



Deadline 8 – Summary of Position

Date: 23rd September 2021

File Ref: P21_2319

Subject: Theberton House Estate / Potters Farm – Deadline 8 Submission

1.0 DEADLINE 8 - SUBMISSION

1.1 Create Consulting Engineers have been appointed by the Dowley family to provide a written response at Deadline 8 in line with the Planning Inspectorate timescale.

1.2 The purpose of this submission is;

- Update PINs on questions raised as below;

Provide an update on Issues raised by Create Consulting

D7 submissions by Create Consulting on behalf of Mr Grant and Mr and Mrs Dowley reiterates and reinforces concerns previously set out in respect of the methodology of noise assessment, the subsequent levels at which mitigation would be engaged and the consequent harms that they consider that would arise.

(i) Please provide a detailed response to the criticisms raised, and explicitly set out where the differences remain between the parties.

ExQ3: 09 September 2021

Responses due by Deadline 8: 24 September 2021

ExQ3 Question to: Question:

(ii) Do ESC concur with the approach and findings of Create Consulting?

(iii) Time is of the essence is there a potential for a SoCG which clearly sets out the areas of agreement and disagreement?

(iv) The response to previous similar concerns in REP5-119 is noted. Is there anything further that could be provided to assist the ExA in understanding the

differences between the parties and which approach might be regarded as the most appropriate.

(v) If the approach that Create Consulting recommends were to be used, is it possible to understand whether a better outcome for the residents of the affected properties might result?

(vi) Consequently, is additional mitigation justified?

- 1.3 We also noted that at ISH8 the Applicant confirmed new information would be provided at DL7 on the noise mitigation and monitoring plans.
- 1.4 Whilst a draft was supplied at DL6 by the Applicant, the detail provided was woefully lacking in detail, thus making the ISH8 position of the Applicant impossible to fully consider, this was not provided at DL7 and we understand will now be provided by the Applicant at DL8.
- 1.5 The DCO process available to PINS does no longer allow sufficient time to adequately interrogate any submission given the DCO Inquiry on 14th October.
- 1.6 Our Client firmly believes this is unacceptable behaviour from the Applicant. We therefore strongly appeal to PINS to re-engage on the specific areas highlighted to allow all parties to fully explore the documents and changes now proposed by the Applicant.

2.0 THEBERTON HOUSE / POTTERS FARM – NOISE

- 2.1 At DL7, the Applicant provided comment on the work completed by Create stating the following. Creates comments are made in bold italics and then addressed in subsequent sections.

- The Noise Monitoring and Management Plan will define more detailed mitigation measures which will answer the concerns raised by CCE once the works processes have been finalised.

Noted but this has not yet been seen.

- The Noise monitoring and Management plan will require the contractor and SZC Co. to undertake further noise calculations in advance of the works. All construction methods and mitigation will be submitted to ESC for their approval before any works will be allowed to begin.

This is not acceptable given the DCO process and we need more certainty as set out below.

- It was not clear to the Applicant if CCE were suggesting that all phases of work across a 24 month period would occur on the same day at the same shortest separation distance.

CCE were justifying the potential worst case scenario which is reasonable.

- CCE claim that the SOAEL for construction noise should be based on the ABC method as detailed within BS 5228 and DMRB LA111. SZC Co. have based their SOAELs for construction noise based on schemes of similar stature, such as Tilbury 2, HS2 and West midlands Interchange.

- **Create believe that this approach does not consider adequately the rural context of the surroundings in this instance.**

- CCE has undertaken baseline noise monitoring at the properties which resulted in far lower measurements than those taken by SZC Co. The CCE measurements were taken at the properties themselves.

Create confirm this is a correct statement and is the most appropriate method for truly assessing the sound level at these properties.

- SZC Co. states that these do not make a material difference. CCE believe that they are important as a) it provides context to the area and b) the LOAEL is the existing ambient sound level. SZC Co. states that mitigation will be implemented through the use of Code of Construction Practice and the Noise Monitoring and Management Plan.

- SZC Co. have not considered the negative impact on the external amenity spaces of the residents as it is not required under BS 5228 or DMRB LA111.

Given the rural location and the outdoor lifestyle / open space available, Create, believe consideration should be given to these private and relaxing amenity places.

2.2 An initial meeting has taken place between Richard Bull from EDF and Mike Brownstone from Resound Acoustics on Wednesday 22nd September. The purpose of this meeting was to examine the differences between the parties and to determine the most appropriate way forward to assist PINs decision making.

2.3 Given the time available prior to Deadline 8 it was agreed by both parties to present an initial response to PINS separately, with a proposal to submit a Statement of Common Ground for DL10.

Do ESC concur with the approach and findings of Create Consulting

- 2.4 No there are differences of opinion relating the method of assessment and the background noise levels.
- 2.5 The main difference of opinion remains over how the borrow pits has been interpreted. This is a fundamental point and may need PINS to consider this.
- 2.6 The Applicant is claiming that the Borrow Pits **will not** be classed as being “long term substantial earth moving” whereas we believe that this is exactly what will be required at these mineral extraction pits for the development.
- 2.7 This being the case the methodology described in BS 5228-1:2009+A1:2014 paragraph E.5 should be adopted. This would include lower noise limits for evenings and night times than are currently being proposed. This operation has been shown in the Applicant’s noise model to have a predicted adverse impact on both Potter’s Farm and Theberton House which is expected to be considerably worse applying the correct approach.
- 2.8 During our meeting, we understand that the hours of operation for the Borrow Pits will be changing from 24-hour operation into a 2 shift pattern, with maintenance and limited functions only happening during the night time hours this is a change which needs to be considered fully.
- 2.9 Specific to Theberton House, we are now waiting for updates to the landscaping and redesigned plans for the proposed 5 arm roundabout to be issued, again expected at DL8.
- 2.10 There are significant concerns from a noise perspective for the construction of this roundabout to the property. The property is listed and as such, typical mitigation measures would not be applicable to this property. Until these plans have been issued, it is not possible to accurately speculate on the adverse impact the construction of this roundabout will have on Theberton House and this needs time to fully consider the effects which can’t be assigned a prescribed method of consideration as the Applicant currently proposes.

Time is of the essence is there a potential for a SoCG which clearly sets out the areas of agreement and disagreement?

- 2.11 Both parties have agreed to work towards preparing and issuing a Statement of Common Ground for DL10.

The response to previous similar concerns in REP5-119 is noted. Is there anything further that could be provided to assist the ExA in understanding the differences between the parties and which approach might be regarded as the most appropriate.

- 2.12 We are aware new information is to be submitted by the Applicant at DL8 with an update to the Noise Monitoring and Management Plan which will produce a variation to the mitigation requirements, it is therefore not possible to comment on this at this time.

If the approach that Create Consulting recommends were to be used, is it possible to understand whether a better outcome for the residents of the affected properties might result?

- 2.13 Using the methodology within E.5 of BS 5228 for the Borrow Pits, as set out, the noise trigger levels which will be used to highlight the need for noise mitigation will be lower than those proposed by the Applicant.
- 2.14 There should be more emphasis made on segregating the noise limits from the aggregate site and the main compound area. For the applicant to simply say that it is not possible is not appropriate. These operations are highly intertwined; however it is feasible to distinguish between the two main areas, and this should be fully explored and adopted as part of the DCO Inquiry.
- 2.15 By implementing this change to their procedures, the reduced sound level should significantly benefit all affected residents.

Consequently, is additional mitigation justified?

- 2.16 Yes, without question. The Applicant has included a 3m high barrier to be located at the edge of the Borrow Pit location.
- 2.17 The proposed noise barrier has been shown by their own noise model that the resultant noise levels will still exceed the trigger sound levels at both Potters Farm and Theberton House, in accordance with Applicant proposed noise limits and would be some way off adopting the correct method as stated by Create.
- 2.18 The Applicant and CCE agree that with the 3m high acoustic barrier alone, the noise levels will continue to be too high.
- 2.19 The reliance on CoCP and BPM will be welcomed, however without a “hard stop level” then there is little incentive for the contractors to adhere to the BPM or CoCP without lengthy enforcement action.
- 2.20 We would like to propose that the noise monitoring plan include specific details about how this is to be managed. Both parties agree that the most suitable approach includes a hybrid method, including both manned and unmanned (permanent) noise and vibration monitoring. CCE are of the opinion that a permanent (unmanned) noise monitor be included at the closest and most impacted resident, Potters Farm.
- 2.21 The complaints procedure needs to be clear and concise and ensure that if noise complaints are received and levels exceeded, then **work stops** until the issue has been fully investigated and resolved, hence the requirement for a hard stop level.
- 2.22 Once the detailed construction noise assessment has been completed, a full requirement of practical and additional mitigation strategies can be investigated. We are of the opinion

however that reliance on the current information is not acceptable given the complex issues and historical buildings.

3.0 CONCLUSIONS AND APPROACH GOING FORWARD

- 3.1 Our Client and Create continue to raise significant, legitimate concerns with respect to the noise.
- 3.2 We are encouraged that the Applicant is now engaging., it is unfortunate this engagement is so late in the process.
- 3.3 We therefore seek clarity from PINS on how such important issues can be adequately considered in the limited time now available.

Note By: Jody Blackwood – Technical Director
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