Planning Inspectorate

Appeal Decision

Inquiry held on 20 – 22 May 2026

Site visit made on 19 May 2026

by Stephen Normington BSc, DipTP, MRICS, MRTPI, FIHE, FIQ

an Inspector appointed by the Secretary of State

Decision date: 30 September 2026

Appeal Ref APP/EPR/25/695
Recycling Centre, Woodchurch Road, Birchington, Kent CT7 0HL

- The appeal is made under Regulation 31(1)(f) of the Environmental Permitting (England and Wales) Regulations 2016.
- The appeal is made by Reclamet (Holdings) Ltd against a Notice of Revocation of an Environmental Permit issued by the Environment Agency.
- The Notice of Revocation, dated 27 March 2025, relates to Environmental Permit No. EPR/JB35001LT.

Decision

1. The appeal is allowed and I direct that the Notice of Revocation of an Environmental Permit, dated 27 March 2025 for the Recycling Centre, Woodchurch Road, Birchington, Kent CT7 0HL, is quashed.

Applications for costs

2. An application for a full award of costs was made by Reclamet (Holdings) Ltd against the Environment Agency. This application is the subject of a separate Decision.

Background and Main Issue

3. The Revocation Notice provided five matters that were identified by the Environment Agency (EA) as constituting the grounds for the revocation of the Environmental Permit. These can be summarised as:

    - The regulated facility is in breach of permit condition 3.3.1, in that authorised officers have substantiated significant noise pollution from the permitted activities, impacting both residential and commercial receptors outside of the site and that the operator has failed to identify appropriate measures to prevent or minimise the noise.

    - In respect of condition 3.3.2(a), the EA required the submission of a Noise and Vibration Management Plan (NVMP) to identify the risks of pollution from noise and vibration. However, the EA has declined to approve the submitted NVMP as it is considered that the noise levels are such that there appear to be no appropriate measures which would be sufficient to either prevent or minimise the noise and vibration to an acceptable level.

    - A permit variation to remove the “noisy” activities has been considered but based on the clear severity of the pollution, this option is not considered suitable due to the uncertainty of how long this may take and how much this

would reduce the noise levels by. The site has not proposed the cessation of the noisy activities as a viable option for the operation of the site under the current permit.

- The EA uses a "Common Incident Classification System" (CICS) to qualify the scale of all pollution ranging from 'no Impact' (CICS4), 'minor' (CICS3), 'significant'(CICS2) and 'major' (CICS1). The level of noise pollution arising from the site is considered to be a major CICS1 pollution, causing both a serious and widespread effect on human senses and causing a major adverse effect on recreation activity. Therefore, the EA considers that revocation of the permit is the only option available in order to fulfil the Noise Policy Statement for England (NPSE) to avoid significant adverse impacts on health and quality of life.

- It is the EA's view that the noise impacts cannot be mitigated to an acceptable level to avoid the risk of serious pollution.

4. Through the Environmental Permitting Regulations 2016 (the EPR), the EA authorises the operation of most waste sites to ensure that waste management is carried out in a consistent and controlled way by competent operators. The EPR and associated guidance[1] seeks to avoid pollution, defined as any emission as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to human senses, damage material property or impair or interfere with amenities or other legitimate use of the environment[2].

5. The EPR and associated guidance[3] sets out a range of enforcement approaches to ensure compliance and avoidance of pollution. As set out in the Core Guidance, the regulator may also consider revocation if it has serious concerns about the ability of the operations to be undertaken in accordance with the permit. Any decisions on sanctions should accord with the Core Guidance and the enforcement and sanction policy as well as the EA's duty under the Regulators Code[4].

6. In this context, the main issue in this appeal is whether the Revocation Notice is necessary and proportionate to address the requirements of the EPR and prevent harm to the environment or human health with particular regard to whether the activities at the appeal site are causing serious noise pollution.

Site, History and Surroundings

7. The appeal site has been associated with the management of scrap for over 65 years since the 1960s. The current business was founded at the site in about 1990 but prior to this was operated as a scrapyard. The site has had the benefit of a waste management licence since at least 2003 and the current permit was issued in January 2008.

8. The Appellant bought the site in 2020 and the permit was accordingly transferred to Reclamet, following a formal application to the EA on 21 July 2020. The permit authorises the acceptance of 75,000 tonnes of waste each year. However, the annual throughput at the site is well below the threshold which is authorised.

[1] Environmental Permitting Core Guidance – Defra – March 2020
Legal Operator and Competence Requirements
[2] Environmental Permitting (England and Wales) Regulations 2016 – Interpretation: General
[3] Environment Agency enforcement and sanctions policy
[4] Regulators Code - https://www.gov.uk/government/publications/regulators-code

9. As well as providing a service to the local community and customers that bring their metal recycling and scrap to the site on a daily basis when open, the site is used for the receipt of metal from three of Kent County Council's household waste sites and for abandoned vehicles recovered by the County Council.

10. The site is a safeguarded site under the adopted Kent Minerals and Waste Local Plan. Thus, I accept that it is an active facility which is recognised as being part of the strategic solution to the sustainable management of Kent's waste.

11. Generally, the land uses immediately surrounding the site can be categorised as either agricultural, commercial equestrian or residential. Agricultural land is located to the west and south-east of the site. To the north of the site are residential properties comprising 'Hillside', 'The Barn' and 'Hill House'. Within the wider area is the Manston Immigration Centre and the former Manston International Airport from which two helicopter companies operate.

12. The Nelson Park Riding Centre is located to the immediate north-east of the site and incorporates a residential dwelling known as 'Foxwood'. The use of the appeal site as a recycling facility predated the use of the adjacent site as a riding centre.

Reasons

Background to Enforcement Action

13. Noise emitted from the appeal site is primarily a concern for the Nelson Park Riding Centre and the occupiers of Foxwood. These properties are sited at a slightly higher level above the appeal site with the curtilage of the riding complex adjoining that of the site. There is no evidence to suggest that any other nearby properties have raised any complaints either to the EA or Thanet District Council.

14. Since approximately 2020, Thanet District Council had been investigating noise complaints from the Nelson Park Riding Centre to determine whether operations on the appeal site were causing a statutory noise nuisance[5]. In early 2022, the Council concluded that noise from the site did not constitute a statutory nuisance. There is no evidence to suggest that the Council has subsequently changed its view to the extent that the noise emitted from the appeal site may constitute a statutory nuisance nor is there any evidence to suggest that investigations by the Council with regard to noise are ongoing.

15. A series of compliance inspections/assessments of the waste management operations undertaken at the appeal site on 9 May 2022 and 26 October 2022 together with an assessment report issued on 23 November 2023[6] all identified that noise from the site was subjectively assessed by officers of the EA as having a score of CICS3, i.e., a minor environmental effect.

16. Following a request by the EA, the Appellant provided a Noise and Vibration Management Plan in August 2022. However, the EA provided advice and guidance to the Appellant in a Compliance Assessment Report (CAR) form issued on 16 September 2022[7] which requested the submission of a second NVMP to include a full Noise Impact Assessment (NIA) completed to the standards defined

[5] Under s.79(1)(g) Environmental Protection Act 1990 a "statutory nuisance" includes "noise emitted from premises so as to be prejudicial to health or a nuisance".
[6] Compliance Assessment Reports, Core Documents Bundle 1, pages 1310, 1318 and 1321
[7] Core Documents Bundle 2, pages 1314 - 1317

by BS4142. The NIA and updated NVMP were finally submitted on 3 May 2023 by Anderson Acoustics[8]. However, it is clear that the EA sought to ascertain progress on the production of the NIA during the intervening period.

17. The NIA identified that "overall, therefore, given the long-established use of the site, and with specific sound levels typically below the BS8233 lower threshold for external amenity, and not dissimilar to the residual conditions, it is considered that the controlled operation of the site would not result in a significant adverse noise impact"[9].

18. The EA reviewed the Noise Impact Assessment and responded to the Appellant in a letter dated 22 June 2023[10]. This advised that the report concludes that the site sound levels (under typical conditions) are in an exceedance of around 13 to 15dB in comparison with background conditions (if the site didn't exist). It further advised that the majority of the sound is generated in the area of the site where the loose metals are delivered, handled, processed and loaded for removal offsite. Whilst it recognised that the site has adopted appropriate measures to minimise sound emissions, further mitigation options are considered to be limited and that the noise pollution is impacting both residential and commercial receptors to the north/northeast of the site.

19. The EA found that noise arising from activities at the site is at an unacceptable level of audible or detectable noise at the receptors identified and equates to a CICS category 2 incident. Operation of the facility was considered likely to give rise to further unacceptable levels of noise pollution. The increase from CICS3 to CICS2 was identified in the Inquiry as being solely as a consequence of the content of the Anderson Acoustics report. However, there was no evidence to identify in detail what particular aspects of the report gave rise to the increase to CICS2 set against a conclusion that, having regard to context, there was no significant environmental effect.

20. Following further complaints from the Nelson Park Riding Centre, an officer from the EA visited the Riding Centre again on 10 July 2023 and substantiated noise from the Appellant's site, including the revving and humming of the plant machinery, as well as crashes and banging of metal. At times the noise was considered to be at a level that interfered with communication. A CAR form[11] was issued to the Appellant recording a breach of condition 3.3.1 based on the substantiation of noise off site. The CAR form requested whether the Appellant considered that all appropriate measures had been used to mitigate noise or whether the site intended to implement anything further. However, I have no evidence to suggest that there were any on-site discussions with the Appellant following the issuing of this CAR form.

21. There was some dispute in the Inquiry whether the EA had been prevented from accessing the appeal site which was strongly denied by the Appellant. Furthermore, I have no evidence to suggest that the EA's acoustic witness visited the appeal site and undertook any discussions with the Appellant.

22. The EA's first noise monitoring was undertaken on 9 August 2023, the methodology and results of which are considered later in this Decision. However,

[8] Core Documents Bundle 1, page143
[9] Core Documents Bundle 1, page187
[10] Core Documents Bundle 1, page1390
[11] Core Documents Bundle 1, page1337 -133990

there is a degree of strong criticism by the Appellant that the monitoring was undertaken for only 42 minutes and therefore is unlikely to have considered variability in the sound levels from the site. Following the subsequent noise assessment report, revocation of the permit was recommended[12]. However, the Appellant contends that suggested noise mitigation options were not considered by the EA.

23. The Appellant contends that the actions of the EA had not followed the provisions of the Regulators' Code. In particular, that the EA did not choose a proportionate approach based on relevant factors, for example business size, and that Regulators should provide an opportunity for dialogue, advice and guidance with a view to ensuring that they are acting in a way that is proportionate and consistent.

24. A letter was sent on behalf of the Appellant to the EA on 14 August 2023 stating that potential solutions to the alleged noise non-compliance were being considered and a round table meeting with officers of the EA was requested[13]. The Appellant contends that no response was forthcoming from the EA.

25. The EA did respond on 24 August 2023[14] advising that a report relating to noise monitoring was being prepared and that consideration would be given as to whether a round table meeting would be appropriate. There is no evidence to suggest that the EA responded further to the content of the 24 August letter but instead issued a "minded to revoke" letter on 12 September 2023[15].

26. A further letter was sent to the EA on behalf of the Appellant on 27 September 2023 which again requested a meeting to discuss noise mitigation measures[16]. The EA suggests that the "minded to revoke" letter gave the Appellant the opportunity to engage in further dialogue and that the noise measures entailing "the erection of a bank or wall around the perimeter of the site" may require planning permission for which there was no evidence of a planning application submission or that pre-application advice had been sought.

27. A meeting was eventually held on 13 October 2023. However, the report of the EA's noise monitoring was not forwarded to the Appellant in advance of the meeting but a redacted version was handed out on the day. Consequently, the Appellant contends that there was no opportunity to consider the redacted report and that there was no opportunity for meaningful and informed dialogue.

28. The EA also undertook further noise monitoring at the façade of Foxwood between 24 April 2024 and 9 May 2024. Subsequently, a number of reports from Sharps Acoustics (Mr Bently), the Appellant's noise witness in the Inquiry, were sent to the EA[17] including a noise assessment. Amongst other matters, the noise assessment set out options to mitigate noise. These included rearranging and increasing the length of the car racks that run alongside the northern boundary and attaching two new solid screens to these to form an effective double barrier and potentially fully enclosing the majority of the noisy part of the site in a large building.

29. In this regard, I have taken into account the views of the Appellant's planning witness in stating that the provision of the car racks is permitted development that

[12] Core Documents Bundle 1, page 291
[13] Core Documents Bundle 1, page 1398
[14] Core Documents Bundle 1, page 1401
[15] Core Documents Bundle 1, page 1402
[16] Core Documents Bundle 1, page 1404
[17] Core Documents Bundle 1, page 1414

does not require a specific planning application. Whilst there may be on-going discussions with Thanet District Council, I have no contrary evidence to suggest that the views of the planning witness may be incorrect.

30. The EA responded to the above options in a letter dated 21 January 2025[18] which noted that neither the efficiency nor the cost-benefit analysis of the proposed 6m barrier had been presented. However, the Appellant contends that there was no meaningful engagement by the EA when the options were again outlined in the noise assessment dated 6 October 2025.

31. On 4 February 2025, the EA's Enforcement Governance Group (the Group), who are understood to determine whether there should be revocation, considered the operations at the site. The Group made a decision to revoke the permit on the basis that, amongst other things, removing noisy activities would restrict operations to an extent that would make the operation unviable; there had been no engagement from the permit holder over the potential cessation of noisy activities; and, the use of a 6m noise barrier, reconsidering working times and moving noisy plant would unlikely reduce noise to an acceptable level[19]. The Notice of Revocation was issued following the meeting of the Group.

32. I am satisfied that the evidence provided in the Inquiry demonstrates that there was a considerable degree of reluctance by the EA to enter into meaningful discussions with the Appellant prior to the service of the Notice of Revocation. It is clear that the EA concluded that there were no options to reduce noise to an acceptable level with little engagement with the Appellant despite repeated requests. It appears that potential noise mitigation options of cladding the car racks and enclosing some noisy operations within a building were not properly considered but seemingly dismissed outright.

33. Notwithstanding my consideration of the noise issues set out later in this decision, in my view, the actions of the EA in failing to meaningfully engage with the Appellant prior to the decision to revoke were contrary to the spirit of the Regulator's Code. This clearly sets out, amongst other things, that Regulator's should carry out their activities in a way that supports those they regulate to comply and grow; provide simple and straightforward ways to engage with those they regulate and hear their views; base their regulatory activities on risk; share information about compliance and risk; and, ensure that their approach to their regulatory activities is transparent.

34. I consider that the spirit of the Regulator's Code suggests that an exchange of formal correspondence, which appears to be the predominant means of communication in this case, does not constitute a mechanism to provide an opportunity to engage in a straightforward manner and share information about compliance and risk. The evidence provided in this appeal leads me to conclude that the EA did not appropriately follow the provisions of the Regulator's Code and seemingly made a decision to revoke the permit with little prior and meaningful discussion with the Appellant.

[18] Core Documents Bundle 1, page 1424
[19] Proof of Evidence of Ruth Standfast – paragraph 3.40

Noise

35. A Statement of Common Ground relating to noise matters dated 13 November 2025 was provided (SoCG Noise). This identifies that the agreed primary sensitive receptors are Nelson Park Riding School, Foxwood, Hillside and The Barn, and that any noise impact at other sensitive receptors is likely to be lower. It further sets out that it is agreed that the daytime background sound level to 100m to the north of Foxwood averages around 35dB, L_{A90} and that the daytime background sound level 40m to the west of Foxwood (in the garden behind 'The Barn') averages around 36dB, L_{A90}.

36. It is also agreed that in the absence of the car racks positioned in proximity of the boundary between the appeal site and the riding centre, noise levels at the façade of Foxwood are around 50dB, $L_{Aeq,1h}$ during typical operations, and around 54dB, $L_{Aeq,1h}$ during busy periods (busy periods comprise 20% of the working time of the operations). To allow these predicted and measured levels to be compared to free-field measurements of the background, it is agreed that these levels are around 49dB(A) at a free-field location in front of Foxwood during typical operations and 52dB(A) during busy periods in the absence of the car racks.

37. The SoCG Noise recognises that the front façade of Foxwood has a lower contextual sensitivity due to it overlooking the riding school and it not having a high amenity value. It is also agreed that a 6.5m double acoustic barrier attached to the car racks could attenuate the specific level by around 3dB at the front of Foxwood.

38. The SoCG Noise also sets out a number of matters in dispute. These include interpretations of the subjective impact of noise and the impact of noise when assessed against the provisions of BS4142. In addition, there is dispute regarding the addition of a penalty or correction to account for sound character. The Appellant considers that impulsive sounds from Reclamet operations attract character corrections which vary dependant on location and on how busy operations and at worst, when busy, there would be a 6dB character correction applicable at the closest receptors and that there should be no correction applied to account for tonality. The EA considers that the impulses from the scrap handling are highly prominent and attract a +9dB feature correction, and that the tones from the grab engines are faint and attract a +2dB feature correction.

39. There is also dispute regarding the background sound levels with the Appellant setting out that the background noise levels present at each receptor considered are between 35dB and 40dB, L_{A90}[20]. The EA considers that the background level measured at the façade of Foxwood averages 37dB(A) and that individual days fall in the range of 34 – 42dB(A). There is also dispute regarding the use of the guidance within the World Health Organisation's "Guidelines for Community Noise" (WHOGCN) which the Appellant considers is pertinent to this case, and the applicability of the guidance provided in the Planning Practice Guidance (PPG).

40. There are subtle differences in the monitoring and calculation of noise impact by both main parties. Criticism has also been made by each of the respective noise advisors of the monitoring and calculation methodology employed by the other main party. In these circumstances, I consider it important to briefly outline the monitoring and calculation methodology undertaken by both main parties before undertaking and evaluation of the critique provided.

[20] Appendix to Mr Bentley's Proof – CFBA: Noise Assessment Report 6 October 2025 – Table 7.3

The Measurement and calculation of noise by the EA

41. The EA set out that it is important to note that the permit condition is of "noise...as perceived by an authorised officer of the Environment Agency". This direct and personal perception of noise can be supplemented by the measurement and assessment of sound, however, the permit does not require (for example) 'sound...as measured by BS 4142' but instead maintains and requires the critical human perception of noise.

42. The EA further contend that the operator has the defence against there being a noise pollution by using appropriate control measures to control that noise pollution. The noise should have been prevented, and if any noise pollution still exists, then it should have been minimised. The use of appropriate control measures should be demonstrated in a noise management plan, but the plan itself is not the defence, rather it is the use of the control measures that should be ratified in that plan.

43. The standard permit condition requires the site to prevent, or where that is not practicable, to minimise noise. The EA contend that there is no simple level below which is acceptable and above which is unacceptable. Rather, there is a sliding scale of pollution severity which must be minimised and justified using appropriate scaled noise control measures. The EA considers that the permit requirement to prevent or minimise noise mirrors the requirement of the Noise Policy Statement for England (NPSE), which aims "where possible, to contribute to the improvement of health and quality of life".

44. The guidance provided in BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' can be used to supplement the perception of noise by an EA Officer. The method subtracts the level of sound when the site is inactive (termed the 'Residual sound level') from the level of sound when the site is active (termed the 'Ambient sound level'). This subtraction leaves the level of sound from the site alone (termed the 'Specific sound level'). Acoustic feature corrections are then applied for components of the sound that cause a particular annoyance, such as tones, impulses and intermittencies. This corrected level (termed the 'Rating level') is then compared to the Background L90 sound level. Depending on the context of the pollution, an overall difference of +5dB or more is an indication of an adverse impact, and an overall difference of +10dB or more is an indication of a significant adverse impact depending on context.

45. The EA sets out that the application of acoustic feature corrections is very important. BS 4142 allows corrections of +3dB for faint impulses, +6dB for clear impulses, or +9dB for impulses that are highly perceptible. These corrections can be applied subjectively, or where a subjective assessment is 'not sufficient'.

46. The EA assert that similar tonal corrections can be applied with corrections of +2dB, +4dB or +6dB, which can also be assessed using objective and reference methods when subjective assessments are considered insufficient (BS 4142 paragraph 9.3.1, 9.3.2 and Annex C and D). Corrections of 3dB can also be made for noise that is intermittent, or for noise that has other acoustic features.

47. The EA's acoustic officer (Mr Tofts) undertook initial noise measurements at the site on 8 August 2023. Such measurements were made at a distance of 80m north of the centre of the site (Foxwood is 100m north of the centre of the site). The subjective, pre-measurement assessment of the officer was that the dominant

noise source was clearly the noise from Reclamet and that site noise was majorly intrusive throughout the measurement. The officer further identified that noise from the site was extreme, and dominant at Foxwood with no other noise sources being audible over the site noise. The noise was concluded to be exceptionally annoying, with constant impulses and revving engine noises. Subjective evidence of horses having become highly sensitised to impulsive sounds was also observed.

48. The officer's subjective perception of the noise was contended to be supported by BS 4142. Applying this methodology to the measurements undertaken showed the Ambient noise on site to be 55dB(A) and the Residual (off site) to be 45dB(A). This indicated that the Specific sound level (from the site alone) was 55dB(A).

49. Considering the acoustic feature corrections, the strong and constant impulses required the maximum correction of +9dB when assessed using the reference method presented in BS 4142 Annex E. Likewise, the reference method for tones found the maximum correction of +6dB. The EA officer chose to also apply a +3dB subjective correction for intermittency. This resulted in a Rating level of 73dB(A), which is then compared to the Background L_{90} (the quietest 10% of the sound when the site is inactive).

50. The officer took into account the Appellant's Noise assessment dated 3 May 2023 which was contended to incorrectly include the site noise as part of the Background L_{90}. With this error removed, the L_{90} background data was found to average 35dB(A). Comparing these two levels provides a Rating level of 73dB(A) from the site against the 35dB(A) Background L_{90} when the site is inactive. This presented a difference of +38dB and is considered to constitute an indicator of an intolerable pollution. As such, the noise was categorised as a CICS1 level of pollution and that the scale of pollution was considered so severe that noise controls could not be adequately implemented and permit revocation was recommended instead.

51. Following the above noise measurements a longer period of measurement was undertaken at the façade of Foxwood between 15:00 on Thursday 24th April 2024 and 10:16 on Thursday 9th May 2024. This found an Ambient (Measured) facade level of 52.6dB(A), a Residual facade level of 48.4dB(A), and a modal Background façade level of 37dB(A). The measured Specific level from the site alone was found to be 50.5dB(A). The site was found to be typically prominently impulsive (+9dB) and faintly tonal (+2dB). Using BS 4142 this demonstrated a long period average impact of +25dB, which is a strong indicator of a significant adverse impact.

52. In addition to the impact on the residence, the EA officer also considered that there is an impact on the stables and riding school, the use of the glamping pod business, and on the horses themselves. The scale of the pollution was again considered to be so large that adequate noise control was not considered to be a realistic possibility.

Appellant's critique of the EA's noise surveys and assessment

53. The Appellant's acoustic consultant provided a critique of the EA's 2023 and 2024 noise survey and assessment. With regard to the 2023 noise survey and assessment it is contended that the EA:

- Used an invalid methodology for the assessment of noise impacts at the riding centre.
- Used a measurement period which was too short meaning that conclusions based on an analysis of its data had a limited reliability.
- Measured in a location which was not suitable for the assessment of character penalties. The location was also subject to different residual sounds.
- Failed to take account of the presence of screening from buildings on site when calculating levels at the receptor based on extrapolation of measured levels at their monitoring location.
- Relied too much on objective methods for assessing character penalties and provided little information on the subjective assessment of these.
- Overestimated the additional impact that sound character would have, as perceived at nearby receptors.
- Provided only a limited consideration of context. This means that some contextual points were not considered.

54. As a result, the Appellant contends that the EA's 2023 assessment suggested a worse impact than it should have and that the findings of the assessment were not robust and all errors and flaws erred towards concluding that the noise from the site was worse than it truly would have been, had the assessment been carried out to a higher standard. Furthermore, the Appellant contends that the EA conclusion that the pollution is a CICS1 incident is not supported by the evidence and the finding that mitigation of the noise was impossible is not based on any proper consideration of the operations at the site or mitigation options which may exist.

55. With regard to the 2024 survey, the Appellant contends that this was conducted when car racks were absent, meaning that the noise readings obtained were not representative of normal operations. The Appellant suggest that predicted noise levels at Foxwood with the car racks in place show that levels would be around 5dB lower than when the EA survey was undertaken.

56. In addition, measurements were taken near reflective surfaces, counter to BS4142 guidance which suggests that measurements are made at least 3.5m away from reflecting surfaces, where practical. As a result, the EA's estimate of the noise from the site was higher than it would have been in a free field location (ie. away from reflecting surfaces) and the background sound with which the sound emitted from the appeal site needs to be compared was lower than it should have been thereby skewing the assessment outcome leading to a worse assessment outcome.

57. Furthermore, residual sounds were considered to not have been adequately removed and the EA failed to exclude data from periods of high wind, which can raise noise levels due to leaf rustle. Consequently, the higher levels which were measured during periods when residual noise was high or when wind induced noise was present have been incorrectly attributed to site operations.

58. Excessive character corrections were applied by the EA based largely on processing of data using objective methods which research suggests are likely to be unreliable. The Appellant considers that the EA did not take account of many

important contextual factors and limited the amount by which their assessment could be adjusted when considering context, contrary to the guidance within BS4142.

59. The EA were considered to have not adequately taken into account or report uncertainty in their assessment report and failed to take any account of the bulk of the survey and assessment work carried out by the Appellant's acoustic consultant and Anderson Acoustics, other than to providing criticisms of some of it. The Appellant contends that the work of its acoustic consultant appears to be the only source of information which provides the EA with details of noise levels in the area.

60. Overall, the Appellant considers that the EA is relying on its flawed initial noise assessment, which reported a 38dB level difference, despite later revising this to 25dB after correcting several errors. Given the serious methodological issues with the first assessment, including its short duration, poor location, and excessive character corrections, the Appellant considers that it should not be used to support their case.

The Measurement and calculation of noise by the Appellant

61. The Appellants first noise assessment undertaken in 2024 recommended mitigation measures. including rearranging car racks and installing 6m high solid screens. The second noise assessment, dated 6 October 2025 (2025 Report), re-evaluates the situation as existing in 2025, incorporating updated survey data and modelling to assess current noise levels and impacts. It further recommended mitigation measures, including rearranging car racks and installing 6m high solid screens. Although the 2025 assessment included noise measurement taken at a number of sensitive receptors located in proximity to the site, the Appellant's noise consultant was unable to take any measurements within the Nelson Park Riding Centre. Consequently, predictive modelling was used to ascertain the impact of noise at the Riding Centre.

62. The results of this survey work, along with measurements made close to activities at Reclamet in both 2024 and 2025 have been used to predict noise levels using 3D noise modelling, based on the appropriate international standard: ISO9613-2:2024. The model output has been validated against measured data and updated from that used in 2024 to reflect changes in site operations, corrections to topographical information which were found to be required and software capabilities (e.g., to include the effects of semi-transparent barriers for car racks). Parts of the model used were independently validated by a different assessor.

63. Predicted levels range between 34 and 47dB, $L_{Aeq,1h}$ at nearby dwellings and 50dB, $L_{Aeq,16h}$ in the centre of the closest commercial use, the Nelson Park Riding Centre. With the car racks present, the modelling predicts a level of 44dB at a location 3.5m from the front façade of Foxwood during typical operations and 42dB in the garden of the property. With cladding of the car racks in place, giving an agreed 3dB reduction, noise levels at Foxwood would be reduced to 41dB and 39dB respectively. Background noise levels at the receptor are identified as being 40dB.

64. The 2025 Report suggests that these are not high noise levels and that there is good agreement between measured and predicted levels, indicating that the modelling output is reliable. Corrections have been applied to the predicted levels

based on observations and in accordance with the requirements of the relevant standard to take account of its impulsivity.

65. The 2025 Report identifies that that there was an adverse, but not significant adverse effect due to Reclamet noise at the three closest dwellings, being Foxwood, Hillside and The Barn and at Nelson Riding Centre and no adverse effect at any other noise sensitive receptor. Consequently, it concludes that noise from the site, as operated, is neither widespread nor severe.

66. The recommended noise mitigation solution is to rearrange the racks of cars to run parallel to the site boundary and to clad these to provide an effective double barrier[21]. This would result in there being no adverse effects due to noise at any nearby receptor. Enclosure of all noisy activities within a large building has also been considered and, although this would further reduce noise levels, the Appellant's noise witness contends that it is not required to achieve a noise level at which there would be no observed adverse effect.

67. The 2025 Report identifies that the noise level at the centre of the Riding Centre during busy periods is 50dB, $L_{Aeq,1h,}$ free field which is not considered to be high. It is the level recommended by WHOGCN which is defined as being "to protect the majority of people from being moderately annoyed during the daytime". With the recommended noise mitigation in place, at the worst corner of the Riding Centre the level would be 42db,$L_{aeq,1h}$, free field.

68. The 2025 Report identifies that if a building was to be used to enclose the noisy activities and with the doors open then predicted levels during busy periods at the three most sensitive residential properties would fall to a range of 29 to 37dB, L_{Aeq1h}, free field and 31dB, L_{Aeq1h}, free field at the centre of the Riding Centre. The Appellant considers that such levels would be akin to a quiet rural area.

EA's critique of the Appellant's noise surveys and assessment

69. The EA dispute a number of assumptions, inputs and conclusions of the 2025 Survey[22]. Some notable concerns relate to the analysis of the propagation model for the busy periods which suggests that a worst-case operating time of 30 seconds per hour for the use of the car crusher, which is the loudest source by an order of magnitude, is insufficient. It is contended that the Appellant calculates this 30 seconds of intense noise as being averaged out over the whole one hour period. This is considered to be a vast underestimate of the running time of this dominant source. The EA's own recordings of this noise source show it operating for extended periods of time.

70. The EA contend that the model considers the height of a grab that is handling scrap material (the third loudest noise source) as being only 50cm high, which is clearly misleading. This will have underestimated the impact of this source.

71. A number of detailed criticisms are also made related to Character Corrections, Context, Wind Speed, Residual Sound, although the EA does not dispute that there are elements of context at the receptor that make it less sensitive. However, it is contended the many of the contextual considerations in this case would have a neutral effect on the assessment outcome.

[21]Appendix to Mr Bentley's Proof – CFBA: Noise Assessment Report 6 October 2025 – Figure A2 in Appendix A
[22] Rebuttal Proof of Evidence Jon Tofts

72. Overall, the EA consider that the model has consistently sought to underestimate the noise impact, and the model shows that what is predicted as a 'busy period' is in closer agreement to the average levels that the EA have measured.

Noise conclusion

73. This is a case where there is clear and substantial disagreement between the relevant acoustic witnesses regarding the impact of noise arising from the operations on the appeal site. In such circumstances it is difficult to come to a firm conclusion regarding which assessment may be correct to the extent that there is no doubt in the conclusions reached.

74. I have considered the requirements of the assessment of noise impacts as set out in BS4142. This includes consideration of the margin by which the rating level of a specific sound source exceeds the background level and the context in which the sound occurs.

75. BS4142 and the BS4142 Technical Guidance Note published by the Association of Noise Consultants (ANC)[23] set out a non-exhaustive list of context factors. The EA's Method Implementation Document (MID) for BS 4142[24] sets out that a long standing industry suggests that context is less sensitive and that industry that has been contributing to the overall acoustic environment is an intrinsic part of the local community which should be taken into account in the consideration of context. In this regard it is clear that the operations undertaken on the appeal site are long standing and the use pre-dated that of the Riding Centre.

76. From the evidence provided in this appeal it is not clear how the EA took into account the context of the appeal site in the noise assessment. In this regard, there is a marked difference between the EA's assessment of context and that of the more detailed assessment undertaken by the Appellant's acoustic witness.

77. The EA's fourth reason for serving the Notice of Revocation identifies, amongst other things, that the noise emitted from the site is causing both a serious and widespread effect on human senses and causing a major adverse effect on recreation activity. Although the Appellant undertook noise monitoring at several receptor locations, the EA only undertook monitoring at the one location. I have no evidence of any other modelling undertaken by the EA to identify noise levels outside of the Riding Centre. As such, I do not consider that the EA has substantiated or explained the contention that a widespread effect is caused.

78. My attention has also been drawn to section 2.18 of the Noise Policy Statement for England (NPSE) which refers to the need to avoid noise being treated in isolation and to integrate consideration of the economic and social benefits of the activity under consideration. I am not satisfied that the EA has clearly demonstrated how the advice provided in the NPSE and ANC guidance has been applied. There are clearly economic, environmental and social benefits associated with the operation of the appeal site which provides an important strategic function in the management of Kent's waste. There is little evidence to identify how this function was taken into account in the consideration of the noise impact pursuant to the above guidance.

[23] Core Documents Bundle 2, Page 679
[24] Core Documents Bundle 1, Page 486

79. Turning to specific sound levels, the EA's monitoring was done at a time when the Appellant identified that the car racks along the boundary were absent. Therefore, I accept the Appellant's view that the site at that time was not operating under typical conditions. The Appellant's modelling incorporates the evaluation of the effect of the semi-transparent barrier and predicted a level of 44 dB at a location 3.5m from the front façade of Foxwood. The relevant acoustic experts agree that the implementation of cladding to the car racks, which I observed was in the process of construction at my site visit, would result in 3dB attenuation meaning that typical operations would give rise to a level of 41dB at 3.5m from the front façade of Foxwood based on the Appellant's calculations.

80. With regard to the dispute relating to Character Corrections, these are an assessment by the assessor and are not a measured figure. The Appellant's assessment of Character Corrections were independent considered by another assessor who came to the same figures. The Appellant applied 6dB for impulsivity and nothing for tonality. A figure of 6dB for impulsivity should be applied where this is "clearly perceptible".

81. The EA applied a Character Correction of 18dB based on 9dB for impulsivity, 6dB for tonality and 3dB for intermittency. The ANC note explains that a Character Correction of 18dB is unlikely[25] and that the total correction should be reviewed for reasonableness. It is not clear how the EA has undertaken the reasonableness review in circumstances where the guidance suggests that a correction of 18dB is unlikely, albeit not impossible.

82. With regard to background sound levels, the evidence suggests that the EA did not use a measurement location which was at least 3.5m from reflecting surfaces other than the ground as required by BS4142. Although the EA sought to address this by subtracting 3dB to achieve a free field value, I accept the Appellant's view that this approach has a number of problems. The EA acknowledge that levels measured in this location are affected by reflected sound. They then assume that the amount of reflected sound would be 3dB and that the background noise level would be similarly affected by reflections. However, I accept the Appellant's view that the amount of sound which is likely to be present due to sound reflections in the EA's monitoring location is not easy to assess as there are many reflecting or partially reflecting surfaces present.

83. There is no way to reliably predict what the free field background noise would be using the EA's survey data on its own. All that can be said with certainty is that the EA measured background noise level in this location. The Appellant is clear that the level was below that which would be present if it had been measured in the free field.

84. The Appellant is also clear that without a reliable measurement of free field specific, residual and background noise levels, any comparison between specific (or rated) noise levels with background noise levels is flawed. The EA have assumed that the same reflections would apply equally to residual, specific and background noise levels and this assumption may be invalid. This means that the EA's assessment will overestimate the free field level of sound from specific and residual sound and will underestimate the free field level of background sound.

[25] Core Documents Bundle 2, page 711

The EA's measurement location also has the potential to screen background noise sources.

85. I have taken into account the WHOGCN on daytime noise levels which I consider to be a suitable indicator of the extent to which noise can cause annoyance. This advises that to protect the majority of people from being seriously annoyed during the daytime, the sound level at outdoor living areas should not exceed 55dB; and to protect the majority of people from being moderately annoyed, the outdoor level should not exceed 50dB. The Appellant's calculations would suggest the noise to be within these limits. Moreover, the SoCG Noise clearly states that "…it is agreed that these levels are around 49dB(A) at a free-field location in front of Foxwood during typical operations and 52dB(A) during busy periods in the absence of the car racks….". With the acoustic car racks in place the parties agree that the specific level would be attenuated by around 3dB at the front of Foxwood. Consequently, such levels would be within the WHOGCN levels.

86. In conclusion on this matter, it is unfortunate that the respective noise consultants were unable to find common ground. However, the EA bear the burden of justifying its notice. The evidence provided in the Inquiry cast significant doubt on the use of the EA's noise monitoring assessment. Consequently, there is some doubt on the view that the site operations amount to a CICS1 noise pollution operation. Furthermore, I do not consider that the EA's noise assessment can be relied upon beyond reasonable doubt to justify and support the revocation of the permit with a degree of certainty and reliability.

87. Moreover, I am conscious that the Council has also investigated noise complaints arising from the Riding Centre and concluded that the noise emitted from the appeal site does not amount to a statutory nuisance. Against this background, I consider that it is incumbent on the EA to unequivocally demonstrate that the noise is unacceptable. Given the uncertainties identified in the noise assessment I do not consider that it has adequately done so in this case, particularly to an extent that is sufficient to justify the service of the notice.

Other matters

88. I have considered the extent to which noise emitted from the site operations has a detrimental effect on horses. I accept that the Riding Centre performs an important community function in the Changing Lives through Horses Programme amongst other programmes.

89. Unfortunately, no reference was made to any specific guidance relating to the effect of noise on horses. However, I have no reason to doubt the anecdotal evidence provided by some interested parties that occasional noise incidences have the potential to startle horses and interfere with the ability of instructors to communicate with their students. It is also unfortunate that communication between the two adjacent businesses is strained, particularly with regard to discussions relating to the management and mitigation of noise.

90. I have also no reason to doubt the Appellant's contention that the effect on horses is outside the scope of the Environmental Permitting Regulations and the meaning of pollution in regulation 2.

91. I have a degree of sympathy with the operators of the Riding Centre as my site visit confirmed that some noise is audible in parts of the Centre. However, it was

not clear whether the noise that I heard on that occasion during crushing operations was of a sufficient extent to startle horses. Notwithstanding the noise evidence of the Appellant, it is clear that options to manage noise have not been fully explored. In my view, if noise is managed to remain within acceptable levels to humans, in the absence of any compelling guidance, there would be no justifiable basis to suggest that a higher threshold should be applied to horses.

Whether it is reasonable, proportionate and necessary to revoke the Environmental Permit

92. The decision to revoke a permit is clearly the last resort for regulation; it reduces capacity to manage waste, has immediate financial impacts on an operator and those employed at the site and must be fully justified in terms of the likelihood of actual or ongoing risk of pollution.

93. Revocation would result in the loss of 70 members of staff and the loss of an allocated and safeguarded strategic waste management site that forms an integral part of the management of metal waste within Kent. There was a paucity of evidence provided in the Inquiry to demonstrate that the economic and environmental impact of revocation had been carefully considered in the decision to seek the revocation of the permit.

94. I accept that the EA has rightly taken the complaints of noise seriously. However, it is clear that there has been a degree of failure by the EA to engage with the Appellant to explore options to mitigate noise, including the potential erection of a building. Although the Appellant was served CAR forms that outlined noise concerns there is little evidence to suggest that any meaningful on-site discussions occurred.

95. Neither parties noise measurements and calculation methodology are ideal. It is clear that there are modifications to site operations that can be undertaken to reduce the noise impact to the adjacent Riding Centre and Foxwood. It was also clear in the evidence of the Managing Director of Reclamet Holdings Ltd that he is willing to explore the use of a building to enclose the noisy operations, notwithstanding the fact that the Appellant's acoustic consultant does not consider that such building is necessary. It is also clear from the evidence presented in the Inquiry that there has been some degree of reluctance on the part of the EA to explore options that could mitigate noise with a degree of vigour.

96. Turning to the reasons for the service of the revocation notice, as set out earlier in this decision, I do not consider that the operator has failed to identify appropriate measures to prevent or minimise the noise. The acoustic evidence clearly demonstrates that the cladded car racks provide a degree of mitigation and the suggestion of a building to house the noisy activities has not been demonstrably explored by the EA, despite this option being referred to in the noise assessments provided by the Appellant.

97. In respect of condition 3.3.2(a) of the permit and the submission of a NVMP, I am satisfied that the evidence provided in this appeal demonstrate that the EA's decision to decline to approve the submitted NVMP was taken without the recourse to offer a reasonable dialogue with the Appellant. Moreover, the noise assessment accompanying the NVMP identified that the introduction of cladded car racks has the effect of reducing noise to an acceptable level. In my view, the EA's affirmation contained in the Notice of Revocation which stated "that the noise

levels are such that there appear to be no appropriate measures which would be sufficient to either prevent or minimise the noise and vibration to an acceptable level" is incorrect, particularly as the evidence suggest that the EA has not meaningfully engaged in dialogue with the Appellant before the notice was served.

98. The notice outlines that a permit variation to remove the "noisy" activities has been considered but based on the clear severity of the pollution, this option is not considered suitable due to the uncertainty of how long this may take and how much this would reduce the noise levels by. However, for the reasons explained above, I do not consider that there is sufficient evidence to clearly demonstrate that such opportunities to remove the noisy activities, for example by their enclosure within a building, has been properly assessed.

99. With regard to the categorisation of the noise from the site being major CICS1 pollution, for the reasons explained above in regard to the noise assessment, I do not consider that the EA has adequately and reasonably justified this categorisation. As such, I do not consider that revocation of the permit is the only option available in order to fulfil the guidance provided in the NPSE to avoid significant adverse impacts on health and quality of life.

100. Finally, with regard to the reasons for serving the notice, the evidence provided in this appeal leads me to find that it has not been clearly and unequivocably demonstrated by the EA that the noise impacts could not be mitigated to an acceptable level to avoid the risk of serious pollution.

101. Revocation of the permit is a serious step of last resort. In my mind, it requires unequivocal justification. Any decision must be a judgement based not only on past performance, but also whether there are opportunities to manage operations to ensure that the site does not represent an ongoing risk to the environment or human health, and whether the operator can be considered to be unlikely to comply with the permit conditions going forward. To my mind, part of this judgement must reflect on the operator's response to the EA's regulatory efforts and the modifications that the operator has made to position and modify the car racks.

102. The evidence suggests that there has been some degree of a lack of engagement with the Appellant by the EA and only formal communication has ensued. To that extent, I am not content that the EA has fully followed the principles of the "Regulators Code". Furthermore, there is little evidence to suggest that the EA has carefully taken into account the social, environmental and economic implications of revocation.

103. I have found that the discrepancies identified by the Appellant in the EA's noise assessment leads to a conclusion that its content cannot be wholly relied upon. Whilst I also accept that there are some alleged discrepancies in the noise evidence provided by the Appellant, it is incumbent on the EA to prove that revocation is appropriate and absolutely necessary and in this regard the noise assessment on which a large part of the reasons for serving the Notice of Revocation is based should be beyond reasonable reproach.

104. Against the above background I do not consider that it has been established that revocation would be appropriate and necessary. Having considered all of the evidence in this appeal, I am satisfied that it would not be reasonable, proportionate or necessary to revoke the environmental permit.

Conclusion

105. For the above reasons and having regard to all other matters raised, the appeal is allowed and the EA are directed to quash the Revocation Notice.

Stephen Normington

INSPECTOR

ANNEX A - APPEARANCES

FOR THE APPELLANT

David Hercock, Counsel

He called,

Stuart Mann	Managing Director, Reclamet Holdings Ltd
Joshua Mellor BSc (Hons), MSc, MRTPI	Planning Director, Marrons
Clive Bentley BSc (Hons), MCIEH, MIEnvSc, MIOA, CEnv, CSci	Acoustic Consultant and Partner, Sharps Acoustics LLP

FOR THE ENVIRONMENT AGENCY

Matthew Fraser, Counsel

He called,

Ruth Steadfast	Environment Officer, Environment Agency, East Kent Waste Team
Jon Tofts	BSc, Dip Acoustics and Noise Control, MIOA

INTERESTED PARTIES

Sir Roger Gale	Former MP
Graham Caterall	Co-Owner Nelson Park Riding Centre
Ruth Hiscock	Customer of Nelson Park Riding Centre
Sarah Caterall	Co-Owner, Nelson Park Riding Centre
Alex Hassett	Resident, Nelson Park Riding Centre
Leslie Dunderdale	Local resident
Neive Gilmour	Employee, Nelson Park Riding Centre

Rex Goodban	Local Resident
Julie Sandham	Local Resident (Hillside)
Sophie Bradford	Local resident

ANNEX B

CORE DOCUMENTS

Core documents and associated Inquiry documents can be found on the Inquiry Website which is accessible at:

https://drive.google.com/drive/folders/13iE7yUDkTP8WwxTgXtZCBYC6JyaO7F8z?usp=drive_link

ANNEX C

DOCUMENTS SUBMITTED DURING THE INQUIRY (ID)

Inquiry Document (ID)	Description of Document
ID1	Appellant Opening Statement
ID2	Proposed Cost Application on behalf of Appellant
ID3	EA Opening Statement
ID4	Email from Appellant dated 19 May 2026 confirming address of the interested party who provided late representations on 18 May 2026 (redacted)
ID5	Specification details of car rack cladding
ID6	EA comments on car rack cladding
ID7	EA Closing Submissions
ID8	Appellant Closing Submissions
ID9	Appellant Costs Application
ID10	Environment Agency response to the Costs Application
ID11	Appellant reply to Environment Agency response