

Milton Keynes Council
Re: Planning Application **18/01304/REM**

5 March 2019

Dear Sir or Madam

On behalf of The Stables we wish to lodge an objection to this Planning Application on the grounds that Milton Keynes Council has failed to provide confirmation that the noise mitigation strategy proposed for the development will be compatible with future licensing and noise monitoring requirements imposed on The Stables and the current mitigation strategy adopted by the developers does not fully address the issues raised.

The Council clearly recognises that the nature of the operation at The Stables creates noise and that this needs to be taken into account in the design and layout of the adjoining residential development. The constraints under which The Stables currently operates in terms of noise restriction, management and monitoring are material to the Council reaching a conclusion on how best to manage noise impact on future residents. Currently there has been a failure to join up the noise mitigations/constraints for each site so that they dovetail, allowing each site to sit harmoniously with the other.

It should also be noted that the National Planning Policy Framework is clear that planning decisions for new development should "*recognise that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established*". The NPPG cross refers to this paragraph 123 of the NPPF and confirms that the potential effect of new residential development located near to existing business should be carefully considered.

The Stables appreciates that the developers have responded to the concerns expressed and have worked with the acoustic consultants engaged by Milton Keynes Council to assess the potential threat to future residents from noise emanating from The Stables site.

We are grateful to the developers for their efforts to improve the noise separation between The Stables and the development, however there are a number of residual concerns which have still not been fully addressed.

The proposed [and agreed] noise mitigation strategy from the Council's appointed acoustic consultants and the developers is that any noise nuisance will be eradicated by the developers installing windows to comply with a standard prescribed by the noise consultants and by the residents keeping those windows closed. However, we have not been given any written assurances that the EHO, in determining whether noise nuisance has occurred, will assess the impact on neighbouring premises on the basis that the windows of the affected units will be closed. However, The Head of Regulatory Services for Milton Keynes Council stated in writing in response to our request for clarity that *"The issue of whether measurements would be required with windows open or closed would be entirely dependent upon the type of events and their frequency, duration and finishing time at the time of the complaint."* We are therefore concerned that the EHO might apply a different standard in assessing the impact of noise and ignore the mitigation measures (Condition 10) which have been used in designing the scheme.

In addition, the draft conditions proposed by Waterman's allow the developer to deviate from the prescribed specification if agreed with the Council, thereby introducing the ability for noise insulation to the new properties to be eroded over time. The noise insulation requirements are generic requirements and do not (appear to) anticipate events at The Stables which would be well above the usual day-to-day ambient noise levels; noise mitigation measures included in the development should anticipate noise on a worse case basis from The Stables, this is not clear from the draft condition wording.

The Stables residual concerns arise from their previous experience with Milton Keynes Council which has imposed licence conditions stating that noise monitoring will be done through OPEN windows. This would render the proposed mitigation strategy and indeed the window specifications completely meaningless if this is the case. The Stables has asked for clarity on the policy which states what noise measuring methodology would be applied to licensed premises now and in the future. Without the confirmation that noise measurements would take place behind CLOSED windows, The Stables ability to operate in the future as it does now will be entirely at the mercy of the Environmental Health Officer in post at any given time. This is an unacceptable level of risk and a major factor in our continued objection to the scheme.

Further to this we have concerns over the block of flats to the North of the site that are closest to our boundary. Having been told that visual separation between the properties and The Stables will have a positive effect on combatting noise nuisance, we were concerned that this block would overlook the site and therefore reduce the benefits of the visual separation. As we remained concerned that it created child protection issues given the level of learning and participation work that we carry on inside and outside of the building, we were pleased that the developer volunteered to specify fixed, obscured glazed windows and replaced a Living room bay window with a blanked off "tax" window – but we remain of the opinion that this contrived solution would be better solved by reducing the height of the block to 2 storeys.

Our preferred solution is to ensure that the buffer zone provides as much screening and sound separation as possible, while retaining the rural aspect of the area, so we are disappointed

with the design of the earth mounding and landscape scheme. The provision of an acoustic fence, as originally put forward by the developer, positioned on top of the mound and extending the full length of the Eastern boundary would provide immediate visual and acoustic separation which would be slowly absorbed into the landscape. Without this, the exposure of noise and traffic lights every night as our car park empties following a concert remains extensive and Milton Keynes Council's Landscape Architect has pointed out that *"If expectations are relying purely on landform and new planting to provide a visual landscape buffer that it will take 30 – 50 years to achieve the same screening contribution as that provided by the large existing mature trees on The Stables grounds along the joint land ownership boundary."* In effect, exposing residents and The Stables to unsatisfactory protection for decades.

Accordingly, given the comments above we are writing to object to the plans as currently outlined and urge that the committee ensures that relevant and appropriate mitigation is imposed as Conditions and that it is consistent with the policy of noise monitoring imposed by Milton Keynes Council on licensed premises in proximity to residential accommodation. If it is not satisfied that this can be guaranteed, then it should reject or defer the decision until it can satisfy itself that there is no risk to the ongoing viability of The Stables from the development.

In particular, we would draw attention to the proposed condition 9 which, as currently drafted, is both unenforceable and does not address the concerns expressed by the acoustic consultants. As reported in para 5.38 it states that *"If the noise occurred after 11pm then the recommended noise level would be exceeded with windows open"* and in para 5.40 it states, *"there is the potential for noise residents to be such that they would cause residents to close their windows due to the significant increase in the prevailing ambient noise levels and discernible change in the acoustic character of the noise climate."* The report goes on to agree that the applicant's non-opening windows at the second floor of the apartment building is accepted, yet this does not appear as a condition. Nor does it explain why it is acceptable at lower levels. Finally, the proposed retro-fitting of a solution to any noise levels exceeding the required levels does not state how this will be implemented and who has responsibility for so doing – the developer, the resident or The Stables. If the latter, this goes against the guidance of the National Planning Policy Framework which states that *"Where the operation of an existing business or community facility could have a significant adverse effect on new development (including change of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*

It would also be useful to ensure that future occupiers/purchasers of the residential units are made fully aware of the existence of The Stables within the vicinity and the potential noise impact. Information packs to this effect could be required as part of a planning Condition.

With reference to the MKC Planning Officer's Report to the DCC, we feel that we must correct some inaccurate and misleading parts of the Planning Officer's Report to committee as follows:-

- Paragraph 2.3 The Report states “...Concerts held almost every week...”. This is incorrect; concerts are held **DAILY**. With 2 spaces in the venue frequently sold out delivering over 100,000 customers to the site each year.
- Paragraph 2.6 There has been extremely strong support for the Stables' position on this Application. Over **3,000** letters of objection have been sent to the Council, not just from Stables customers, but also from industry experts such as the Music Venues Trust, which has been working with venues under threat from development across the country and has extensive evidence of the impact of new schemes on established music venues. The Councillors should be made aware of this very high level of support and industry experience otherwise they will not have all relevant matters before them.
- Paragraph 4.1 There is no mention of “the impact on The Stables” as a Main Issue.
- Paragraph 5.19 The Landscape buffer was re-introduced at the insistence of The Stables, where we suggested a minimum 30m zone at the consultation meeting held to discuss the original layout. The lack of a buffer in the initial design was, we suspect, due to its unfortunate omission from the Conditions attached to MKC's Outline Approval.
- Paragraph 5.31-32 The Report refers to “*fully landscaped... creative land form and earthworks*”. What is being proposed is, in fact, a single linear mound with a minimal planting scheme, which may take up to 40 years to establish itself.
- Paragraph 5.35 The Stables continue to request the removal of the 2nd floor accommodation with its “*tax window*” in the main living space.
- Paragraph 5.37 The Stables is licensed until **2am** and frequently runs much later than the 11pm referred to in para. 5.38. It is frequently sold out generating the maximum possible disturbance late at night, not as implied in this para.

Paragraph 5.38 The Report states that a “*Suggested glazing specification will be secured by Condition*”. We have not seen any Condition statement re non-opening windows (Appendix 10.).

Paragraph 5.40 The frequency of noisy events are defined as “*once or twice a year*” whereas, in reality, these take place much more regularly.

Paragraph 5.41 The Stables is asking for an acoustic fence within the “*fully landscaped buffer*” (as originally put forward by the Applicant) to make the current minimal provision effective in both the short and long term.

This item also ignores the potential problem of overlooking requiring an adequate buffer zone.

Paragraph 5.43 The statement that “*conditions will be robust enough...*” should read “**should be...**”

Paragraph 5.44 This item implies that the Stables are being unreasonable in their demands i.e. “*include an acoustic fence...*” The provision of an acoustic fence was, in fact, originally proposed by the Applicant in its original site plan.

Where the Report says that “*This approach is not supported by any evidence...*” we would like to point out that the whole idea of a buffer zone was to create both visual and acoustic separation. The current proposal does not achieve this and needs reinforcing with an additional and longer barrier.

The Report also says that “*An acoustic fence would be unsightly...*” and therefore needs to be set within a dense planting scheme which will give visual separation for the full length of the boundary. The Officer's statement that it would have “*limited effect... in this location*” is not supported by any evidence.

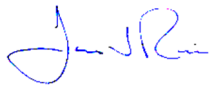
It is noted that the Council's Landscape Officer (Appendix A3.9) makes several suggestions for improving the buffer zone's effectiveness which have not been taken up in the Recommendation or Conditions.

Paragraph 5.45 The Report states that “*Officers are also satisfied that the proposed development would not put undue pressure on the Stables operations*”. In the light of this statement it is suggested that a Deed of Grant of Easement is put in place to underwrite this Council opinion with a legal document.

Paragraph 5.54 This paragraph reflects the Council's own timetable which resulted in the Report being completed within two days of the current proposals being posted on line and contrary to the specific commitment by the then Head of Planning, Brett Leahy, to have further consultations ahead of any scheduled DCC presentation.

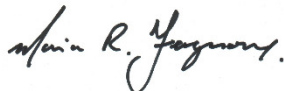
We must repeat that The Stables does not object to residential development in the surrounding areas but needs the re-assurance that this development will not threaten its continued existence as a live music venue with an ambitious programme of events and educational courses. We are asking the Council to add sufficient Conditions to any Approval to make that future safe.

Yours sincerely



Jim Rice , Chair of Trustees

and



Monica R. Ferguson, Chief Executive & Artistic Director