

Essex County Councils
Minerals & Waste Planning
County Hall
Chelmsford
Essex CM1 1QH



Your ref 21/0532/OUT
Our ref:
Date: 26 April 2022

Dear Sir / Madam

Nature of Response: To respond to the re-consultation on Application Reference 21/0532/OUT

Proposal: Outline Planning Application Comprising of 68 Residential Units, Three Class E (Commercial, Business and Service) Units, One B2 (General Industrial) Unit and Two B8 (Storage and Distribution) Units with Associated Access, Parking, Amenity Space, Strategic Landscaping and Noise Attenuation. Restoration and Improvement of Existing Estate Roads and Infrastructure.

Location: Land East Of Manor Trading Estate Benfleet Essex SS7 4PS

Thank you for your email received 13th April 2022 re-consulting the Mineral and Waste Planning Authority (MWPA) on the above proposals.

The re-consultation is being undertaken on the basis of the submission of a Façade Noise Exposure Assessment for Outline Planning (FNE) dated 6th April 2022. This response limits itself to comments regarding this report, and therefore this response supplements rather than replaces the previous responses sent by the MWPA on 3rd September 2021 and 23rd December 2021.

Having reviewed the FNE, the MWPA maintains its objection on the basis that the application is not in conformity with the NPPF and Policy 2 of the Essex and Southend-on-Sea Waste Local Plan (WLP) 2017. This is because the proposal is currently 'considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure' (WLP Policy 2) and therefore may lead to 'unreasonable restrictions' (NPPF Para 187) on the operation of existing development. The rationale for this conclusion is set out below.

Regarding noise in external amenity areas, The FNE sets out across Paragraphs 10.2 and 10.3 that proposed mitigation measures should bring the external amenity noise levels to between 51-60dB, which exceeds the 'desirable' limit of 50Db for external amenity spaces, as well as potentially the upper guideline of 55Db. The FNE however then states at Paragraph 10.3 that BS 8233:2014 requires a consideration of the context and location of a

proposed development site, and that elevated noise levels such as those recorded may be warranted in city centres or urban areas adjoining the strategic transport network in order to make efficient use of land resources to ensure that development needs can be met.

However, and as set out in the MWPA's previous response, the location of this proposed development is not considered to fall into those categories, and as such cannot form a justification for development at this location. The source of noise that would be problematic is accepted within the FNE as being a metal recycling facility, a single point source rather than being from the numerous combined sources you would find in a city centre, or the constant flow of a strategic transport network.

Paragraph 10.4 of the FNE states that 'It is understood that the land has been subject to rigorous planning of which no other suitable alternative land uses have been identified. Therefore, whilst the external amenity levels slightly exceed the recommended levels in BS8233:2014, it is considered that this development is "making efficient use of land resources"'. The MWPA does not agree with this conclusion. That no suitable alternative land uses have been identified is not a justification for residential development in an area where noise levels cannot be mitigated to an acceptable level. Again, whilst it is accepted that BS8233:2014 recommends that development should not be prohibited solely on external amenity noise levels, the MWPA re-iterates that the location of this proposed development is not held as being one akin to a city centre or in proximity to a strategic transport network as set out in that document. A clearly identifiable source of what would be nuisance noise creates a different context.

On a similar theme, the FNE also makes reference to Professional Practice Guidance on Planning & Noise: New Residential Development, 2017 (ProPG 2017). ProPG 2017 states (inter-alia) that where significant adverse noise impacts remain on any private amenity space, then that impact may partially be offset through the design of the development, including through alternative amenity provision.

Paragraph 10.6 – 10.8 of the FNE highlights alternative areas of public open space which have been incorporated into the scheme. Situated to the south of the site is an area of grassland and biodiversity pond for communal use. Noise modelling confirms that noise levels within this dedicated community amenity space is 53 - 54dB(A), which is stated as being below the BS8233:2014 recommended level. It is clarified that this is below the upper guideline of 55Db but above the desirable level of 50Db. It is further stated that this amenity scheme can be detailed at the architectural design stage so as to permit future occupiers' tranquillity. However, details are not yet available and so this cannot be substantiated.

Reference is also made to a communal recreational area with a pond to the north of the site. It is stated in the FNE that noise levels exceed the BS 8233: 2014 standard at this location and that this pond and area is required to

allow for surface drainage. It is however subsequently noted in the FNE that typically communal areas tend to be in use during weekends and weekday evenings, which is when the nearby industrial premises are understood to not be operable. As such it is argued that the noise climate for this area is likely to meet BS 8233: 2014 requirements during these periods. The MWPA notes that the scrapyards are however licensed to work on a Saturday, 07:30 – 17:00.

In any event, the MWPA does not consider that either of these amenity provisions adequately compensates for what are accepted to be external amenity noise impacts above recommended guidelines, for a number of reasons. Firstly, both spaces exceed BS 8233: 2014 desirable thresholds during business hours for the metal recycling facility, the southern space closely matches the upper limit during business hours, and the northern area, whose primary function is drainage, exceeds the upper guideline.

Secondly, and as stated above, it is important to note that the noise mitigation measures that are proposed are required to attempt to mitigate against the noise impacts of an easily identifiable point source, and not a general noisy environment of the likes highlighted within BS 8233: 2014. As concluded at the end of this response, this creates a lack of conformity with the Development Plan.


The MWPA also notes Paragraph 9.13 of the FNE which states that internal noise levels should be considered in the context of room ventilation requirements though it is also noted that at the time of writing, full details regarding a ventilation strategy are not available. However, Paragraph 9.14 notes that mechanical ventilation has been specified throughout the development due to external noise levels being likely to cause an internal noise level increase above BS 8233:2014 recommended internal levels if openable windows were to be used for ventilation and overheating. This would suggest that no amount of noise mitigation is possible as part of the proposed development to ensure that internal noise levels fall below recommended guidelines without impositions on the quality of life of future residents.

This creates an issue of conformity with NPPF Paragraph 187 which states, inter-alia, that “Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.” (emphasis added)

With such a clear point source for the nuisance noise, which is accepted within the FNE as being at a level above relevant guidelines for occupancy and amenity use, it is reasonable to conclude that the existing waste use ‘could have a significant adverse effect on new development’ (NPPF Para 187) and the development subject to this application has ‘the potential to adversely impact on the operation of a safeguarded waste site or

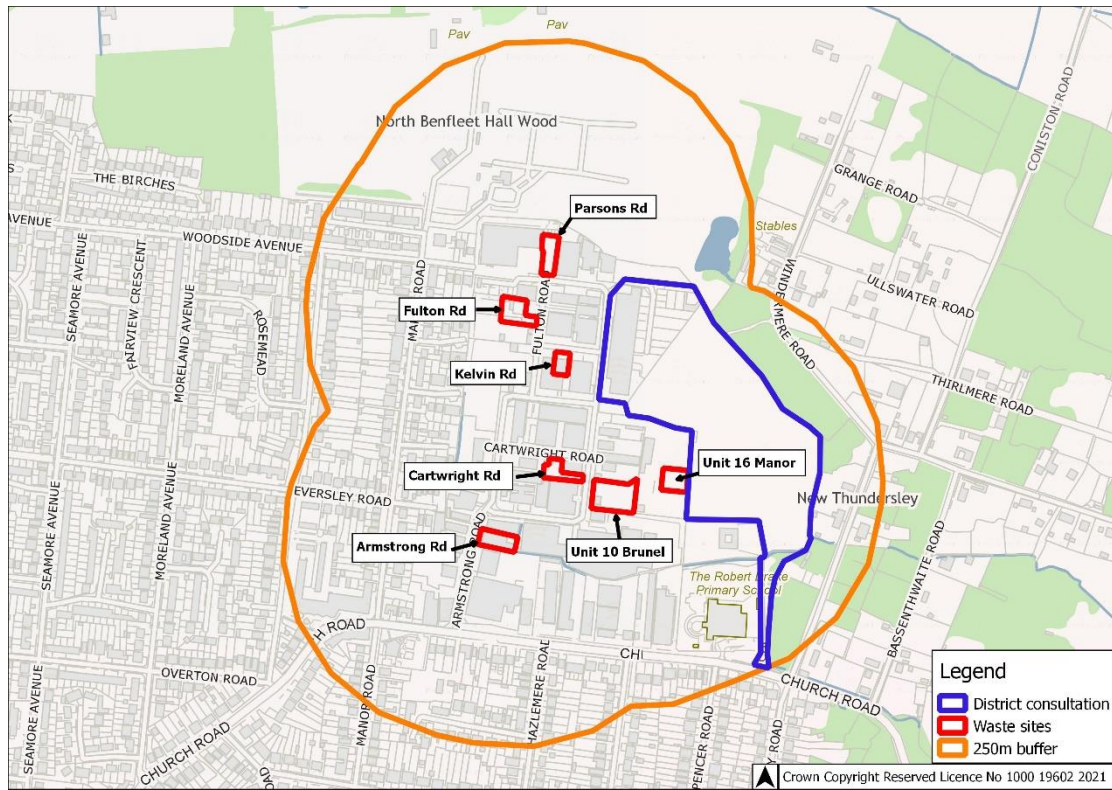
infrastructure' (the test set out in WLP Policy 2) as existing waste operations could attract legitimate complaint from future residents. Such complaints could lead to the type of 'unreasonable restrictions' being placed on the existing development which NPPF Paragraph 187 is designed to avoid. Therefore, and as previously stated, the application is not compliant with the NPPF and Policy 2 of the WLP, and the MWPA therefore objects on the basis that the application is not in conformity with the Development Plan.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philip Dash', is written over a light grey rectangular background.

Philip Dash
Principal Planner
Email: philip.dash@essex.gov.uk

Appendix One – Minerals and Waste Safeguarding Screening – Full Extent of Project Area



Appendix Two – Schedule of Safeguarded Waste Infrastructure relevant to the Project Area

Site type	Site name	Planning application number	Further Details
Waste management infrastructure (subject to WCA designations – Policy 2 of Essex and Southend-on-Sea Waste Local Plan)	12 Parsons Road, Manor Trading Estate, New Thundersley, Benfleet, SS7 4PY	ESS/34/05/CPT	Change of use to provide waste transfer station
	Level D, Fulton Road, Manor Trading Estate, Benfleet, SS7 4PZ	ESS/76/12/CPT	Change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices
	4 Kelvin Road, Manor Trading Estate, Benfleet, SS7 4QB	ESS/24/09/CPT	Change of use of land from tyre and exhaust centre to proposed end of life vehicle recycling centre, decontamination facility for vehicles/machinery, process of materials for export and spares centre new and used car parts to be sold Gala Motors or RA Motors Ltd
	Unit 10, Brunel Road, Benfleet, Canvey, SS7 4PS	ESS/28/10/CPT	Change of use of site and buildings from "the sale of tyres and installation of equipment for the baling and sale of waste tyre products" to a metal recycling site

			and end of life vehicle de-pollution facility.
	6 Armstrong Road, Benfleet, SS7 4PW	ESS/37/18/CPT	Change of use from car sales/repair centre to end-of-life vehicle recycling centre
	5a Brunel Road, Manor Trading Estate, Benfleet SS7 4PS	CPT/548/97/FUL	Construction of a metal clad building & provision of a screened pick station & waste processing machine Found via AMR - CPT permission. Cartwright Road, Manor Trading Estate Benfleet Essex SS7 4QA - address on CPT website
	Unit 16 Manor Trading Estate, Brunel Road, Manor Trading Estate, Benfleet SS7 4PS	CPT/16/02/FUL	Use For Waste Recycling And Recovery And As A Waste Transfer Station Found - CPT permission