, the relatively prompt arrival of the local Fire Brigade prevented the destruction of those units, albeit that the equipment and materials store was lost.

Regrettably, it appears that Wheretheres Coke and Chemical Company's risk management plant left something to be desired, insofar as the location of the storage facility is concerned, as chemical drums were thrown into the River Deep as a result of the blast. A number had been damaged, and chemicals leaked into the river.



There were a number of simultaneous events, with the failure of a nearby substation forming part of the National Grid, which led to widespread power cuts throughout Claimstown, which affected both residential and commercial properties.

Equally, it is assumed to avoid flying debris from the factory, the driver of a motor vehicle proceeding along Tort Lane towards Premium Street lost control, and careered into a lamp post. Whilst the driver escaped uninjured, his passenger suffered severe injuries, and once rescued from the wreckage, was immediately taken to Claimstown Hospital. Regrettably, despite the medical team's best efforts, the injuries proved to be fatal.

A young woman, who was 8½ months pregnant, was walking along Tort Lane at the time and was greatly shocked by the incident, requiring medical attention on the scene as soon as the emergency services arrived, and again, transferral to Claimstown Hospital. Such was her condition that by approximately 2000 hours, an emergency Caesarean section was performed the results of which were less than favourable. As you will now know, there was a period of interruption to the air supply to the foetus, and as a result, the baby was born with severe physical and mental disabilities.

By chance, all parties involved in this matter have policies issued by CIL A Insurance Company, and as causation and the link between the various calamitous events has yet to be established, it is necessary for us to consider the instruction of separate adjusters to protect the relative positions of each policyholder. On this occasion, we have decided to directly appoint forensic scientists to investigate cause, and the results of that enquiry be disseminated to each adjusting team as soon as the results become available. Each set of adjusters is, however, asked to undertake their own independent enquiries and if it transpires to be the case, instigate subrogation even if against another CIL A Insurance Company policyholder. The instructions given are:-



### **Team 1**

- Insured: Wheretheres Coke and Chemical Company  
Cover: Employer's Liability  
Limit of Indemnity: £5m

(To consider the anticipated claim from the maintenance worker)

### **Team 2**

- Insured: Champagne Estates PLC  
Cover: Property Owner's Liability  
Limit of Indemnity: £10m - £10,000.00 third party property damage non-ranking deductible, plus £500,000.00 ranking deductible against a £1.3m aggregate

(To deal with claims from the Wheretheres Coke and Chemical Company for both material damage and business interruption - Wheretheres Coke and Chemical Company being otherwise uninsured having failed to pay CIL A Insurance Company at renewal, and that cover having been rescinded as of 1 September 2007)

### **Team 3**

- Insured: Wheretheres Coke and Chemical Company  
Cover: Public Liability  
Limit of Indemnity: £15m  
Excess: £2,500.00 (third party property damage)

(To consider claims for pollution of the River Deep, damage to the nearby sub-station and resultant claims subsequent to the loss of power to a large proportion of Claimstown, plus



disruption to Network Rail services, as the line between Claimstown and Bigsville were closed during emergency procedures).

#### **Team 4**

- Insured: Mr A Driver  
Cover: Motor Vehicle Liability  
Limit of Indemnity: Unlimited

(To consider the anticipated claim from the estate of the passenger (deceased)).

#### **Team 5**

- Insured: Erectit Ltd  
Cover: Public Liability  
Limit of Indemnity: £10m  
Excess: £5,000.00 (third party property damage)

(To consider potential actions involving all of the foregoing, and a direct action already intimated by the father of the disabled child against Erectit Ltd).

Pending the release of forensic evidence from CIL A Insurance Company, each team is asked to consider investigation and evidence gathering procedures, the key questions to be asked; the extent of damage/possible heads of claim, and to consider reserving policy. Additional policy information can be sought, instructions obtained and underwriting information provided via direct contact with CIL A Insurance Company.