

Mr J Pavey
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Our Ref: APP/19/01262
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Ask For: Mr S Weaver
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10 March 2021

Dear Mr Pavey

The Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2015

Site Address: Tournerbury Woods, Tournerbury Lane, Hayling Island

Proposed Development: Application for Certificate of Lawfulness for an existing use or development relating to (1) change of use of Woods Cottage and its environs into leisure/tourism use for the purposes of holiday lettings and camping, and as a commercial event venue for the purposes of both holidays and the holding of weddings and events and the utilisation of any ancillary buildings and structures that may be required as necessary for such uses; (2) erection of log cabin and adjoining deck; (3) erection of Victorian style gazebo structure; and (4) erection of marquee structure.

I write further to your recent email exchanges with colleagues in the Council's Legal team, and Mr Watkins' reply of 9th March, in order to provide an update on the analysis that has taken place of the above CLEUD application. I appreciate that it has taken a considerable time to reach this stage, for reasons I have previously rehearsed with Haydn Morris, who I have copied in to this email in order that he is apprised of the current situation; however I do now have the Legal officer's comments on the submission following the analysis of the evidence which has taken place to date.

By way of background, I feel it may be helpful for you to understand the process that has been undertaken to analyse the material. Firstly, the information in the booking calendar was organised into a spreadsheet reflecting the information contained within your clients' booking calendar by year, which sets out the initial tranche of information provided regarding the claimed use of the site. In doing so we used the colour coding your clients have used in their booking calendar. From this the following summary of claimed use emerges:

	Woods Cottage only	Wedding Event	Corporate booking	Event	Other	No event
2019	5	39	4	47	0	260
2018	7	66	8	91	1	258
2017	27	57	6	74	6	245
2016	29	76	7	72	12	225
2015	130	50	10	51	16	148
2014	116	52	6	51	19	161
2013	140	54	25	50	5	132
2012	129	21	38	49	5	163
2011	119	0	48	50	6	182
2010	126	0	42	41	2	190
2009	87	0	65	54	0	206

It has been noted that the numbers are such that multiple entries arise for individual days to some extent, as the sum total of the columns in any year exceeds 365 days. I think this is due to the way in which 'events' are identified – they tend to overlap with weddings, corporate bookings as well as having their own entries (eg shoot events).

Following this, an exercise has been undertaken of matching the many hundreds of items of submitted bank statements and invoice information to the entries. This has been insightful as it has demonstrated, for example, that what was listed in the booking calendar as a '7 day wedding' (with the colour coding for all 7 days being that associated with a wedding event) in fact was booked, according to the invoice, as a wedding event hire for 1 day but with 7 nights accommodation at Woods Cottage also purchased. So in our opinion, more accurately the colour coding should have reflected only 1 day wedding use and 7 days Woods Cottage use – as those were the actual land uses taking place at the time.

A second version of the spreadsheet has therefore been created containing only those cases where the bookings/events are borne out by some corroborating evidence in the form of a bank statement or invoice related to the dates or persons hiring the premises.

This reveals the following summary of 'corroborated uses':

	Woods Cottage use	Wedding Event	Corporate booking	Event	Other	No event (not re-calculated)
2019	33	41	0	29	0	
2018	44	52	2	61	1	
2017	58	39	3	45	0	
2016	83	43	3	44	0	
2015	131	26	2	30	5	
2014	130	20	2	29	7	
2013	157	8	4	11	0	
2012	145	4	5	7	0	
2011	99	0	4	4	0	
2010	94	0	0	0	0	
2009	71	0	0	0	0	

Having shared the spreadsheets and this information with the Legal team I have received the following advice:

Woods Cottage

Woods Cottage has and continues to be used as a holiday let. The letting of Woods Cottage alongside a wedding event does not change the use of Woods Cottage. The evidence does not support extending the curtilage of Woods Cottage to include the gazebo, log cabin or other structures. There is evidence to support the letting of Woods Cottage in the absence of any wedding.

Shooting and camping

There is insufficient evidence to demonstrate a change of use to include shooting and/or camping over a 10 year period. There is very little evidence to demonstrate the frequency, location and nature of the shooting and camping activities.

Weddings

From the evidence it appears the first weddings took place in 2012. It is not clear from the evidence the extent of the land that has been used to host weddings but it is assumed that this included the use of the marquee (both old and new) and then over the period between 2012 to 2019 the use of the land for hosting weddings has expanded to include the gazebo, log cabin and decking. As the activities appear to have taken place between 2012 to 2019 (application date) a 10 year period of use has not been demonstrated.

Corporate Event

These could vary in activity and may be something very different altogether. I have not been able to establish with certainty what all these events are and the planning use that they would fall within.

Booking Calendar

The generic "Events" is possibly a double counting of the "Corporate Bookings" or "Weddings" as in almost all instances there is a booking for an event at the same time as one of these two events. Many of the "Events" listed in the booking calendar have no supporting evidence such as invoices or bank statements. Based on the submitted evidence there is insufficient evidence to determine the nature, frequency and location of these events.

Invoices & Bank Statements

Many of the invoices have not been marked as paid, it is therefore an assumption that the activity did in fact take place, receipt of payment would provide stronger evidence that the events occurred. I would wish to see supporting bank statements.

Gazebo, log cabin and decking. _

The structures are part and parcel of the change of use and are not lawful unless the use itself has been demonstrated to be lawful.

Based on the legal advice I have received, I regret we are not in a position whereby a positive recommendation can be made on the application based on the evidence before the Council. Clearly there is a need to secure additional evidence beyond the booking calendar/invoice evidence to demonstrate that the payments were made and therefore better evidence that the uses actually took place. Assuming this can be secured it would seem that, on the evidence available, only the use of Woods Cottage as a holiday let is likely to be able to be shown to be lawful – all other uses and ancillary operational development having not been demonstrated to have taken place continuously for the 10 years prior to the application.

No doubt you will wish to discuss these findings with your clients and advise me in due course as to how you wish to proceed with the application. I look forward to hearing from you further at that time.

Please could you acknowledge receipt of this communication.

Yours sincerely

Steve Weaver
Development Manager
Planning Services