

Tournerbury Woods Estate, Hayling Island, Hampshire

PINS Reference: APP/X1735/W/21/3278661

Havant Borough Council Reference: 18/00943

Appeal under section 78 of the Town and Country Planning Act 1990

OUTLINE STATEMENT OF CASE

ON BEHALF OF A.G. PHILLIPS & SON LIMITED

AUGUST 2021

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1. INTRODUCTION

1.1 This outline of a proposed Statement of Case has been prepared by Thrings LLP on behalf of A.G. Phillips & Son Limited Company number 01602404 (“AGP”) which wishes to apply to become a Rule 6 party in the planning appeal made by Mr and Mrs Chris and Alice Snell (“the appellant”), in respect of a proposed development at Tournerbury Woods, Tournerbury Lane, Hayling Island (“the appeal site”).

1.2 A planning application (dated 10 August 2018) was submitted to the Havant Borough Council (“the Council”) and was refused permission under reference APP/18/00943. The development proposed in that application and in this appeal comprises:

‘Change of Use of land and woodland (retrospective) as a wedding venue, including retention of permanent ancillary buildings and structures, the erection of temporary structures (including marquees and temporary facilities), and the use of land as a campsite in association with events, and use of the existing cottage for visitor accommodation..’

1.3 In this document this retrospective proposal is referred to as the “Appeal Scheme”.

1.4 Copies of the decision notice and officer’s report are attached as Appendix 1 and Appendix 2 respectively.

1.5 Planning permission was refused at committee with the Council identifying one reason for refusal. The decision is dated 12 June 2021. The reason for refusal identifies a range of significant, substantive planning objections, summarised as follows:

1.5.1 it is not appropriate in planning terms for the wedding and events venue to rely on the proposed access route through AGP’s farmyard (“the AGP Farmyard”) because of the following planning harms:

1.5.1.1. an ongoing risk of noise and disturbance to occupiers of the dwellings in the AGP Farmyard; and

1.5.1.2 risk of conflict between visitor movements and the safe and satisfactory functioning of the farmyard activities as a whole.

1.5.2 The matters of fact identified by the local planning authority supporting this planning judgement strongly indicating that planning permission ought to be refused are:

1.5.2.1 celebratory and social gatherings into the late evening

1.5.2.2 a high number of participants;

1.5.2.3. the limitations of the access track;

1.5.2.4 the access track does not allow two-way flow over all of its length through the adjoining Tournurbury Farm holding (“the AGP Farm”).

1.5.3 The development plan policies identified by the local planning authority supporting the refusal are:

1.5.3.1 Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011,

1.5.3.2 Policy AL1 of the Havant Borough Local Plan (Allocations) 2014; and

1.5.3.3 the National Planning Policy Framework.

1.6 AGP’s objection focusses narrowly on the reason for refusal. It is explained below and would be evidenced in future proofs of evidence that:

1.6.1 as a matter of fact the noise and disturbance is wholly unacceptable in planning policy terms due to the nature of the activities, extended periods of activity during the early hours in the morning day and night and general incompatibility with the dwellings in the AGP Farmyard.

1.6.2 AGP will point to evidence that the difficulties were once acknowledged by the appellant in support of an application for the creation of an alternative route.

1.6.3 the access track is highly limited and unsuitable for the proposed activities for sound transport planning reasons and that the experience of a significant number of users.

1.6.4 the proposed activities result in unacceptable and unavoidable conflict with the primary use of the AGP Farm. There is a non-planning issue of the legality of the use of the route by the appellant for the proposed activities that is not the subject of this inquiry.

1.6.5 Furthermore, AGP intend to provide evidence of practical steps by AGP to implement an alternative route to which the Appellant has suggested a real interest in using in preference to the route currently proposed in the Appeal Scheme.

Planning Appeal Documentation

Planning application documentation

Prior to requesting Rule 6 status, AGP submitted a number of written objections to the Appeal Scheme at the planning application stage, as follows:

AGP1. Objection letter from AGP dated 4 December 2018

AGP2. Objection email from AGP dated 2 February 2019

AGP3. Objection letter from AGP dated 6 December 2019

AGP4. Objection letter from Bryan Jezeph Consultancy Development Planning and Property Consultants on behalf of AGP dated 6 December 2019

AGP5. Objection letter from Thrings LLP on behalf of AGP dated 6 December 2019

AGP6. Transport Note from Evoke Transport Planning Consultants Ltd (Evoke) on behalf of Mr and Mrs Phillips of AGP dated 11 June 2021

Application to determine whether prior approval will be required for the siting and means of construction of a private way reference APP/12/01333

This was the first occasion at which the appellant acknowledged the unsuitability of the Appeal Scheme routing through the AGP Farmyard.

AGP7. Letter from Christopher Snell dated 21/12/2012

AGP8. Letter from English Heritage dated 3/12/2012

AGP9. Decision Notice Town and Country Planning And Country Planning (General Permitted Development) Order 1995 Approval Of Details dated 18 January 2013

Planning permission reference APP-17-00207 documentation

The appellant secured planning permission for an alternative route to main appeal site in 2017 extracts from which are attached:

AGP10. Plan dated 20 December 2012

AGP11. Cover letter dated 21 December 2012

AGP12. Site plan and section (undated)

AGP13. Planning statement dated 2 February 2017

AGP14. Officer report dated 4 May 2017

AGP15. Decision notice granting planning permission dated 4 May 2017

Planning Application reference APP/21/00536

AGP has implemented the planning permission for the alternative route at its own expense and has submitted a planning application for a slight amendment under reference APP/21/00536 extracts from which are attached:

AGP16. Location Plan reference H125/2021.06.04/SPRr

AGP17. Planning statement by BJC Planning 30 April 2021

AGP18. Site photographs in 2020 and 2021

AGP19. Consultation response of Hampshire Local Highway Authority 5 July 2021

AGP 20. Email from tenant of a dwelling on Tournurbury Farm to AGP dated 21 July 2021

AGP21-P1 through to AGP21-P26 AGP will refer to these photographs as necessary.

AGP will also refer to the officer report for Appeal Scheme and associated materials relied upon by the appellant.

Further information

AGP have also provide further information comprising photographs and video evidence on a stick to PINS, to the local planning authority and to the appellant under cover of a letter dated 19 August 2021. The evidence is to demonstrate the activities in the AGP Farmyard and impact on the

dwelling occupied by AGP and its dwellings. Documents AGP21-P1 through to AGP21-P26 are reproduced on the stick, but there is evidence in MP4 and Apple Quick Time format that cannot be reproduced as a still pdf for obvious reasons.

2. SITE AND SURROUNDINGS

The greater part of the Appeal Scheme is sited east of the AGP Farm. The greater part of the appeal site Tournembury Woods is outside the urban area, within the Chichester Harbour Area of Outstanding Natural Beauty, and in a location which is the subject of numerous national and international environmental designations. The appeal site is in agricultural use.

3. A.G. PHILLIPS & SON LIMITED (“AGP”) AND THE OPERATION OF THE FARMING ENTERPRISE

3.1 AGP is the owner and operator of Tournembury Farm. The farm once formed part of the wider Tournembury Woods Estate but was sold off in around 1987, albeit the applicant retained legal access to and from Tournembury Lane through the AGP farmyard. It is highly relevant that the red line of the Appeal Scheme passed through the AGP Farmyard.

3.2 AGP farm comprises about 250 acres farmed for hay with a maximum of 100 head of cattle farmed in hand together with 7 competition horses. The north of the AGP Farm is in use as a 9 hole 3000 yard par 35 golf course trading as the Tournembury Golf Centre & Teaching Academy. At the time of writing there are 35 head of cattle on the farm due to the uncertainties of the pandemic.

3.3 The Appeal Scheme requires uninterrupted access to the venue via a private track which runs from the eastern limit of the adopted highway of Tournembury Lane. Prior to entering the Tournembury Estate the track passes the access to the parking area for the Tournembury Golf Centre & Teaching Academy and then runs through the AGP Farmyard which is surrounded by two dwellings and a variety of agricultural buildings. There

3.4 There are two dwellings in the AGP Farmyard. One is occupied by the Phillips family that own the AGP Farm and the other is rented out to tenants. AGP will give evidence to demonstrate the impact of the development on those dwellings.

4. PLANNING POLICY

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for the determination of planning applications are the policies in the development plan unless material considerations indicate otherwise. In this case, there are no material considerations relevant to the Council's reason for refusal which would indicate a starting point other than the relevant planning policy objectives set out in the development plan and in the NPPF. Indeed, the material considerations such as they are that strongly indicate planning permission ought not to be granted.

4.2 AGP supports the view of the local planning authority that the proposals are contrary to Policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011, Policy AL1 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework.

Development Plan

4.3 Policy CS16 §1(e) requires development to demonstrate design that does not cause unacceptable harm to the amenity of neighbours through among other things, noise. Policy CS16 §2(a) requires the layout reduces opportunities for crime, antisocial behaviour; and (c) requires a legible development. Policy CS16 §4 requires inclusive, safe and convenient access.

4.4 Policy DM10 requires that noise or light polluting development health and safety of existing and future users of the site, or nearby occupiers and residents is not put at risk.

4.5 Policy AL1 is a policy that applies the test in the National Planning Policy Framework (NPPF).

NPPF policies

4.6 AGP submits that the potentially relevant NPPF paragraphs are: 110 (safe and suitable access). AGP is not clear if the local planning authority has not relied upon NPPF paragraphs 112 (minimise the scope for conflicts between pedestrians, cyclists and vehicles), 130 (safe, inclusive and accessible) 185 (new development is appropriate for its location).

5. THE AGP OBJECTION

5.1 It is difficult to grapple precisely with the appellant's Statement of Case because it is very brief and not at all particularised. At this early stage the appellant has indicated a week long inquiry

may be required, AGP would like to reserve the right to amend or update this Statement of Case as the appellant's develops their case in detail.

Noise and disturbance to occupiers of the dwellings in the AGP Farmyard

5.2 The application details set out an aspiration for events to potentially occur at the wedding and events venue on up to 200 occasions per year, with up to 500 guests.

5.3 AGP will provide evidence of harm to amenity; this includes heavy traffic and traffic very close to the dwellings contrary to the objectives of Policy CS16 and relevant paragraphs of the NPPF. The evidence will include the use of AGP's land by passing and waiting traffic and pedestrians in the early morning and late evening having an adverse impact on the quality of life of the occupiers of the dwellings. AGP will provide evidence from the occupants of the dwellings about lost sleep, disturbance by guests and unwanted house calls: see AGP1, AGP3, AGP4. This evidence is given from an experience of the activities being carried out using limited permitted development rights.

5.4 The evidence will explain AGP's case is that permission for events result in a high number of participants and supporting services using the AGP land at entirely unsocial hours that would be expected for the occupiers of AGP's dwellings, business and farming operations.

5.5 The track is over farm land into what remains a rural location into woodland.

5.6 AGP will explain that from the late 1980s until the middle of this decade was that the single lane track was used to access Woods cottage and the plantation. Leaving aside the dispute between AGP and the appellant about the private law issues, AGP will show by reference to the planning history that the appellant has recognised the use of the track as envisaged by the Appeal Scheme is unacceptable in amenity terms.

5.7 AGP will also provide evidence as to the conflict with AGP Farm operations including the health and safety concerns for farm workers and the well-being and management of livestock. AGP will suggest this is contrary to Policy DM10 and the relevant policies in the NPPF.

Limitations of the access track

5.8 AGP say there are good transport and highways reasons why the existing access track from which this site is served is not suitable in either highway safety or capacity terms to accommodate

the existing, or planned future, use of the site for large weddings and other events: see AGP6. AGP will say the current development is not compatible with Policy CS16, Policy DM10 and relevant policies in the NPPF.

5.9 AGP will provide evidence of the adverse impacts of conflict with AGP Farm operations including livestock straying and the use of the barns; there are risks associated with the use of the access track which is in places single track with poor visibility, the track has a width of three meters in places and deep water either side: see AGP 4

5.10 AGP will put that case that the new development proposed by the appellant cannot be integrated effectively with AGP's existing business while the access has to be through the AGP Farmyard: see AGP2, AGP3, AGP6, AGP7 and AGP8.

5.11 AGP will provide evidence of the effects of use of the AGP Farm by many vehicles a day including lorries, coaches and double decker buses make it totally unfit for the proposed use. The use of the track has an adverse impact on AGP Farm's security and operations: see AGP4.

5.12 AGP will explain that while it is not suggesting that the new access road proposal Planning Application reference APP/21/00536 should be treated as alternative in the planning balance, it demonstrates the disadvantages of the Appeal Scheme: for those disadvantages in AGP9. Planning Application reference APP/21/00536 builds on a planning permission obtained by the appellant in 2017 reference APP-17-00207 and demonstrates the Appeal Scheme is far from optimum.

5.13 The 2017 permission applied for by the appellant was intended to ensure the farming activities, husbandry, safety and security at Tournerbury farm remained unencumbered. The planning reasons for consent made by the appellant were compelling: see AGP10 through to AGP15. These planning reasons are apparently in stark contrast to the case made for the Appeal Scheme and AGP is of the view the historic and current analysis by the appellant can be reconciled to make a persuasive case that permission ought to be granted.

5.14 It is a safer route for traffic and pedestrians, is away from the AGP Farmyard and AGP have taken steps to seek an amendment to the route: see AGP16 to AGP19 . AGP has offered the appellant a right of way over the route subject to the appellant taking responsibility for

maintenance and negotiations are ongoing. Whatever the outcome of the negotiations the point that there are planning benefits of the permitted route that avoids AGP's Farmyard is clear. The appellant has engaged in the negotiations with a view to concluding an agreement.

Response to other matters in the Appellant's Statement of Case

5.15 The points above deal generally with the appellant's case but there are a number of unsupported allegations about bad faith, unlawful actions and enforcement action being made by the appellant which AGP reserve the right to challenge were they to be made in sufficient detail by the appellant to warrant a response. AGP has made representations in the past indicating that the appellant's representations are not planning matters: see AGP5.

Planning Conditions

5.16 AGP would prefer the Appeal Scheme to be refused, failing which AGP will propose appropriate planning conditions. These include proposals for an upper limit of 30 events per year with access through the AGP Farmyard and a requirement for all pedestrian and vehicle movements through the AGP Farmyard to cease after midnight until 8am.

6. CONCLUSION

6.1 AGP maintains a very strong objection to the Appeal Scheme. The appellant has put forward little, if any, meaningful challenge to the very reasonable, sensible and justifiable decision of the Council to refuse planning permission. This lack of evidence underscores the fact that the proposed development, in relation to the second reason for refusal, is very clearly in conflict with the adopted and emerging policies in the development plan, as well as the Government's objectives for sustainable economic growth as set out in the NPPF.

6.2 AGP maintains that the proposed development is very clearly in conflict with the local plan and as such it respectfully requires that the Inspector upholds the Council's decision and dismisses the appeal.

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