

Dear Mr Weaver,

I am writing to request confirmation that you have received the following communications, and to ask you to confirm the action you have taken on them.

8th September

Request for the withdrawal of 'APPENDIX_4_TO_LETTER_TO_HBC_17_08_2022-1692441.pdf' that you have posted on the website as a Comment from the applicant's agent on APP/21/01310 relating to Tournerbury Woods within the Chichester Harbour SSSI This document makes a claim about comparable sites that includes serious misrepresentations. This document must not be available to councillors making a decision now that I have evidenced these misrepresentations to you.

***I would like your confirmation that this document has been removed from consideration in any decision

9th September

I supplied you with comprehensive evidence of operations ('ORNECs') undertaken in Tournerbury Woods within the Chichester Harbour SSSI that do not have Natural England's consent (attached again with minor updates in 'Tournerbury-Unconsented ORNECs v2-comp.pdf'). The only limited consents given by Natural England are contained in a Site Management Statement dated 17th April 1997, and that makes the unconsented operations I have detailed offences under the of the Wildlife and Countryside Act 1981.

***I would like your confirmation that these offences will be listed in any Officer's report prepared before consideration of APP/21/01310 at the Planning Committee.

28th September

I wrote to you with details of a number of breaches of Planning permission conditions relating to the domestic curtilage and the surroundings of Woods Cottage in Tournerbury Woods within the last 10 years. The evidence of the unconsented ORNECs detailed to you on 9th September is prima facie evidence of the breaches of conditions of planning permission for 01/62340/001 as follows by Condition number:

- 2 Soil levels around trees raised: This was breached in April 2017 in the construction of the 'Deck' north of Woods Cottage amongst other locations (Photos in APP_19_01262-CONSULTEE_RESPONSE_ATTACHMENT_-_CHICHESTER_HARBOUR_CONSERVANCY-1366994.pdf)

- 4 Tree felling only permitted if replacement planting was undertaken according to a detailed scheme: this was breached during the extensive tree felling occurred in the construction of the earthworks in April 2015 as shown in Tournerbury-Unconsented ORNECs v2-comp.pdf

- 6 'Material to be used for the raising of the lawn areas' (marked as 'rubble' on 1999 air photo in Tournerbury-Unconsented ORNECs v2-comp.pdf to the west of Woods Cottage and outside the domestic curtilage defined in the Planning application maps). This condition was breached when this was not removed and the area was not 'restored to its original state of a wetland habitat' as is seen in the 2007 air photo, where the area has become a lawn area (834m2)

- 8 Extensive alterations to the drainage at the site was undertaken as shown in Tournerbury-Unconsented ORNECs v2-comp.pdf. This condition was breached when infilling of dykes and ponds was undertaken in the spring of 2015, especially to the north of the domestic curtilage. These are also offences against the Land Drainage Act 1991.

As these breaches of the Planning conditions have been breached within the last 10 years, enforcement action must be taken by the Council as no subsequent permissions have been obtained.

***I would like your confirmation that the breach of these planning conditions will be listed in any Officer's report prepared before consideration of APP/21/01310 at the Planning Committee.

Further matters

1. Enforcement notice on APP-21-00006

The Council have issued Enforcement Notice in APP-21-00006 on 17th January 2020 inter alia because 'the use of this land causes significant harm to this sensitive rural location' and the development breached Havant Core Strategy policies CS11 and CS12. The Notice also states that 'The Council do not consider that planning permission should not be given, because planning conditions could not overcome these problems'.

Yet the Council disclosed to us under a FOI request that it had concluded a non-prosecution agreement with the Applicant with respect to the continuation of activities in breach of APP-21-00006. This agreement states that 'APP/21/01310... now reflects the (applicant's) aspirations for use of the Tournerbury Woods Estate better than the Retrospective Planning Appeal' (sic) (APP-18-00943).

However, we note that Council's Local Planning Enforcement Plan (LPEP) (2021) says that 'The only time the applicant's right (to submit a Retrospective application) is withdrawn is when an Enforcement Notice has already been served against the development that they are putting the application in for. As the Enforcement Notice was served on 17th January 2020 but the Retrospective request for permission (APP/21/01310) was submitted on 2nd December 2021 the LPEP says that 'In this scenario planning permission must be sought via the appeal process of the enforcement notice'.

However, the Applicant has withdrawn their appeal against APP-21-00006 and so this route can no longer be followed and APP/21/01310 should be withdrawn. We believe therefore that it is improper and actionable for the Council to accept that 'APP/21/01310 now reflects the Appellants' aspirations for use of the Tournerbury Woods Estate better than (Appeal against APP-21-00006)' as stated in the 'non-prosecution agreement' on p1.

***I would like your confirmation that this breach of the Council's Local Planning Enforcement Plan will be listed in any Officer's report prepared before consideration of APP/21/01310 at the Planning Committee.

2. CLEUD application APP-19-01262

We note that the Applicant has not withdrawn their appeal against refusal of permission of this application, but agreed with the Council that it should remain 'in abeyance'. This treatment is also in breach of the procedures in Council's Local Planning Enforcement Plan (LPEP) (2021).

This application requests that the domestic curtilage associated with Woods Cottage should be considered to have expanded from 5000m² in the area shown on the Site Management Statement dated 17th April 1997 and the 2001 Planning permission granted under 01/62340/001 to an area over 50,000m² in the map within EB0877-0878_TOURNERBURY_ESTATE_BOUNDARY_MAP-1341693.pdf.

However, we note that in *Challenge Fencing Ltd v Secretary of State for Housing Communities and Local Government* [2019] EWHC 553 (Admin) in March 2019, Justice Lieven noted that "A developer

cannot change the curtilage simply by asserting that s/he intends to use the site in a particular way in the future". The only thing that had changed between 2001 and 2019 was that an unauthorised development had taken place to cover the larger area and thus the Applicant is seeking to unilaterally increase the area to match the wedding activity rather than the area had always been used in this way. Testimony in the APP-19-01262 comments within 'Objects received 13.02.20' shows that the larger area claimed was not used domestically in any way that would justify this expansion.

This expansion of the domestic curtilage must therefore not be accepted by the Council as the 1997/2001 accepted boundaries are tied to limited consents given by Natural England, which cannot be unilaterally expanded by an unauthorised change of use.

***I would like your confirmation that this unilateral and unjustified attempt to enlarge the domestic curtilage of Woods Cottage will be noted in any Officer's report prepared before consideration of APP/21/01310 at the Planning Committee.

These are serious matters that will have a material effect on any review of APP/21/01310 and I am asking you for a formal response to indicate that you have been put on notice of these matters.

I look forward to hearing from you in acknowledgement.

Best wishes