

Subject:
APP/21/01310

Dear Mr. Weaver - I have the following comments to make on the Analysis of Transport Note submitted by the applicant on 31 October 2022. Please add them to the public portal.

Item 7.2.9, pages 29 to 32

The argument put forward by the applicant that the width of the existing right of way on the ground can be determined unequivocally by the width of black hatch marks on the original conveyance plan from 1987 is both farcical and wholly inaccurate. The hatch marks were scribbled onto the plan by hand, casually and coarsely, for the purpose of showing where the track was located, to avoid any confusion with any other nearby black lines without hatching. The notion that the marks were specifically made 1.41 mm wide so as to represent 7 metres on the ground is beyond absurd, as the applicant knows perfectly well from other land and right of way disputes from his past. Official Land Registry guidance on lines shown on title plans is that they never signify anything more than a general location, and should NEVER be relied on to determine an exact boundary or width. For that purpose it is essential for there to be an EXPRESS written statement in the Deeds, with or without precise measurements, stating exactly what or where any drawn line conveys, and requires the EXPRESS agreement of both parties to the transaction that they both agree and accept that description. Nothing of the sort took place in 1987, and it is disingenuous and misleading to suggest otherwise. It is even more dishonest to repeat again and again throughout the Analysis of Transport Note that the original Right of Way is therefore 7 metres wide along most of its length with just a few exceptions (through gates and between the ponds etc.).

Item 2.3.6 and Fig 8A, page 13 and 14

It has been claimed that on the existing Right of Way there is 237.7 metres which can accommodate 2 way traffic, and only 80 metres on the alternative access track (Fig 8A). This is because only the three extra-wide and dedicated passing bays have been coloured in and counted on the alternative track. The reality is that the entire length of the alternative track is very considerably wider than the section of the original track from Tournerbury Lane to the entrance to the Woods, and there is more than enough space, and perfect visibility, for two way traffic and for cars and small vehicles to pass each other anywhere at all. In the case of very large articulated lorries or massive coaches, the three dedicated passing bays provide a very much better solution for ultra safe and convenient passing than anything available on the original track.

Item 7.4.9, page 47

I take issue with the statement in the final paragraph that the site of the application is for an "existing business and operation that has been used LAWFULLY and extensively by tens of thousands of guests and visitors to The Tournerbury Woods Estate over a very long period of time; on foot, on bicycles and by cars and with supplier vans and trucks & coaches using the Right of Way." On what basis are there any grounds for claiming that the existing business and operation is in any way lawful? Where are the formal permissions to undertake all this business involving tens of thousands of guests and visitors within an official SSSI?

Bullet Point 4, page 74

The applicant has made the statement that if he "wants to improve the road surface of the Right of Way by tarmacking it or concreting it and line marking it for safe and suitable use, he is legally and lawfully fully entitled to do so." This is categorically not the case. There is NO right in English law for a dominant tenement to improve or upgrade a right of way, as it is not their land to

develop. The dominant tenement only has legal rights to repair the road surface to the standard it was before.

Item 2.1.7, pages 4 to 7

In relation to the above point about alleged legal rights to tarmac, concrete or line mark the existing track, it is interesting to compare this with comments made between 1998 and 2003 by the applicant and his then lawyers, May, May & Merrimans, in relation to an earlier dispute involving this same track, many years after the 1987 conveyance was implemented.

"The track through the farm is an earth track and quite unsuitable for the majority of the year to use as an access road for vehicles unless you are driving a 4x4 off road vehicle." (Letter from C Snell dated 07/12/1998)

"The alternative track through Tournerbury is much less satisfactory [than the southern track] , being a dirt track, which is almost impassable except by 4x4 vehicles in the winter months or during wet weather, and which cannot currently be upgraded from an earth track under SSSI regulations." (Letter from May, May & Merriman dated 12/11/1999)

"This is because the Farm track is a dirt track, which is unsatisfactory in wet weather and it cannot be improved or made up under the terms of the SSSI regulations." (Personal statement by Francis Snell dated 11/02/2000)

" whereas the northern track remains a dirt track which our client is prohibited by English Nature from upgrading." (Letter from May, May & Merriman dated 16/05/2003)