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Director of Planning
Havant Borough Council
Public Service Plaza,
Civic Centre Road,
Havant,
PO9 2AX

For the attention of Mr S Weaver

Dear Steve

Application APP/23/00076
Further representations

With further postponement of the consideration of this matter from potential planning committee on 16th March, there has been opportunity for further representations to be made by third parties. I take this opportunity to respond.

Natural England

A response from Natural England to this latest submission dated 27th February 2023 was received by the planning authority and posted on the application website. It was evident from the comments made, primarily requesting the submission of further information, that the purpose and content of this application and its' relationship to applications APP/17/00207 and APP/21/00536 (which had previously received the full support of Natural England) were not understood.

We took the matter up immediately with Natural England, explaining the reason for the new submission and the lack of any change of content from previous submissions. An environmental technical note was prepared for reason of explanation and this was submitted to both the Council and Natural England.

A formal consultation response has since been sent to you indicating continued support for the proposal. Natural England acknowledge the absence of environmental harm and the benefits to long term conservation and enhancement of the SSSI from a continuing, but managed, operation of Tournbury Woods.

BJP on behalf of AGP Ltd

- Support for the development from the planning consultancy representing AGP Ltd is most welcome, following as it does a long period of disagreement between the parties.
- It serves also to confirm the only reason for previous objection (claimed loss of amenity) was to bring about the promotion of an alternative means of access; a route first proposed by the applicant and for which he gained planning permission, but which subsequently he was not permitted to implement.
- We have written previously to the planning authority about the claimed implementation of the alternative access route, in which we question both the lawfulness of the commencement and failure to comply with conditions. Despite a subsequent application seeking to regularise the situation we remain of the view the track is currently non-compliant and look to the lawful and full implementation of this new application to bring an end to that disagreement.
- The proposed visitor management agreement serves two purposes: control of activities to ensure there is no harm to environmental interests (including noise and disturbance in the wider community), and to provide mitigation in terms of the continued use of the existing right of way upon the amenity of Tournerbury Farm. Whilst the amenity concerns relating to Tournerbury Farm are removed with this current application, the applicants remain happy to implement the proposed VMS in relation to the new access should this become the new lawful Right of Way to Tournerbury Woods.
- There is no requirement for a s106 legal agreement. All necessary planning control can be imposed through a planning permission and associated conditions.

Chichester Harbour Conservancy (CHC)

- The comment about conflict of interest is noted. However, there is concern that this may be oversimplified, as we are advised that specific detail may be omitted that could suggest a differing interpretation. In particular, that in the sale of Tournerbury Marsh to Chichester Harbour Trust, a right of way has been granted to the Trust which will operate along the existing route that serves as the current lawful right of way to Tournerbury Woods, through Tournerbury Farm. Hence, the current route is in fact now shared between the Trust and the owners of the Tournerbury Woods Estate, without any discussion or agreement with the latter. WE have yet to be approached about this situation but it suggests a clear conflict of interest in relation to the current Right of Way. This must be acknowledged in the weight attached to representations from the CHC to this and previous applications.
- We remain keen to avoid appeal, but if necessary (you will note we have not agreed an extension of time) it must be noted that CHC have not been forthcoming in regard to their conflict of interest over a long period. I am advised the recent admission in writing, of commercial conspiracy with A G Phillips & Son Ltd, follows only from the applicant complaining against this very fact in his verbal deputation to the CHC planning committee meeting this year. My clients would like to point out the fact that at that meeting, the CHC planning committee members who voted to continue their objection stance were not either HBC or HCC Councillors, but all from Chichester District / West Sussex.

- It is evident a conflict of interest was in place but not declared in relation to APP/21/01310. The non-declaration of this conflict of interest was raised at the time, but it was not upheld. This is likely because the full facts of the conflict of interest and the sharing of the Right of Way (without our clients' knowledge) were not clearly set out. With this knowledge to hand, appropriate weight can now be given to the continued objections of CHC, which are neither justified, nor shared by Natural England and by the HBC / HCC's Ecology Team.
- With this current application (APP23/00076) whilst the majority of the new track would not be used by the Chichester Harbour Trust, the start of it would be shared. To this end the applicants would like this interest and use to be referenced to the Planning Committee. It is likely the conservancy will again make representations to the Planning Committee as it has previously and it is important members are aware of the context in which such representations are made.
- The Conservancy raises no new areas of objection. All matters raised have been considered previously and once again no evidence or data is offered to demonstrate harm caused, or to robustly contradict the findings of environmental assessments of the absence of harm on the Chichester Harbour SSSI, SPA or AONB. The Conservancy offers no comment on the demonstrable environmental enhancements brought about as a result of the activities at Tournerbury Woods nor the continued, consistent and positive Natural England Integrated Site Assessments which are an inconvenient fact, diametric to the CHC objection stance, that appears political, rather than based in Planning fact or law.
- Noise and lighting issues have been investigated thoroughly with conclusions that no harm arises. CHC is not able to present any data whatsoever that either of these matters cause specific harm in any way to the site or surrounds. The CHC continues to ignore the development context, which include bright flood lighting adjacent to the application site from Wilson's boatyard, Mengham Rythe Sailing Club along with regular noise disturbance from these premises, and the suburban environment (noise & lighting) in Salterns Lane / Salterns Close.
- The applicants have proposed to the planning authority mitigation measures, including limiting the number of events and those participating, to counter concerns of lost amenity at Tournerbury Farm, through planning application APP/21/01310. In this application, that loss of amenity is not present due to the proposal to relocate the access. Consequently, such mitigation is not required for this application. However, the applicants are happy to offer, should the planning authority consider it appropriate, the mitigation proposed in the VMS and NMP as suggested for APP/21/01310 as part of this application. In particular they also agree that it is important to continue to take forward mitigation agreed with Natural England for ensuring the protection of potential areas of environmental concern.
- The applicant will continue to discuss levels of mitigation with the planning authority in respect of planning application APP/21/01310, in the event the alternative access cannot be delivered satisfactorily.
- It is acknowledged that visitor management provisions may provide additional benefits even if these are not required to address material concerns. The applicant has agreed to consider a self-imposed limit on events annually through this application, and to take forward measures proposed in the Visitor Management Strategy and Noise Management Plan in relation to the conduct of events.

- Suggestions of management imposing “an intolerable level of supervision” on the local planning authority cannot be justified as a reason for opposition. All planning permissions require a level of supervision. This proposal will be supervised in the same way as all other developments. There is no reason why it should be treated differently. I note this point is made similarly by the County Ecologist.
- The applicant’s wish to point out that CHC benefits directly from rental income from Itchenor Sailing Club, itself a busy Weddings Venue, without requesting the imposition of ‘levels of supervision’ over activity. Also, a proposal by CHC to build a 100meter-long pontoon facility at Itchenor to increase recreational use of the harbour, does not attract objection, even though impacts on the harbour from use are clearly more direct. In addition such usage by its very nature could not be supervised and managed in any of the ways Tournembury is able to apply when supervising activities the application site. While not directly a material consideration in our application’s planning balance exercise, you will appreciate my clients’ belief this is a further example of hypocrisy and conflict of interest by CHC, and note such facts in preparation for Appeal, should it be necessary.
- Request for a Stop Notice is again raised by CHC but is both inappropriate and misplaced. No stop notice was served with the enforcement notice and it is reasonable to assume that issues were not so great as to necessitate such a level of action to be taken, or that it was expedient for activity to cease before the expiry of the period for compliance specified in the notice. The planning authority at the time of considering enforcement action must have considered whether any alleged breach of planning control was so significant it was essential to safeguard amenity or public safety in the area; or to prevent serious or irreversible harm to the environment. Neither of these requirements existed, despite the comments of CHC and others, and a stop notice was not considered appropriate. It would be perverse for the planning authority to now consider such an action, and particularly when demonstrable evidence to the contrary exists.
- You will recall that CHC was present at the PINS PIM meeting in May last year, fully legally represented as a Rule 6 party by their Barrister. Also, in attendance was their AONB Manager – Richard Austin, and their Ecologist – Peter Hughes. At that meeting they did not request a stop notice, nor did they disagree with the proposed course of action agreed between the parties to find a satisfactory planning solution as confirmed by the Legal Agreement with HBC, now in place. To continue to request a stop notice appears both contradictory and unprofessional in consistency, and if forced through politically, would open up the possibility of substantial damages if such notice were to be issued in error.

Third Parties

A number of third-party comments have again been made to the Council. As expected many repeat comments previously made, despite the provision of considerable explanatory material and evidence to the contrary, which has been accepted by the planning authority as demonstrated through officer committee reports. No new concerns are raised and no additional evidence presented to back up claims of inappropriate activities, environmental harm or nuisance. Our comments to previous third-party representations remain applicable but we feel it necessary to reaffirm the following:

- There is no harm caused or likely to be caused to the SSSI or other environmental designations. Recent confirmation of this has been presented by Natural England through its’ thorough assessment of the whole of the Tournembury Woods site dated 31 October 2022.

- The proposal will provide enhancement and long-term positive management of environmental interests
- Discussions with Natural England, as the Government's adviser for the Natural Environment, have followed due process, considering the site as it is today and the likely effects of the proposal
- Noise and disturbance concerns have been addressed appropriately and many claims against the proposal have not been proven
- The proposal accords with National and local planning policy, having applied all tests and requirements rigorously.
- The only unresolved material planning matter sought through this submission is to address concerns for alleged loss of private amenity
- There is no harm caused to Heritage or AONB interests; both are enhanced through the proposal
- The application imposes enforceable controls and management over the use of the land
- No precedent is created; each proposal must be treated on individual merit
- This application represents the latest stage in the applicant's response to enforcement action

To conclude there are no areas of concern raised by opponents of the proposal that have not been considered previously. We acknowledge that there are third parties, who dislike the proposal for individual and personal reasons but that does not justify rejection of an application which is acceptable in planning terms. The application is in accordance with the development plan and all material considerations which might indicate otherwise have been assessed fully and found not to justify a departure from the presumption.

It is clear the outcome of environmental appraisal and assessment does not support the views expressed by objectors. It is right that third parties should raise concerns where harm to the environment is suspected, but rather than accept the evidence presented in response to those concerns, most simply choose to ignore it. Opponents make the same unsubstantiated claims and assumptions but present no evidence to counter the independent and objective findings of the site assessment undertaken by Natural England during October 2022, which concluded:

"No evidence was observed of detrimental impacts arising from the activity associated with the business amenity area taking place within the SSSI boundary which would pose a threat to the maintenance of the special nature conservation interest of this part of Chichester Harbour SSSI"

At the time of the re-assessment, representations of all opponents raising ecological and environmental concerns will have been known to Natural England through previous submissions and consequential discussions. It is reasonable to assume the conclusion reached by Natural England will have assessed all such representations.

You will appreciate that should any harm be identified that can be attributed directly to Tournerbury Woods activity, the applicant will take steps immediately to remedy that concern. At the time of submission of this application no party has provided evidence of such harm existing and there is no environmental justification to reject the proposal.

It is therefore disappointing that in the light of clear and precise evidence, that not only examined the applicant's proposals but also the very many comments of opponents, objectors and CHC continue to ignore such advice and perpetuate its claims of environmental harm. The planning authority would be irrational in applying undue weight to such objections in the light of the evidence presented and the subsequent agreement of statutory consultees.

Opponents continue to suggest harm raised by Tournerbury Wood's activity through the latest representation but fail once again to present data or evidence of harm that can be linked directly to the venue and its operation. If harm is arising as claimed, that has not been identified by either the applicant team or Natural England, then it is important opponents share that information with all parties, allowing it to be assessed, rather than continue false narrative of conjecture.

There are many activities taking place within and around the harbour which affect its environment. The impacts of some are known while others are not. What we do know from evidence, is that Tournerbury Woods activity does not have an adverse impact, in fact it offers enhancements.

The operation of the Tournerbury wedding and event venue to date, has not caused demonstrable harm to the ecological interest features within the SSSI boundary. This is unusual because normally, the impacts of a proposed development scheme on a habitat, species population or nature conservation designation must be predicted. By definition, they are potential future impacts that have not occurred. Here, clear and objective evidence exists to show that the operation of the wedding and events venue has not resulted in detrimental impact to the ecological interest feature of the Tournerbury Woods Estate, or the designated site. Furthermore, the successful operation of the wedding and events venue allows the continued conservation management of the woodlands that form this part of the Chichester Harbour SSSI and their supporting habitats. We accept this position does not suit the objectors' stance and find it disappointing they simply chose to continue ignoring evidence, in the absence of any evidence or data to refute it.

Of 45 SSSI units in the Chichester Harbour SSSI, only nine units are assessed by Natural England as being in favourable condition with no identified threats to that condition from continued operation and management. The Tournerbury Woods Estate unit is one of these nine, a fact that sits uncomfortably with objectors, who again fail to acknowledge the fact. The favourable condition of Tournerbury Woods is testament to the positive role of active and funded conservation management and good stewardship, in securing the long-term future of such sites for future generations.

From the comments made by many opponents, including CHC, objection is made as a point of principle because they are uncomfortable that this application is retrospective and resent that the applicants did not seek permission ahead of the organic growth of the venue. They ignore the fact that retrospective planning applications are a valid planning process that frequently, by their very nature, address the needs of organic business growth, as is the case here.

Furthermore, my clients consider there is some hypocrisy within objections, where others have sought to expand their own existing leisure facility directly within the SSSI and harbour (bringing with it the opportunity for greater harm, littering and ecological destruction) without evidence that this would not take place. As stated by the recent NE assessment the venue at Tournerbury Woods has the advantage of unequivocally demonstrating that it presents no harm whatsoever, rather environmental and ecological enhancement as evidenced by comprehensive data and surveys undertaken by independent and highly qualified and accredited ecologists over a very great length of time.

We note also an unfounded, unreasonable and subjective fear that support for the application might encourage other such activities around the harbour, the majority of which has 'ecologically

declined' over the last 50 years. Without positive action that decline will not be reversed. In the absence of publicly funded change, it is only through positive intervention associated with developments such as Tournembury Woods, that any enhancement of the current situation will be achieved.

Yours sincerely

A handwritten signature in purple ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Haydn Morris
For HMPCLtd