

PLANNING COMMITTEE MEETING – Tuesday 6th September 2022

LATE REPRESENTATION REPORT

Purpose of report	Officer response to late representation by Avon Metals (received by the local planning authority on 31st August 2022)
Application Number:	22/00239/FUL
Site address:	Land at Bristol Road (former Contract Chemicals site), Podsmead, Gloucester

The objector (Avon Metals) have submitted a late representation raising a number of matters they consider to be failures of the local planning authority. A copy of Avon Metal's full correspondence is attached as Appendix 1.

The matters raised have been address by the LPA as follows:

i. Failing to notify an interested party (Avon Metals)

Following the August committee meeting officers acknowledged the failure to directly notify the objector and the decision was made to take the application back to a subsequent Planning Committee meeting to ensure the objector was given their chance to speak.

The objector was notified of the current committee meeting agenda on 30th August 2022 and has registered to speak against the officer recommendation.

ii. Failing to publish the committee report

The committee report was published and was publicly available on the council's website at <https://www.gloucester.gov.uk/about-the-council/committees-and-meetings/meetings-minutes-and-agendas/>

iii. Failing to report Avon Metals' representations fully and fairly

Officers summarised the representations made by Avon Metals in relation to this planning application (it is not due process to report representations in full).

Officers were in receipt of Avon Metals representations when undertaking assessment of the relevant aspects of the proposed development and sought advice from the Noise Consultant at Worcestershire Regulatory Services (WRS), who considered Avon Metals representations against the applicant's own submissions. The technical advice of WRS has been considered by officers against the relevant planning policies and it has been concluded that planning permission should be granted as the development complies with the relevant technical guidance and planning policies. Avon Metals representations do not provide any compelling evidence to the contrary.

iv. Misleading councillors

Councillors were not misled.

The applicant's noise assessment included assessment of noise generated by Avon Metals over a 24hr period, including monitoring of noise within the most exposed area of the application site. The assessment considered all noise associated with Avon Metals (and other industrial sources) included and verified based on site-specific noise measurements

undertaken near to Avon Metals site and surrounding units. These assessments have been included within the verified noise models as continuous area sources, point sources, vertical area sources and line sources. WRS has reviewed the applicant's noise survey and subsequent additional information submitted and is satisfied that it represents an accurate view of the noise environment within and surrounding the application site. The historic (and more recent) representations made by Avon Metals have not changed WRS' consideration of the applicant's noise survey or proposed noise mitigation measures.

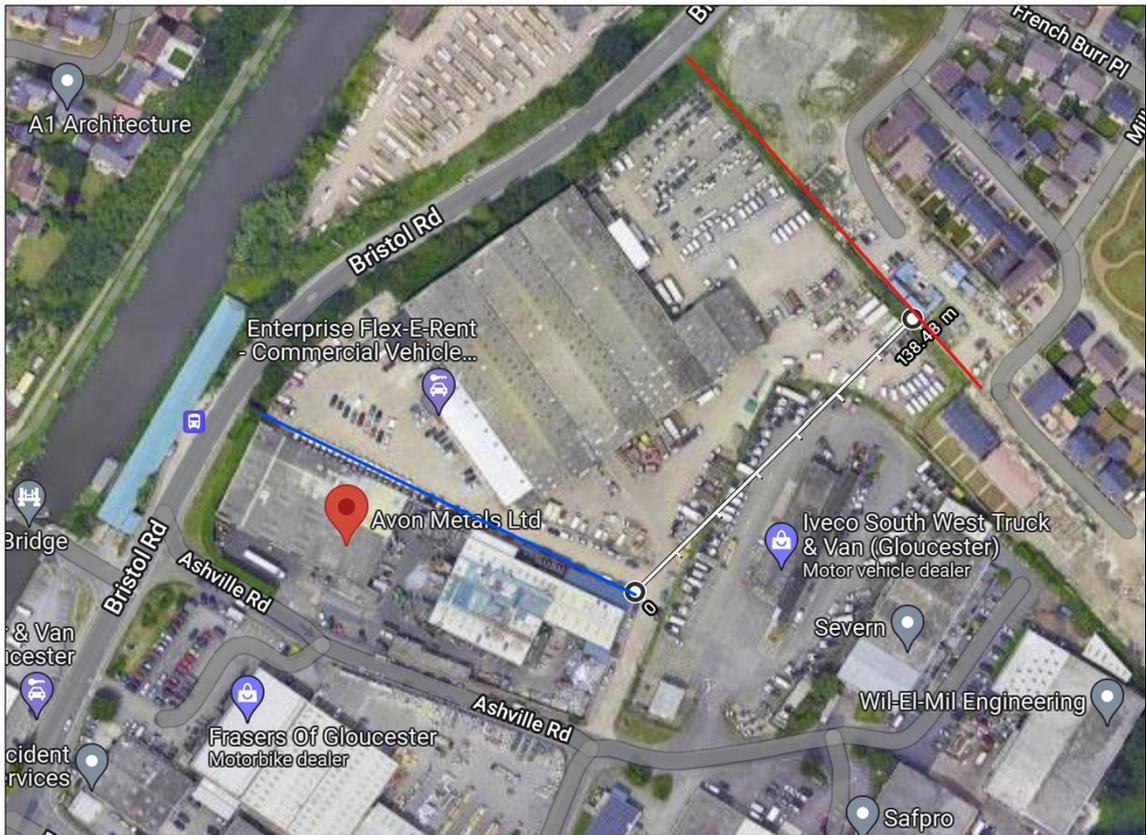
v. Grossly misleading the committee concerning historic nuisance complaints

Paragraphs 6.36 and 6.44 did state that 'no complaints' had been received. What should have been reported is that no 'recent complaints' (within the last 5 years) have been received. Avon Metal's assertion that complaints ceased after 2016 is correct.

Officers have re-confirmed with WRS that no noise complaints at all have been received since 2016 (following Avon Metals implementation of a scheme of noise mitigation). (see also response to point ix below).

vi. Misleading councillors about the distance between the application site and Avon Metals premises

The boundaries of each site are not parallel. Distances between the Avon metals site and application site range between 200 metres (north-westernmost boundaries) and approximately 140 metres (south-easternmost boundaries). The distance reported within committee report paragraphs 6.31 and 6.35 is a mean distance. The distance report later in paragraph 6.62 relates to the area of the application site potentially most exposed to noise from Avon Metals (see below aerial image – application boundary in red & Avon Metals boundary in blue).



vii. Failing to address the methodological weaknesses, missing evidence, and outdatedness of the applicant’s noise reports

Avon Metal’s views on the applicant’s noise assessment have been reviewed by (and discussed with) the LPA’s Noise Consultant at WRS on several occasions (they have also been considered by the applicant’s Noise Consultant).

WRS remain of the opinion that the applicant has presented an accurate view of the noise environment within and surrounding the site (that has gone on to inform the layout of the scheme and noise mitigation details).

viii. Misleading the committee about the suitability of the applicant’s offered mitigation measures

See above with regards to the LPA’s technical advice received.

The mitigation measures proposed (the site layout and proposal for whole-house mechanical ventilation and acoustic glazing for certain, more noise sensitive, plots) are considered to be standard, proven technical solutions and there is no doubt that full technical details would be unable to be agreed at condition discharge stage. The planning condition recommended within the officer report (condition 9) is considered to offer sufficient protection to future occupiers of the site.

There are existing site boundary enclosures that would offer some screening from noise generated by the adjacent industrial estate. This has been factored into the applicant’s noise assessment that includes expected noise levels for both internal and external areas. It is the view of WRS that the stated levels are acceptable (subject to securing a scheme of noise

mitigation for the internal spaces of each plot). Information packs could be provided to future owners/occupiers of the new dwellings but, this is not considered to be a reasonable or necessary requirement in planning terms (for this site) so would not be required by any conditions of the permission.

The various representations submitted by Avon Metals offer no compelling evidence to the contrary.

ix. Misrepresenting and misunderstanding the 'agent of change' policy requirements and associated Guidance

Due consideration has been given to the 'agent of change' policy requirements and associated guidance (paragraph 187 of the National Planning Policy Framework and associated Planning Practice Guidance).

Based on the evidence available to the local planning authority (including the views of the LPA's Noise Consultant, applicant's noise assessment and Avon Metals representations) it is considered that future occupiers of the development would not be exposed to 'significant adverse effects' as a result of the site location. As such, no 'unreasonable restrictions' would be placed on the operations of Avon Metals (or any of the other adjacent land uses) as a result of a grant of planning permission.

Since 2016 (when the last known noise complaint was made) there have been no new noise complaints with regards to the operations at Avon Metals (or any other industrial units within the Ashville Estate) despite the completion of a high number of new dwellings in close proximity to the industrial estate (the wider Matthew Homes site known as Eden Park that surrounds the application site to the east and south). It is also of note that the majority of noise complaints made between 2009 and 2016 were from adjacent businesses and residents of The Anchorage (a residential site approximately 90 metres from Avon Metals to the north).

The officer's planning judgement is that no conflict with the aims of this policy would arise.

x. Failing to follow Government Guidance

As above, government guidance on noise matters in relation to planning assessments and the 'agent of change' principle has been reviewed in line with the submitted details and representations and the recommendation that planning permission should be granted in this instance is considered to be robust and in compliance with the Planning Practice Guidance, the relevant policies of the development plan (and emerging Gloucester City Plan).

Final comments

Officers have not failed to take into account the representations made by Avon Metals. The planning application has been assessed correctly against the relevant national and local planning policies and guidance, taking into consideration the views of the LPA's technical consultee on matters relating to noise. No compelling evidence has been found that would suggest a refusal of the planning application on noise grounds was justified.

It is not considered by officers that matters relating to noise are different to the situation as presented at the August 2nd Planning Committee meeting. Officers have decided to re-present the application to members to allow the objector (Avon Metals) the chance to speak against the officer recommendation. However, based on Avon Metals written representations officers do not consider they have a compelling case to argue against the officer recommendation.

It is also noted to members that matters relating to noise are only one aspect of the wider planning assessment. The application should be considered on its merits and it is not considered (by officers) that there are any matters that outweigh the merits of the proposed development in this case.

The officer recommendation remains that planning permission should be granted. Subject to the conditions detailed within Section 7 of the officer report.