1. Reponse to LBB's Statement of Case Comments on Noise

Table A1.1 presents a response to LBB's Statement of Case regarding noise.

Table A1. 1 Response To LBB's Statement of Case

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7.8	As a preliminary point it should be noted that there is a distinction between statutory noise nuisance under the Environmental Protection Act 1990 (EPA 1990), Section 79, and noise levels considered in planning for the protection of amenity is important in environmental health and planning contexts.	Table 3.2 Noise Assessment Criteria of the Noise Assessment report clearly assesses residential amenity with consideration of the 'effect levels'. [NOEL – no observed effect level; LOAEL – lowest observed adverse effect level; SOAEL – significant observed adverse effect level]. This reflects guidance within National Planning Practice Guidance (web-based advice on NPPF) and NPSE.
7.9	Under the Environmental Protection Act 1990, Section 79, noise becomes a statutory nuisance if it, unreasonably and substantially interferes with the use and enjoyment of a home or other premises or is injurious or likely to be injurious to health. There is no fixed decibel limit as assessment is based on professional judgement considering time, duration, frequency and character of the noise.	When assessing whether noise from a B8 usage is a statutory nuisance the same assessment method is used as would be used to assess the potential impact on residential amenity, namely BS4142 which is the industry standard for the assessment of industrial / commercial noise.
7.10	In the planning system, noise is assessed differently. The focus is on preventing adverse impacts on health and quality of life through the National Planning Policy Framework (NPPF) and associated guidance (e.g. Noise Policy Statement for England – NPSE). It differs from noise nuisance investigation and action as the planning process guides development to avoid unacceptable noise impacts, it is objective, rather than subjective, relying on noise metrics for assessment and it uses indicatives levels defined in guidance to assess impacts.	Neither the NPPF nor the NPSE specify specific decibel levels as being acceptable. BS4142 also does not specify specific decibel levels as being acceptable. BS4142 provides the industry standard method for assessing industrial/commercial noise and in the first instance is based on the level difference between the prevailing background sound level in the absence of the specific sound source and the 'rating level', which is the specific sound level adjusted for it's acoustic character. There is a subjective method in BS4142 for this adjustment. Importantly 'context' also needs to be taken into account when assessing the potential adverse impact. The conclusions are therefore not wholly prescriptive and reliant on professional judgement.
7.11	This is a Site which gives rise to loud and unpredictable noises when metal hits metal. While the operatives may attempt as far as is possible to undertake their tasks quietly, some level of disturbance is inevitable due to the nature of the use and the processes associated with manoeuvring the equipment around the site and on/off the lorries. Whilst it is understood that electric forklifts are used there is also manual handling the intermittent nature of the noise/disturbance that results from this alongside the hours of operation of use, including the early hours of the morning and weekends, is considered highly likely to give rise to an unacceptable impact on residential amenity. Residents have complained about the site being used outside of the indicated hours of operation. The Council's case is that the proposed development has had and continues to have a detrimental impact on residential amenity	The statement of '*loud and unpredictable noises when metal hits metal*' is an unsupported statement. The Noise Assessment report presents the measured noise levels of the various on-site operations together with the measurement distance. This includes metal on metal contact, such as occurs when poles are being hand loaded onto stillages. The statement of *'some level of disturbance is inevitable due to the nature of the use and processes associated with manoeuvring the equipment around the site and on/off lorries'*. Again, this is an unsupported statement. As already stated, the report presents the measured noise levels of the various operations. It should be noted that it is not possible to take a noise measurement at the receptor location and apportion it all to B8 usage, due to the contribution from train noise, road traffic noise and pertinently noise from Churchfields Reuse & Recycling centre immediately north of the B8 usage. The measured noise levels of electric forklift (FLT) by-pass (59dB(A) at 4m) and during loading of poles (53

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		to 56dB(A) at 6m) are not considered to be loud, in particular when account is taken of the separation distance between Clock House Road gardens and the main working area (~100m). Further to this yard operations are only undertaken during the daytime period only (08:00-18:30) Monday-Friday. This is no different to the recycling centre which operates to the north of the Appeal Site between 07:00-17:30 Monday-Friday. The statement '*detrimental impact on residential amenity*' is unsupported.
7.12	The Appeal has been supported by an Acoustic Report from Waterman dated 31st March 2025. The conclusion reached in the Acoustic Report, that the noise from the operational activity for the 4 operational periods is only going to give rise to, at worse, a small adverse impact, to neighbouring premises at Clock House Road and Churchfields Road, is not supported by the Council.	There is no reason stated why the Council does not support the conclusions in the Noise Assessment report.
7.13	The Council does not accept that the assumed noise levels accurately predict the impact to surrounding residents. These include noise from the traffic to and from the site, the general noise from within the site, with for example, metal on metal clanging and banging noises associated with the scaffold loading and unloading and the noise from the cutting of metal operations, along with vehicles manoeuvring on-site.	The operational noise levels are not '*assumed'*, they are based on measurements at the Appeal Site of current operations. Whilst on the Appeal Site, although there is metal to metal contact when hand loading poles onto stillages, poles were placed and not dropped or thrown onto the stillages. The 'noisiest' operation was pole cutting, which is only undertaken for a short period within any one hour (5-minutes) a limited number of times in a week on an adhoc basis. The distance of this operation from Clock House Road gardens is approximately 115m. An acoustic curtain has now been fitted to reduce noise emissions from this source. The number of vehicle movements is based on information provided by the Transport Engineer. It should be noted that the operational only has a fleet of 10 LGVs/HGVs as detailed in the Noise Assessment report.
7.14	The BS4142:2014 methodology for assessment has been used by the Appellant's noise consultant to establish the impact of noise on the surrounding residents. An essential part of the BS4142:2014 methodology is to consider the level of uncertainty in the data and associated calculations. It is the view of the Council that the methodology has not been properly considered, and when it is fully taken into account, its application casts doubt on the accuracy of the conclusion reached.	BS4142 uncertainty calculations for each scenario have now been undertaken which provides a ±dB to the calculated levels. These are presented as an appendix to this proof of evidence. All assessments are based on measured noise levels of key operations by a suitably qualified acoustician and not manufacturer's or laboratory test data. The source data is therefore considered reliable. The background sound levels, against which the BS4142 assessments have been undertaken in the absence of the specific sound levels, were conducted during appropriate weather conditions for valid noise measurements (BS7445, BS4142) and are therefore considered reliable. There is a level of uncertainty of the propagation of noise which increases with distance. For example, over a distance of 100m the predicted level is ±3.0dB

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		whereas at 25m it is ±1.2dB, based on the following equation: $\sigma_D = 3*\log10(d)/10)$ in dB .
7.15	In addition to the above, as the site has been in active use for some time, the Council's view of an adverse noise impact is supported by residents who have reported noise disturbances to the Council that has been affecting them from the unauthorised day to day use of the site, including from operations at the Site outside of the Appellant's proposed hours.	BS4142 states that *"not every complaint is proof of an adverse impact"*. It is unclear on what other basis the Council considers there to be an adverse impact. It is not clear what evidence there is to support the claim that the Appellant is working outside of their proposed hours. It is understood that yard operations only take place during daytime operational hours (08:00-18:30 Monday-Friday and 08:00-17:00 Saturday and 08:00-13:00 Sunday).
7.16	Accordingly, the Council's case is also that the Appellant has not demonstrated that the negative impacts can be successfully mitigated or controlled.	Given that the Council "*does not accept that the assumed noise levels accurately predict the impact to surrounding residents*" the assumption is that they would also not accept the effectiveness of proposed noise mitigation measures – acoustic curtain to reduce noise from cutting poles and implementation of a Noise Management Plan.