

**Hardwicke Parish Council - Review of EIS Application**  
**2018/0758/EIAS - Town and Country Planning (Environmental Impact Assessment)**  
**Regulations 2017: Request for scoping opinion - Land At Colethrop Farm Bath Road**  
**Hardwicke Gloucester Gloucestershire**

1 The EIS application is to support a change in wording of condition 10 of application S.15/1498/VAR to accommodate failure to achieve noise criteria. Hardwicke Parish Council Planning Group reviewed the application and supporting evidence as of 25<sup>th</sup> November 2018.

2 Whilst accepting the EIS differs from a planning application the implications for the potential change was seen as being significant enough to warrant a full response therefore this review is written as a planning application review.

3 **The planning group identified concerns that**

- **there is no explanation as to why the change is justified**
- **despite solutions being available for the noise issue but a change in condition is being considered**
- **a change in the condition will impact the health and well-being of current and future residents of Hunts Grove**
- **agreeing to this will set a precedent for altering conditions to mitigate developer difficulties tending towards planning by attrition**

4 **Hardwicke Parish Council therefore recommends that the Planning Authority rejects any request for changes to the conditions agreed against permitted application S.15/1498/VAR at any level including the support for an EIS.**

5 **The council requests that the Planning Authority ensures engagement with its representatives at the earliest opportunity should discussions commence on future attempts to change the current agreed layout of Hunts Grove in the master-plan.**

6 The recommendation is predicated on the following evidence

### **Background**

7 Property history

7.1 S.10/0109/DISCON Discharge of Conditions 1, 7, 10, 11, 13, 17, 30, 31, 32, 33, 34, 36, 37, 38, 42, 43, 48 and 53 of Application S.09/1692/VAR.

7.2 S.10/0161/DISCON Discharge of conditions 51 and 52 of approved application S.09/1692/VAR.

7.3 S.10/0266/DISCON Discharge of conditions 53 and 55 of approved application S.09/1692/VAR.

7.4 S.10/1743/REM Application for reserved matters for the second stage of the noise bund and associated haul route.

7.5 S.10/2077/FUL Erection of gate piers and wall (revised plans received 27/10/10).

7.6 S.10/2429/REM Revised application to previously approved reserved matters application S.09/2273/REM relating to minor changes to layout and house designs on part of Phase 1.

7.7 S.11/1124/REM Approval of reserved matters for revisions to phase 1 noise bund following permission S.09/1692/VAR.

7.8 S.13/2187/REM Approval of reserved matters for details of the phase 1 neighbourhood equipped area for play (NEAP) following permission S.09/1692/VAR.

7.9 2013/2879/EIAS Request for Screening Opinion under Regulations 5 and 8 of the Town and Country Planning (Environmental Impact Assessment) Regulation 2011 for Phase 2 of Hunts Grove, including 580 dwellings, public open space, allotments, sport facilities and associated infrastructure.

7.10 S.14/1552/REM Approval of reserved matters for details of appearance, landscaping, layout and scale in relation to Phase 2a of the development comprising 50 dwellings following outline permission S.09/1692/VAR (additional information received)

7.11 S.14/2909/DISCON Approval of details reserved by condition in relation to S.09/2273/REM.(Condition 2)

7.12 S.14/2910/DISCON Discharge of Condition 28 of S.09/1692/VAR

7.13 S.15/0939/MINAM Non material amendment to planning application S.09/1692/VAR

7.14 S.15/0940/DISCON Discharge of Conditions 10 (Phasing Scheme) ,32 (CEMP) and 34 (Hydrology) of Planning Permission S.09/1692/VAR

7.15 S.15/1498/VAR Variation of Conditions - 1, 2, 5, 6, 9, 10, 11, 13, 15, 16, 18, 20, 21, 24, 25, 26, 27, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 51, 52, 53, 55 - From S.09/1692/VAR

7.16 S.16/0584/DISCON Discharge of conditions 13 (Noise assessment), 14 (Noise WHO), 30 (Treatment, reuse and recycling- soil), 31 (Treatment, reuse and recycling - demolition), 32 (CEMP) Parts A - D and F-J, 33 (Drainage), 36 (Highway), 37 (Temporary car parking and accommodation), 38 (Fencing), 51 (Environmental Assessment), 52 (Renewable Energy) from permission S.09/1692/VAR.

7.17 S.16/2392/MINAM identified on the website should read S.16/2404/MINAM Minor Amendment to permission S.09/1692/VAR. Change of roof materials to various plots. Amendments to roof pitch of 3no house types. Revisions to chimney positions.

- 7.18 S.17/0363/DISCON Discharge of condition 8 from S.13/2774/FUL
- 7.19 S.17/0448/DISCON Discharge of condition 7 from S.13/2774/FUL.
- 7.20 S.17/0449/DISCON Discharge of condition 5 (Implementation and ongoing management of Landscaping) from S.13/2774/FUL.
- 7.21 S.17/0597/MINAM Minor amendment to Ref. S.14/1552/REM - changes to the material for the private footpaths and the joining of garages to plots 1 & 2.
- 7.22 S.17/1677/MINAM The following amendments to be approved; A change in roof materials to various plots Amendments to roof pitch to 3no house types Chimney positions to be revised.
- 7.23 S.17/2143/REM Reserved matters approval is sought for the major open space within Phase 2, to the east of Hunts Grove. The reserved matters include full details of the proposed works including earthworks, pedestrian accesses, layout of the NEAP, details of proposed furniture and play equipment and proposed hard and soft landscaping.
- 7.24 S.17/2193/REM Application for the approval of reserved matters (appearance, landscaping, layout and scale) for on-site infrastructure relating to the construction of part of the main access road into Phase 2 of the wider strategic development.
- 7.25 S.17/2263/REM Approval of reserved matters (appearance, landscaping, layout and scale) for on-site infrastructure including construction of drainage infrastructure, associated surface water attenuation features, and areas of landscaping, public open space and a footpath/cycleway along the southern boundary of Shorn Brook.
- 7.26 S.17/2642/REM Reserved matters submission pursuant to Condition 1 of permission S.15/1498/VAR for parking, landscaping and associated infrastructure (parcels 22-25 and 26B)
- 7.27 S.17/2701/REM Application for the approval of reserved matters for the construction of the noise bund identified as Phase 2 on the 'Noise Bund Phasing Plan' (Drawing Reference FSE91314E/199) approved under planning permission S.15/1498/VAR.
- 7.28 S.17/2834/DISCON Discharge of condition six from permission of the application S.15/1498/VAR. (380402-211349).
- 7.29 S.17/2849/REM Application for the approval of reserved matters (appearance, landscaping, layout and scale) for the erection of a two form entry primary school within Phase 2 of the wider strategic development from S.15/1498/VAR (380402 - 211349).
- 7.30 S.18/0199/DISCON Discharge of conditions 26 and 37 from permission S.15/1498/VAR. 380402-211349

7.31 S.18/0212/DISCON Discharge of condition 23 part (e) Construction Environmental Management Plan for parcel R20A and R21of planning permission S.15/1498/VAR

7.32 S.18/0238/DISCON Discharge of condition 23 from permission S.15/1498/VAR.

7.33 S.18/0394/DISCON Discharge of conditions 12 (Contaminated Land), 23 (CEMP), 25 (Drainage water courses), 34 (Chemical storage tanks), 37 (Sustainable energy scheme) and 38 (Trees) from Planning Application S.15/1498/VAR (380402 - 211349)

7.34 S.18/0480/DISCON Partial discharge condition 6 (archaeology) from S.15/1498/VAR.

7.35 S.18/0778/DISCON S.15/1498/VAR - Conditions: 10 - Noise, 12 - Contaminated Land, 21 - Accessibility, 24 - SUDS, 26 - New access, 38 - Trees (381530 - 212349)

7.36 S.18/0954/DISCON Discharge of condition 6 - Archaeology, condition 36 - Fire Hydrants, condition 37 - Sustainability Energy Scheme report for parcels R20/21 (380402 - 211349)

7.37 S.18/1231/DISCON Discharge of conditions 4, 6 and 8 of S.17/2289/REM.

7.38 S.18/1507/DISCON Discharge of condition 2 - Landscape and ecological management plan from permission S.17/2143/REM.

7.39 S.18/2103/MINAM Minor Amendments in S.17/2143/REM 1- Gates (6437\_200A), 2- Neap Play area (64327\_200A), 3- Pocket park (6437\_201POS) 4- Play trail (5835\_102) 5-Secondary Footpath Widths (6437\_101,6437\_102,6437\_103,6437\_104)

7.40 S.18/2223/MINAM Application for non-material amendment to permissions S.09/1692/VAR and S.14/1552/REM.

7.41 S.18/2321/REM Amendments to noise bund constructed pursuant to Reserved Matters approval S.11/1124/REM (380402 - 211349)

7.42 2018/0758/EIAS Town and Country Planning (Environmental Impact Assessment) Regulations 2017: Request for scoping opinion.

7.43 S.18/2420/DISCON Discharge of conditions 6,12,23 and 38 of S.15/1498/VAR

## **Observations/Comments/Compliances**

### **8 Application Background**

8.1 The request is to change condition 10 of application S.15/1498/VAR that states: "The dwellings hereby permitted shall be constructed to provide the necessary noise mitigation to achieve internal noise levels within bedrooms and living rooms no greater than 35 dB (LAeq,T) during the daytime (07:00 – 23:00) and

within bedrooms no greater than 30 dB (LAeq,T) during night-time (23:00 – 07:00) periods. An external noise level of 50 dB (LAeq,T) should not be exceeded in private garden areas and patios during the daytime period. After completion of works and prior to occupation or use, noise measurements shall be carried out to demonstrate that the above criteria are met. All noise measurements shall be submitted in the form of a report to the LPA for its written approval prior to occupation or use.”

8.2 Reserved Matters have been approved for three parcels permitted by S.17/2215/REM, S.17/2642/REM and S.17/2289/REM and construction has commenced.

8.3 The primary noise mitigation measure for this part of the site is a 3 metre acoustic bund that has already been constructed subject to reserved matters approval S.11/1124/REM.

8.4 Paragraph 4.3 of the scoping report states that ‘...The work commissioned to discharge condition 10 for the three parcels has highlighted that, based on the mitigation currently in place, the external noise level in the permitted private garden areas and patios would exceed the 50 dB (LAeq,T) threshold set out in the condition. More specifically, the external noise level in the private garden areas and patios of the majority of dwellings would likely be between 50 and 55 dB (LAeq,16hr), while the external noise level in the private garden areas and patios of the dwellings fronting the M5 (20 in total) would likely be between 55 and 60 dB (LAeq,16hr)2...’

8.5 Paragraph 4.4 goes on to explain ‘...As a result of these findings a noise consultant was instructed to consider and model a number of mitigation options that could be incorporated to try and achieve the 50 dB (LAeq,T) external noise level. However, the results of the modelling demonstrated that there are no practicable mitigation options available to achieve the 50 dB (LAeq,T) external noise level, but that it would be possible achieve 55 dB (LAeq,T) in all but 7 of the plots. These plots would experience levels of between 55 dB (LAeq,T) and 58 dB (LAeq,T)...’

8.6 The application proposes a change of wording to the condition to say ‘...The dwellings hereby permitted shall be constructed to provide the necessary noise mitigation to achieve internal noise levels within bedrooms and living rooms no greater than 35 dB (LAeq,T) during the daytime (07:00 – 23:00) and within bedrooms no greater than 30 dB (LAeq,T) during night-time (23:00 – 07:00) periods. The external noise level in private garden areas and patios during the daytime period should not exceed 55 dB (LAeq,T), with the exception of the following plots where the maximum external noise level for private garden areas and patios during the daytime period is 58 dB (LAeq,T):

- *Plots 1, 3, 27, 30, 93 and 98 as approved under S.17/2289/REM*
- *Plot 51 as approved under S.17/2642/REM*

*All noise mitigation measures and measurements shall be submitted in the form of a report to the LPA for its written approval prior to occupation or use...’*

8.7 Application S.17/2701/REM was permitted in April 2018 to update the Phase 2 section design of the bund (i.e. the section south of Haresfield Lane) from a design height of 3 metres to 6 metres.

8.8 S.18/2321/REM is currently under review to update the Phase 1 section bund design from a design height of 3 metres to 5 metres.

8.9 The current design situation is

- A 3m bund has been built in two sections to achieve the original noise reduction requirements
- When it became known that the noise suppression would not achieve the required level an application was approved to raise the phase 1 bund from 3 metres to 6 metres
- An application is pending to raise the phase 2 bund height from 3 metres to 5 metres
- Work commissioned to achieve the required noise levels used modelling based on the current 3 metre bund
- The modelling found that the required noise levels could not be achieved with a 3m bund and other mitigations were deemed impractical
- The developer is now requesting a change of the limits contained in condition 10 to enable the current 3m bund to be the final design

## 9 Hunts Grove noise

9.1 The lack of, or poor quality of, information provided to support many planning applications in Hunts Grove has been raised a number of times in our reviews. Applications include complex technical documents and drawings often with continuity omissions or errors that are identified in our reviews, but very rarely followed up or corrected.

Some subjects such as noise and parking (particularly visitor parking) frequently attract comment. The issue of noise has been persistently and consistently raised as a concern for the Hunts Grove development from its conception to the present day. This is despite the Planning Authority deeming it a suitable residential development site and the developer speculating on it being usable within the agreed criteria in the outline planning permission.

9.2 Despite the noise issue being raised regularly, positive statements are continually made in application documents. For example the developer representative's covering letter for S.17/2701/REM states that '**...the development currently proposed as part of this reserved matters application does not warrant the need for a comprehensively updated EIA; the findings of the approved Environmental Statement remain valid and can be relied upon for the purposes of this application...**'.

9.3 Hunts Grove Phase 1 is complete. It is a mature enough development to provide lessons that can be applied for the benefit of future phases. Yet here we are building phase 2 houses with a potential noise problem identified early in phase 1. Indeed we understand that a number of properties in phase 1 had noise mitigation measures omitted resulting in 65 properties (fully occupied) receiving a letter from the planning authority that their properties did not comply with planning permission, In our humble opinion this could be seen as symptomatic of the inadequacy afforded to planning matters for Hunts Grove.

## 10 Source of noise

10.1 The origins of the noise lay in its vicinity to the M5 motorway and A38 trunk road. These noise sources produce relatively constant noise during daylight hours and intermittently at night. If current planning processes fail to build houses that achieve current noise limits then the future for residents will be bleak when M5/A38 traffic increases due to

- Hardwicke dwellings increasing from 1659 houses in 2011 to 4626+ by 2031.
- Increased traffic from local residential development at Kingsway, Mayos Land, etc
- Increased traffic from South Gloucester residential developments in Naas Lane and Bristol Road
- Increased heavy traffic from local industrial developments such as Javalin Park incinerator, Quedgeley Trading Estate East

10.2 Climate change will also impact on noise levels. Higher temperatures becoming more common during the extended summer months will result in residents keeping their windows open overnight to assist sleep.

The choice of opening the window to cool the temperature but being exposed to an increased level of noise, or deal with a lack of sleep is an unenviable choice to have to make. Such a situation was demonstrated this summer with residents in Hunts Grove adjacent to the DPD site struggling to get reasonable nights sleep. Fortunately DPD have acted responsibly and taken several steps to reduce noise levels, but it should not be down to the goodwill of local commerce to enable a reasonable nights sleep.

## 11 Health effects

11.1 Whilst the core reasoning for the application is to meet or adjust set criteria and targets its important to remember that these have tangible effects on families and individuals resident in the dwellings.

11.2 Noise pollution affects both health and behaviour. Unwanted sound (noise) can damage physiological health whilst noise pollution can cause hypertension, high stress levels, tinnitus, hearing loss, sleep disturbances, and other harmful effects.

11.3 The World Health Organisation and our own British Standards are set to protect the health of the population. Changes to conditions set to meet these requirements not only risks the health of residents but most probably attracts a level of liability resulting from future impacts.

11.4 New developments like Hunts Grove tend to be fairly densely populated, so potential issues between residents can result in stress to residents that effects behaviours with tangible impacts on the community. An example of this string of events can again be found in Hunts Grove phase 1 whereby the availability (or lack of) car parking results in residents becoming very possessive of public road space outside their residence.

11.5 Hardwicke Parish Council is not prepared to sanction an easing of noise levels

expressed in a planning condition without considerable evidence that the health of residents will not be affected. We believe that Stroud District Council should be sending a clear message that noise exposure beyond national and WHO guidelines is not acceptable to this Planning Authority or residents.

## 12 Solutions

12.1 The application supporting report states that ‘...However, the results of the modelling demonstrated that there are **no practicable mitigation options available** to achieve the 50 dB (LAeq,T)...’

12.1.1 This is an ambiguous statement that requires clarification and further information for it to be accepted. What is meant by ‘practicable? What was considered? Why are they not considered practical? There can be no effective response without all the facts being available to consider.

12.1.2 There are numerous solutions to reduce noise impacts that come to mind - acoustic fencing, denser tree planting, raising the current bund, etc. These all appear eminently doable and have proven to be practical solutions in other developments. So why not here?

12.1.3 As explained earlier the increased bund size solution is already available, it is currently the permitted design. If the proposed changes to the condition were permitted then another planning application would be required to return the designs to the current 3 metre that was modelled.

12.1.4 If it is shown to be genuinely not possible to achieve the criteria then there remains the option of removing the houses from the plan and design a layout and housing density that meets the criteria.

12.1.5 Our concern here is that solutions appear to be available but are being termed ‘impractical’. When considering the potential long-term impacts on residents then the threshold of the term impractical must be of the highest level. This in turn requires the highest level of evidence and supporting information, not just an opinion from the applicant.

## 13 Setting a precedent

13.1 If agreed then this application will change the condition for the whole Hunts Grove site. There is no reason why the whole site should be included in a revised condition rather than the few dwellings potentially affected.

13.2 The planning authority has already carefully considered the location and established guidance on noise exposure for the homes in question. Application S.15/1498/VAR was permitted with noise limits clearly outlined in Condition 10. The developer chose to proceed with construction before they had an agreed mitigation to achieve the condition. It is therefore the responsibility of the developer to comply with the planning permission, not for the Planning Authority to change its goalposts by changing its permission.

13.3 A large part of the remaining Hunts Grove site is close to the either the

M5/A38 so a higher noise threshold across the site will effect many more dwellings than those identified in the study. It seems inconceivable to us that these issues were not considered when the developer and Planning Authority spent several years considering the 2015 revised layout and master-plan that was finally approved in 2017.

13.4 There appears to be a growing trend whereby issues not identified during the planning process are resolved later by other means such as amendments to the permission. Whilst most are relatively minor some have wider implications with some being left for residents to deal with in the future. Whilst appreciating the pressures applied by central government, these should not result in any disadvantage to our current or future residents. A change to this condition to accommodate a design shortcoming is a precedent that should not be made.

#### 14 Enforcement

14.1 We are of the view that a key role of a Planning Authority is to monitor planning decisions, including conditions, and take enforcement action where necessary to implement planning decisions when they are ignored.

14.2 Changing permissions retrospectively when an unplanned or unexpected occurrence force a change that does not have an impact on residents can be deemed acceptable but should be on an exceptional basis. This application fails every part of that statement in that the noise issue was wholly expected; there are solutions available; it will have an unacceptable impact on all Hunts Grove residents.

14.3 It is surely incumbent on Stroud District Council as the district Planning Authority to ensure compliance with their planning permissions and associated conditions. Changing Condition 10 is not the precedent that the Planning Authority should be setting for this site. It will leave future residents blighted by intolerable noise. It feels all too often that decisions are taken with a short term view that could have some serious consequences in the future, we hope this is not another.