

From: Haydn Morris
Sent: 21 November 2022 11:46
To: Weaver, Steve
Cc: Kareer, Neeru
Subject: Re: Tournerbury Woods

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Dear Steve

Thank you for providing an update on our planning application, which you will appreciate is most disappointing given the period of time over which we have discussed the two remaining issues of amenity and farm impacts. More so because of the agreed position at the pre-inquiry meeting and the clear intent of working to resolve the limited technical issues, rather than any fundamental matter of planning principle.

From our discussions I understand fully the difficult position in which you find yourself; balancing material planning issues with repeated subjective objection, founded we believe on misinformation and self-interest, that has become a local political issue. We have consistently acknowledged the concerns you raise regarding amenity and access and have worked with you to resolve those issues. You will appreciate that our response of providing 'an ideal solution,' is continually frustrated by the inappropriate actions of objectors pursuing personal objectives. Subsequently, we have provided appropriate alternative mitigation which we believe represents an appropriate response to the concerns, and have yet to see any evidence to the contrary demonstrating the mitigation as inappropriate. The only "evidence" presented in opposition is subjective and misplaced, and we have presented significant information to the Council indicating the shortcomings and inadequacies of opposition comment.

I note that you are instructed to present the proposal to the planning committee on the 1st December. I assume therefore that our request to meet with you has been declined. This too is disappointing, and we remain concerned the decision on our application will be made on the basis of inappropriate information, and not planning merit. We had hoped to discuss with you at a face to face meeting, our true concern that the weight given to potential impacts on a farm yard and private amenity will be misplaced, and evidence on which a decision will rely, is skewed. Whilst determination of our application is a balance judgement the Council must make, it is important that the evidence used is fair, accurate, impartial and up to date, and is not weighted in favour of any subjective opinion.

Given the presumption in favour of development and the clear and irrefutable, factual evidence that the site confers many benefits, not only of a social and economic nature to the locality and community, but also environmentally to the site and the SSSI, these benefits must weigh heavily in favour of the proposal. To suggest it should be refused, will require the demonstration of very significant harm to the contrary, evidence which we have not seen demonstrated to date. Harm that might exist is limited, relating to specific private interests only and it is very difficult to see how these can be of such magnitude as to significantly and demonstrably outweigh the presumption and benefits offered. Given the comment from your Counsel that the only matters potentially giving rise to harm could be "easily sorted out" through further discussion, to be advised a refusal is now to be recommended, suggests a very substantive body of evidence having been presented since the pre-inquiry, to tip the balance against the benefits we have demonstrated. That body of evidence does not appear in any public documentation

available to us and we await the officer report to understand what issue has recently arisen that cannot be addressed through our proposed mitigation and the use of planning conditions. If there is evidence to indicate that the benefits of the proposal are outweighed, then we should have the opportunity to discuss that evidence with you and to respond before any decision is taken.

I confirm that we will be at the planning committee on 1st December to present our position and I confirm that the applicant will be happy to welcome the committee to the site for a site visit at 1.45 (approx.) on 24th November. The access is suitable for a mini-bus and is available for use across its full-length from Tournerbury Lane. Please advise if it is your intention to show both farm and the private residences to the committee during the site visit? If this is intended then I wish to be present during that part of the tour to ensure that no inappropriate representation is made and that the members view the site and its context as it is presented on any 'normal day.' It appears more than a coincidence that on the day we are notified of the site visit, a significant number of vehicles and equipment arrive at 'the farm' and much paraphernalia is moved from previous long standing positions to be closer to the right of way.

You will be aware that throughout the promotion of this application we have been challenged by opponents on ecology and environmental grounds, the question of suitability of the access, and farm and residential amenity. We have responded to this opposition consistently, pointing out the lack of evidence or credibility of much of the narrative offered. We will continue to do so as we believe the facts speak for themselves.

I welcome your previous acknowledgement that ecology and environment is no longer a concern at the site warranting a reason for refusal. Yet, opponents fail continuously to accept the advice and agreement of Natural England. You may be aware that recently Natural England undertook a review of the condition of the Tournerbury Woods as part of the Chichester Harbour SSSI – we suggest this visit might have been prompted by opposition rhetoric. The report of the review is now available and a copy is attached for your information. You will see from the conclusion the woodland continues to have an exceptionally 'clean bill of health' with a further favourable condition status. None of the decline or adverse impact claimed by opponents is evident, but the management of the SSSI, funded by the applicant from the use of Tournerbury Woods, is acknowledged and supported. May I ask you to please publish the review (copy attached) on the application website such that it is available to the public and members.

It is our belief the issue surrounding the farm and private amenity is similarly misrepresented. We have a large body of evidence, prepared in anticipation of appeal, which indicates most clearly that the claims of harm to farm activities (and consequentially private amenity) are inaccurate, or unjustified. Much of this information has been presented to the Council in support of our application. However, as the planning decision appears to be already determined for reason of suggested but unproven harm on an operational farmyard, one which 'operated' without harm from our client's operations for a number of years until our application was submitted, it appears necessary for us to present still further factual evidence to the planning committee, and this we must now do. We had intended to discuss our concerns and allow you to interrogate it with us during a meeting, but this has been declined.

I am certain this evidence, will be challenged by objectors and no doubt we will be presented with farm registration documentation by opponents, to back claims of farming activity at Tournerbury Farm. You will be aware, as am I, that there can be a significant difference between how land is registered or recorded, and the manner in which it is actually used. We will assemble further evidence of consistent non-agricultural activity, in and around the farm yard and residences, and we will present this to

you. With evidence already submitted it demonstrates clearly that whilst a farm was operational many years ago when the land was transferred from the applicant's family, that use has progressively and purposefully declined, with other uses and activities introduced and sustained over a significant period. This includes promotion of the open farmland for housing.

While some agricultural related activity might from time to time take place, it is far from what might be recognised as a traditional farm yard and holding reliant solely on daily agricultural activity and the production of food – the owners and their agents have frequently referred to it in evidence to this application, as a commercial operation. Farms are increasingly seeking diversification and in doing so this changes the context of amenity and operations that are present. Our evidence shows very clearly that other, entirely separate business enterprises, operate within the farm yard area that are not agriculture, and should not be interpreted as AGP & Son's farming operations. These include non-authorised uses and inappropriate activities that we have drawn to the attention of the Council's enforcement team and have referenced frequently in our response to opposition comments. The planning situation is not changed by the very recent relocation and moving of items to give an appearance of an active farm.

My clients understandably consider it perverse that AGP appears able to benefit from the presence of these unauthorised, non-agricultural activities, within and around the farm yard, with a direct, uncontrolled impact on the operation of farming activity and residential amenity. Yet AGP continues to object to our application on grounds that continued use of our right of way gives rise to unacceptable levels of nuisance. I need not remind you that the presence and use of the right of way was fully understood and accepted by AGP when the properties were purchased, when it was a traditional farm and before any of the activities we see today in the yard area existed. The non-agricultural businesses operating from within the Tournerbury Farm Yard (some not owned by AGP) do so without control and at all times of the day and at weekends, throughout the year. They do so, using the same means of access without any claimed adverse impact on the residential amenity and farming operations that are central to the issues under consideration. We have previously questioned if the uses have been operating for sufficient time and extent that a change of use has occurred and for which no planning permission exists – our evidence comprises a notified but unresolved enforcement action at Tournerbury Farm. The further evidence documents we will send to you, will also be forwarded to the Council's Enforcement Team to complement that already submitted. While the enforcement action is separate from our planning application, its subject must be a material consideration to the planning balance you must make.

We have had very little contact with the Council's enforcement team since submitting the original evidence, and no confirmation that any action has been initiated; a situation which we find both surprising and totally unacceptable. The information has been with the Council many months. Had it been investigated in good time and with an appropriate urgency given its nature and the potential for environmental harm, we believe it would provide considerable clarity on the matters central to your current decision making.

We request that the evidence we now present on ecology and that which we will present on farming activity, will be brought to the attention of members of the planning committee before they reach any conclusion on our client's application.

I take this opportunity to also comment on the misunderstanding in your recent email regarding our fall-back position. You suggest that this relates to only 28 days use annually, which will represent a reduced level of activity to that we seek through this application and consequentially, you suggest, less harm (we assume in the context of

private amenity). This interpretation is entirely misplaced as our fall-back position is not only 28 days use for events, but includes a continued use of the land for purposes which existed before the events took place and continue to exist; that is the use of the land for agriculture and forestry. Should the proposed application not be permitted, the fall back is to use the land for such purposes in addition to the permitted 28 days. It will be necessary to maximise the returns from such activity, quite simply, to replicate current funding for SSSI management and enhancement. Consequently, it will result in an increased level of activity of an agricultural and forestry nature within Tournerbury Woods all served by the existing right of way. This will be in addition to the use of the cottage for multiple, busy and active family holiday lettings, which will also need to be dramatically increased, if the funding gap for SSSI management and enhancement arising from a fall in the number of events taking place, is to be filled. This position should be made clear to Committee members so that they have a full understanding of the consequences of refusal, since the right of way will continue to be used "at all times and for all purposes" as the Deeds state. I am sure you will agree there is a continuing desire and need to fund the management and enhancement of the SSSI, which to date has been so successful.

The usage proposed in our planning applications represents a sustainable and well-controlled level of activity, of not only the land, but importantly also the right of way. Through the use of an enforceable management agreement and limitations on events this can be monitored continuously and adjustments made through discussion should they become necessary. In contrast any other lawful usage will most definitely increase the use of the right of way and consequently affect the claimed amenity position. No planning permission will be required and therefore no controls can be imposed.

We urge most strongly that members of the committee are presented with sound planning argument based on robust material planning considerations and that all emotive, subjective and personal preferences are set aside.

It is my intention to provide a short response to the officer report when it is available, and this will be referenced in our presentation to the committee on 1st December, when we will set out concisely for the committee, the salient points that relate to the two planning considerations we have been addressing for many months.

I am very happy to discuss the above.

Regards

Haydn

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From the **1st April 2022** I will be further reducing my working hours as I bring forward my retirement plans. I will continue to advise my existing clients and complete active projects working 9 a.m. to 5 p.m. Monday through Wednesday each

week. Thereafter I will be taking on new projects by special arrangement only and am happy to recommend alternative consultants. Should matters arise when I am not in the office, please send an email or leave a voice message and I will respond as soon as I return to the office.

HMPC Limited

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