

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

**Application No :** 11/00482/FULL1

**Ward:**  
Penge And Cator

**Address :** Site Formerly Burnham Signs Ltd  
Burnham Way Lower Sydenham  
London SE26 5AG

**OS Grid Ref:** E: 536682 N: 171283

**Applicant :** Sydenham Scrap Metals

**Objections :** YES

**Description of Development:**

Detached building to house Vehicle Depollution Unit and new 5m walls within the site, adjacent to revised iron storage area. Variation of conditions 10 and 20 of permission ref. 10/00289 granted for reception, sorting and transfer of scrap metal, for alterations to the Working Operational Statement to permit the provision of a scrap metal compaction press/baler and amend operational site layout. Details pursuant to Condition 11 relating to permission 10/00289 for the vehicle depollution unit

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
London City Airport Safeguarding Birds

**Proposal**

See report for 12/00259 which also relates to this site.

Planning permission was granted on October 26th 2010 for the change of use from sign manufacturers premises including stove enamelling (use classes B2 and B6) to use of the site for the reception sorting and transfer of scrap metals, including depollution of motor vehicles by means of draining of fluids and removal of tyres together with the erection of two acoustic screens, installation of weigh bridge and boundary wall RETROSPECTIVE APPLICATION (ref 10/00482). This permission was granted subject to numerous conditions relating to the operational management of the site.

Permission is sought relating to 4 aspects of above development on this site, namely

1. Variation of conditions 10 and 20 to allow the provision of a scrap metal compaction press/baler on the site.

Condition 10 states that 'No processes and activities associated with the cropping and baling of metals shall be undertaken other than within the existing building located on the site and shall not be carried out in uncovered area of the premises.'

Condition 20 states that 'The use shall be operated strictly in accordance with the submitted plan LRC/08/138/01C, the Working Method Statement received on June 28th 2010 and the Operational Method Statement dated June 4th 2010 unless otherwise agreed with the Local Planning Authority'

The proposed press/baler will be located in the north eastern corner of the site adjacent to the northern boundary. The electrically operated machine will measure 12.5m long by 2.6 wide by 3.5m high. The machine can be used for 2 different operations – shearing metal or baling metal.

From the details submitted with the application and from viewing a similar machine in action, baling up metal will involve loading a central 'box' in the machine with metal, using a mechanical grab (the box will measure 5mx 0.8m x 0.6m). To bale the material two lids on either side of the box will then close over the material and the metal will be compressed into a rectangular cube of metal. The metal 'cube' is pushed out of the machine at the rear via a vertical 'flap.' To shear the material it is loaded into the machine in the same way as described above. The metal is then pushed forward and 'cut', using a hydraulic blade, and the resultant pieces of metal fall out of the 'flap'.

The applicant has submitted noise assessment reports dated 31st January 2011 and 20th March 2012 to support the application. The January 2011 report provided noise assessment for a diesel driven machine, which concluded that the electric driven machine would be quieter than the diesel machine and based on the readings from the diesel machine 'it will not make a significant noise source on the site provided it is located in the same part of the site as the grabber'

The March 2012 report was produced following a visit to a site in Hertfordshire where an electric machine is located. Council officers from Planning and Environmental Health accompanied the applicants Noise Consultant and readings were taken by both parties.

The applicants consultant concludes that 'the installation of the electric shear/baler will achieve a significant improvement in noise emissions from the site reducing or eliminating some of the noisier existing activities (i.e. crushing loads in the back of bulk lorries and using the grab to tidy the scrap pile) whilst introducing a comparatively quiet and efficient means of compressing the scrap material.'

The agent also advised by email dated July 6th 2011 that this piece of equipment will allow metal to be processed at a greater level of speed and efficiency because the compaction of scrap into bales reduces transport costs and substantially increase the speed and throughput of the metal. In addition it provides, in part, a remedy to many of the complaints reviewed and will assist the operator in complying with relevant conditions and the breach of condition notice.

2. Details pursuant to Condition 11 to approve the details of the vehicle depollution unit.

Condition 11 of the permission granted in October 2010 (ref 10/00289) states that 'Details of the depollution unit to be operated on the site shall be submitted to and approved by the Local Planning Authority and shall be permanently retained thereafter'

A technical specification has been submitted to support the application.

3. The retention of a structure to house the vehicle depollution unit.

The supporting documentation with the application states that 3 sides of this structure will be enclosed with blockwork with a pitched corrugated iron sheet roof. However the structure that is in place in the north western corner of the site has side supports comprising scaffolding poles which support a corrugated iron roof. The structure is open sided and open ended and measures approximately 6m x 6m x 4m. The depollution unit is located within this structure. During a site visit on March 20th 2012 the applicant advised that the structure would remain as described above and would not be altered to match the description in the application documents.

4. Erection of a new 5m wall within the site.

This wall would be located adjacent to the iron storage area, projecting into the site from the northern boundary. The wall will be a maximum of 5m tall and would enclose an area described on the submitted plans as a 'processed metal enclosure.' This appears to be the area in which baled or sheared metal from the press/baler would be discharged from the proposed machine.

It should be noted that this is not the 5m high 'sleeper' wall that is already on the site that sits adjacent to the depollution unit.

In addition Members should be aware that there are aspects of the development on the site which do not accord with the original permission and, despite requests to the agent, the submitted plan has not been updated to include these unauthorised works. This matter is addressed later in the report.

## **Location**

The site is 0.24 ha in size and is located close to the northern boundary of the Borough with the London Borough of Lewisham. It is situated within the Lower Sydenham (Kangley Bridge Road) Industrial Estate and is close to the northern boundary of the estate.

To the north of the application site, separated by an access road, are a ready mix cement operator, a scaffolding yard and a building divided into small business units, known as The Bronze Works.

To the west are 2 light industrial units operating respectively, as janitorial and plumbing distribution use, with trade counters. To the east are 3 light industrial units, two of which are distribution uses with one unit vacant. To the immediate south is a small office/storage unit and further south is the Orchard Business Centre comprising 11 small business uses.

### **Comments from Local Residents**

Nearby properties were notified. Representations were received from Unit 1, Kangley Bridge Road and Units 1 and 2 Burnham Way which can be summarised as follows:

- contrary to the agents assertions the site has not been operating satisfactorily in terms of noise, dragging of containers, cropping and baling, using the grab for compressing. This results in noise and vibration in excess of permitted limits that clearly do not comply with the original permission.
- there have been numerous objections directly to the Environment Agency setting out complaints by neighbouring businesses.
- there has been no commitment from the operator to comply with any granted permission and no regard shown to neighbouring businesses or the local environment.
- disturbance is sometimes intolerable with buildings shaking when they are crushing vehicles.
- loading and handling of materials, increased use of the grabber and increased throughput of metals resulting from the press/baler will increase noise and nuisance.
- breaches and nuisance have been witnessed by Council officers and officers from the Environment Agency (EA).

A further detailed objection has been submitted by the occupant of Unit 2 which provides more detail of the nature and frequency of noise and vibration from the operation of the existing use and the impact that this has had on his employees.

In addition 300 complaints from one nearby occupant have been lodged with the EA, copied to Council officers, setting out details of when disturbances occurred from June 2011 mid July 2012. Similarly the EA have received over 100 complaints from the occupant of another neighbouring property.

### **Comments from Consultees**

The Council's Environmental Health Officer raises objections to the introduction of the press/baler machine to the site and their reasons are summarised below in the Conclusions section of the report.

The Environment Agency states that 'it is our view that the principle source of current noise complaints relates to the operation of the large grab at the site. It is considered, therefore that the provision of a compactor will not reduce the noise levels associated with the overall activity. Environment Agency monitoring of the site leads us to consider that the noise from operations was excessive such as to create a nuisance. We have commissioned a noise report to monitor noise levels

that is in draft format at the moment, which we can provide once it has been signed off. We observe that the use of the compactor will require a change to the management system of the permitted activities on the site.'

## **Planning Considerations**

The application falls to be determined in accordance with the following Unitary Development Plan policies:

BE1 Design of New Development  
EMP4 Business Areas

In strategic terms the most relevant London Plan policies are:

Policy 7.15 – Reducing Noise and enhancing soundscapes

Mayor's Ambient Noise Strategy

In national terms National Planning Policy Framework policies apply, including paragraphs 17, 57, 109 and 123

## **Planning History**

The site has been the subject of numerous previous relevant applications

1. Permission was refused for the use of site for reception/ sorting/ transfer of scrap metals including vehicle breaking on May 6th 2009 and a subsequent appeal dismissed (ref 08/03542).
2. Planning permission was granted for Change of use from sign manufacturers premises including stove enamelling (use classes B2 and B6) to use of the site for the reception sorting and transfer of scrap metals, including depollution of motor vehicles by means of draining of fluids and removal of tyres together with the erection of two acoustic screens, installation of weigh bridge and boundary wall RETROSPECTIVE APPLICATION on October 26th 2010. (ref 10/00289).
3. Planning permission is currently sought for a Variation of Condition 23 of permission ref. 10/00289 granted for reception, sorting and transfer of scrap metal to increase noise limit for activities at the site from 60 to 65 db Laeq (60 min) |(ref 12/00259). The application is pending and appears elsewhere on this agenda.

For information it should be noted that the Council has instigated proceedings against the failure of the applicant to comply with a breach of condition notice relating to

- 1) Condition 14: "The open storage of any materials and skips on the site shall not exceed 5 metres in height from ground level at any time."
- 2) Condition 21: "The containers used for storage of materials recycled on site shall not be moved around the site by means of dragging at any time"

- 3) Condition 22: "The mobile 'grab' machine shown on the approved plan shall not be used for compressing material on the site at any time in a way that exceeds the noise limits set in Condition 23 below"
- 4) Condition 23: "Noise levels resulting from activities on the site shall not exceed 60dB Laeq (60 min) at any time when measured one metre from the façade at sill height of the first floor windows in the eastern elevation of Unit 2 Burnham Way"

In addition formal action has been instigated under environmental health legislation for statutory nuisance. Both actions are held in abeyance pending the outcome of this application and application 12/00259 which appears elsewhere on this agenda

## **Conclusions**

The main issues to be considered are the impact of the introduction of the press/baler on the amenities of adjoining neighbours, the acceptability of the proposed depollution shed and the depollution unit and the proposed additional internal wall.

### **1. Impact of press/baler machine**

In summary the applicant advises that the proposed machine will have the effect of reducing noise levels on site by:

- reducing the need to use the mobile grab to crush metals that have been loaded on to vehicles for despatch, and
- that the operation of the crusher does not breach conditions relating to noise emissions from operations on the site.

It should be noted that condition 22 of the original planning permission (ref 10/00289) states that ' The mobile 'grab' machine shown on the approved plan shall not be used for compressing material on the site at any time in a way that exceeds the noise limits set out in Condition 23.'

The Councils Environmental Health Officer has assessed the application and his comments are summarised below.

- The noise data collected by the agent is broadly consistent with that collected by the Council during a site visit to a similar machine in Hertfordshire. However there are concerns about the conclusions resulting from the data.
- The use of sound power levels to predict sound pressure levels is flawed due to the limited timespan of data collection, the limited collection of data from different locations around the machine and the limited distance of data collection provides limited information about the impact of the machine at greater distances.

- The clang from the 'flap' closing is not assessed in the applicants report and could lead to frequent loud disturbances even with noise prevention measures.
- The baler introduces additional handling steps over and above the current processes which are likely to have a significant detrimental effect on measured noise levels.
- The noise report focuses on the narrow area of the operation of the baler itself.
- Possible increased volumes of material throughput will extend the time of operation of the material handling processes and the impact of this has not been addressed by the noise report.
- Assumptions that the baler will be operating 25% of the time have not been substantiated.
- Assumptions that the unauthorised barriers will attenuate noise by 10dB have not been substantiated.
- Noise collection was very limited due to site constraints, limited time for data collection and lack of material available to demonstrate the operation of the machine.

Policy 7.15 of the London Plan and the Mayors Ambient Noise Strategy 2004 sets out guidance for reducing noise and enhancing soundscapes. These policies consider how to reduce industrial noise at source through the use of mitigating measures such as quieter processes and equipment, plant enclosure and screening, operation and management and spatial planning and design of the site.

This is supported by Policy BE1 of the UDP which seeks to secure proposals that do not have a detrimental impact on neighbouring properties in terms of noise and disturbance.

It is recognised that the applicant has tried to reduce the impact of his operations on neighbouring properties through the erection of physical structures on the site. However it should be noted that none of these measures have been approved either in accordance with conditions relating to the original permission nor has the applicant included them in this current application for assessment.

In summary it is considered that the proposed machine is not acceptable because:

- without an acceptable assessment of the impact that the operation of the machine will improve the amenities of nearby properties it is not desirable to introduce the machine on to the site for the reasons set out above, and
- the considerable volume of objections from neighbours and the concerns of the Environment Agency indicate that operation of the site continues to have an adverse impact on nearby premises which may either continue or be exacerbated by the proposed machine.

## 2. Acceptability of current depollution shed and depollution unit.

The proposed depollution shed shown on the submitted drawings and described in the application is considered to be an appropriate design for housing the depollution unit. However the structure that is in place at the time this report is

written is unsightly and detracts significantly from the appearance of the site. The applicant has indicated that the current structure will be retained on the site and for the reasons given above, it is considered unacceptable.

It should be noted that Condition 11 of permission 10/00289 requires 'The unit approved for depollution of motor vehicles shall be located within a building on the site and permanently retained within the building at all times. It is considered that the structure on the site does not constitute a building due to the nature of its construction. Therefore, the current use of the depollution unit constitutes a breach of this condition.

At the time of writing this report confirmation that the depollution unit that is currently operating on site is the same as that shown in the application details and Members will be verbally updated at Committee. It should be noted that Condition 13 of permission 10/00289 requires that 'There shall be no use of air compression tools, other than a suction pump associated with the depollution unit, prior to the approval of the Local Planning Authority' and this condition continues to apply.

### 3. Acceptability of proposed internal wall

The proposed wall will enclose the metal material that will be discharged from the proposed press/baler. It may be considered, in principle, that a wall of this nature for this purpose is not unacceptable. However there are no details of the attenuation qualities of the proposed wall and therefore the need for it. In addition, in view of the concerns regarding the acceptability of this machine it is not considered appropriate to support this element of the application.

Members should note that the following works have been carried out on the site but are not authorised. The agent has been asked to include these in the application for consideration but this has not been carried out to date.

- extensions to the boundary wall around the shed for non ferrous metals,
- the boundary wall adjacent to Unit 2 Burnham Way exceeds the permitted height of 4-5 metres, I note that plan LRC/08/0138 Rev G that was submitted with application 11/00482 shows the western boundary wall as 6m high but permission was not granted for this height. This boundary structure also has an overhang on both sides which is not shown on the plans either for this application or the application to discharge condition 2 of 10/00289.
- changes to the way that the site is laid out do not match the submitted drawing – for example the lorry parking area on the western boundary is used for storing vehicles prior to depollution and the lorry loading bay is used for storing metal and vehicles after depollution.
- the sleeper wall next to the depollution shed does not extend all the way back to the boundary,
- the gas bottle storage area is not shown on any submitted or approved plans,
- a new quietstone cladding is being erected on the boundary south of the portacabin and is not shown on any approved plans.



If Members are minded to refuse the application a separate report relating to relevant enforcement action will be submitted for consideration.

Having regard to the above it is considered that the proposed press/baler, the additional wall and the depollution shed are all considered to be unacceptable and, as such it is recommended that each of the elements is refused.

Background papers referred to during the production of this report comprise all correspondence on file ref. 11/00482, excluding exempt information.

as amended by documents received on 18.06.2012 07.07.2012

### **RECOMMENDATION: PERMISSION BE REFUSED**

The reasons for refusal are:

- 1 In the absence of an acceptable assessment of the impact of the proposed press/ baler machine on the amenities of the users of nearby properties, the proposed machine is considered unacceptable and contrary to Policy BE1 of the Unitary Development Plan and Policy 7.15 of the London Plan 2011.
- 2 The retention of the depollution shed is unacceptable, by reason of its poor design and appearance and lack of compliance with Condition 12 of permission 10/00289, contrary to Policy BE1 of the Unitary Development Plan and Policy 7.15 of the London Plan 2011.
- 3 The proposed additional wall is associated with the operation of the proposed press/baler and in light of the recommendation refusal 01 it is considered that the proposed wall is unnecessary and would add additional unnecessary development to the site, contrary to Policy BE1 of the Unitary Development Plan.

**Application:**11/00482/FULL1

**Address:** Site Formerly Burnham Signs Ltd Burnham Way Lower Sydenham London SE26 5AG

**Proposal:** Detached building to house Vehicle Depollution Unit and new 5m walls within the site, adjacent to revised iron storage area. Variation of conditions 10 and 20 of permission ref. 10/00289 granted for reception, sorting and transfer of scrap metal, for alterations to the Working

