

**Highways:**

**A12 Chelmsford to A120 Widening Scheme**

**by National Highways**

**Representation**

**On behalf of**

**Mr and Mrs Macdiarmid – freehold owner of the property known as**

**[REDACTED]**

**Interested Party No. - 20033094**

**Date 2<sup>nd</sup> November 2022**

## Introduction and Background

████████████████████ is a grade II\* listed property and manorial barn (1337648 & 1123766) located c200m from the A12.

Our property is not directly impacted by the proposed acquisition of land or rights needed to deliver the scheme but lies adjacent to land used for balance ponds and green/ecological mitigation.

Our property is already impacted by the noise emanating from the A12 and whilst we do not object to the principle of the delivery of the A12 widening scheme our view is that more could be done to mitigate the noise impacts for properties along the A12 and in particular those in Kelvedon.

Our property is located close to Ewell Hall. Ewell Hall is mentioned within the Environmental Statement Appendix 12.3 Baseline Noise Surveys as *Location L7 – Ewell Hall*

Para 3.7.1 states .....*Subjectively it was considered that the noise climate at this location (and those considered representative of this location) was dominated by traffic noise from the A12 which could adversely influence the enjoyment of the location.*

*Table 3.25 Measured daytime LAeq,T, free-field – L7 Ewell Hall period average 58.0 Daily high of 62.1 LAeq,T dB*

*Table 3.26 Measured night-time LAeq,T, free-field – L7 Ewell Hall high of 58.4 period average of 53.8*

*Table 3.27 Measured evening and weekend LAeq,T, free-field – L7 Ewell Hall ave 55.2 high 59.9*

*Table 3.28 Measured LA10,18h dB, free-field – L7 Ewell Hall high 62.0 ave 58.7*

## The DLUHC Guidance

The CPO must meet tests set out in Department for Levelling Up, Housing & Communities 'Guidance on Compulsory purchase process and The Crichel Down Rules', July 2019 (the Guidance). These are quoted as follows:

Section 12 of the Guidance States:

*An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.*

Section 13 of the Guidance states:

*The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.*

Section 17 of the Guidance states:

*Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme. Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.*

### **Our response takes the following form**

#### **Lack of meaningful engagement and providing information**

We have made repeated attempts to understand the noise impacts and acoustic modelling and sought information regarding the cost associated with delivering the noise mitigation vs green mitigation from The Applicant's agent Ardent Management and in particular Louisa Garvey. This is despite granting permission for the numerous requests to gain access for bat and other surveys.

To date no adequate response has been given despite the fact that the scheme had been costed since at least 2019 according to information available online. As a result I submitted the following Freedom of Information Act request dated 23 March 2022.

*What % and amount in £ of the overall funding/budget of each of the above schemes is allocated for the construction, including design/survey fees, contingency, consultancy costs and overruns towards the following works:*

- 1. Reduction / improvement of physical factors, for example air quality, noise and vibration. For example this could include but not limited to noise reduction in the form of construction of bunding, acoustic barriers and low noise surfaces.*
- 2. Environmental improvements and mitigation. This specifically being the creation of new and improvement of habitats, landscaping mitigation, water environment mitigation, ancient and woodland mitigation, great crested newt relocation and mitigation, bat mitigation, mammal relocation and mitigation, grassland mitigation and hedgerow mitigation.*

On the 25 April 2022 I received the following response from the Applicant:

*As we are currently still engaged in contract negotiations with the potential supplier of the listed "construction" works, information about our overall budget for these is commercially confidential. Likewise, information about the amounts / % of the budget to be allocated for the various works covered in the contract, is also subject to commercial confidentiality at this time.*

It is therefore disappointing that we are forced to make this representation without suitable information but our hypothesis is that the Applicant is placing more weight on the construction and delivery of green / ecological mitigation than they are on noise mitigation measures.

It is our opinion that this represents a breach of the convention of Human Rights and represents a lost opportunity for The Applicant to improve the impacts of the A12 generally along the route where it interacts with residential property.

## **Inadequate levels of noise mitigation contrary to Government Policy**

Background and key paragraphs taken from The Applicants submission on noise and vibration. (Note – emphasis added)

### 6.1 ENVIRONMENTAL STATEMENT CHAPTER 12 NOISE AND VIBRATION

Para 12.9.54 states

*With the resurfacing of the existing section of concrete road on the A12, there would generally be moderate and major decreases in noise for receptors along this section of the proposed scheme, including the south-eastern edges of Kelvedon.*

Para 12.10.3 states

*The reduction of noise between the source and receptor is considered next as, after controlling noise at source, a reduction in the path would benefit the greatest number of receptors. A reduction in noise in the path is most likely to be achieved by placing a solid structure between the source and receptor, such as a purpose-built noise barrier. However, the use of a solid barrier would only protect receptors within around 200m of the barrier. Examples of mitigation in the path are:*

- *purpose-built noise barriers*
- *bunds or earth embankments*

Para 12.10.8 states

*The decision on whether to include bunding within the design or to include space for a potential noise barrier was based on the likely effectiveness of the measure, engineering constraints and the visual impact. Earth bunds have been considered as the preference since these make use of excess spoil and provide space for planting, which when mature can provide additional visual screening.*

Para 12.10.9 states

*There are some earth bunds along the proposed scheme that are required for visual mitigation but would also provide some reduction in noise.*

Para 12.10.10 states

*Low noise surfacing would be provided as standard on the new offline sections of the route and any part of the existing route that is to be resurfaced. This excludes the sections where a road surface with better noise reducing properties than a conventional low noise surface is to be used. These areas are described within the additional mitigation sub-section below.*

Para 12.10.16 states

*Some sections of the proposed scheme would be surfaced with better noise reducing properties than a conventional low noise surface. This surface would have a Road Surface Influence (RSI) of -6.5dB(A) or less.*

Para 12.10.17 states

- From just north of the proposed new junction 21 to the existing junction 23, to the south of Kelvedon, on both carriageways (AMS3). Where the new alignment of the A12 is offline, the surfacing would be applied to that section and not the existing A12 that would be de-trunked.

Para 12.10.20 states

*No enhancements over and above the proposed mitigation measures have been proposed.*

### 6.3 Environmental Statement Appendix 12.2 Noise Assessment Methodology

Para 3.1.1 states

*The government's noise policy is set out in the Noise Policy Statement for England (NPSE), which was published in March 2010 (Defra, 2010). It contains the high-level vision of promoting good health and good quality of life (wellbeing) through the effective management of noise. It is supported by three aims and together they provide the necessary clarity and direction to enable decisions to be made in any particular situation, both nationally and locally, regarding what is an acceptable noise burden to place on society. These three aims are: • To avoid significant adverse impacts on health and quality of life • To mitigate and minimise adverse impacts on health and quality of life • Where possible, contribute to the improvement of health and quality of life*

*3.2.8 Paragraph 5.195 of the NNNPS notes that 'The Secretary of State should not grant development consent unless satisfied that the proposals will meet the following aims, within the context of Government policy on sustainable development: • avoid significant adverse impacts on health and quality of life from noise as a result of the new development • mitigate and minimise other adverse impacts on health and quality of life from noise from the new development • contribute to improvements to health and quality of life through the effective management and control of noise, where possible.'*

Our understanding of The Applicants submission is that the proposed works might result in the reduction of c3 db of noise at our property. However, the above policy makes it clear that The Applicant must contribute to the improvement of health and quality of life through the effective management and control of noise, where possible.

As part of the consent process The Applicant is seeking to compulsory purchase a significant area of land for ecological mitigation, yet it has decided not to pursue the construction of bunding along the sections of the A12 that would benefit from further enhancements to noise reduction. At para 12.10.3 of the Environmental Statement there is reference to proximity to bunding and its effectiveness. The construction of a bund along the section near our property would be of benefit as we are within the 200m of the roadside for example.

Furthermore, The Applicant proposes as part of AMS3 to construct low noise surfacing along a section of the A12 that would seemingly have a low number of noise receptors. With the low noise surfacing stopping just at the point where the village starts, which would appear illogical to us and by not continuing along the length of Kelvedon Village doesn't appear to adhere to the above Government Policy.

## **Conclusion**

We ask that the Examiner give consideration to our view that The Applicant is placing more weight and value (value in terms of overall % spend including the acquisition of land and rights) on the

improvements to ecological and green environments through mitigation than they are in respect of delivering noise mitigation measures thereby failing to discharge their requirements under both the Human Rights Act and the aforementioned government noise policy.

Whilst we have applied and received listed building consent specifically for the addition of secondary glazing to mitigate the impact from noise there is only so much that can be done to a listed building and remain acceptable from a heritage point of view. This renders options available to us to mitigate the noise through improvements difficult.

We ask the Examiner give consideration to this once in a generation opportunity to improve the lives of many residential owner / occupiers along the A12 that would benefit from the construction of further bunding or noise deflection fencing and the introduction / continuation of low noise road surfacing to deliver the maximum reduction of noise in the area.