

HAVANT BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

**TOWN AND COUNTRY PLANNING (APPEALS) (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000 SI 2000 No 1624**

Appeal by Mr and Mrs Chris and Alice Snell against the refusal by Havant Borough Council to grant planning permission for a material change of use of Land as a wedding and events venue and ancillary operational development to the material change of use on land at Tournerbury Woods Estate, Hayling Island, Hampshire, PO11 9DL

Planning Inspectorate Reference: APP/X1735/W/21/3278661

Havant Borough Council Reference: APP/18/00943

STATEMENT OF CASE ON BEHALF OF HAVANT BOROUGH COUNCIL

1 Introduction

1.1 The application that is the subject of this appeal was registered on 6th November 2018. It sought full planning permission for a material change of use of land as a wedding and events venue and ancillary operational development to the material change of use on land at Tournerbury Woods, Tournerbury Lane, Hayling Island. The application was retrospective.

1.2 The application was refused by Planning Committee by notice dated 25th June 2021 for the following reason:

1 Having regard to the nature of the activities being applied for, which include celebratory and social gatherings into the late evening; the high number of participants proposed; and the limitations of the access track which do not allow for two-way flow over all of its length through the adjoining Tournerbury Farm holding, the Local Planning Authority considers that it is not appropriate in planning terms for the wedding and events venue to rely on this route. To do so would bring an ongoing risk of noise and disturbance to occupiers of the Farm dwellings; and the risk of conflict between visitor movements and the safe and satisfactory functioning of the farmyard activities as a whole.

As such the development is considered 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.

2 Site and Surroundings

- 2.1 The application site forms part of the Tournembury Woods Estate, a 300 acre (121.4ha) estate lying off Tournembury Lane on the eastern seaboard of Hayling Island. Approximately 250 acres (101ha) of the estate is understood to comprise intertidal habitat, with the balance of 50 acres (20ha) on land. The application site forms a part of that 50 acres (20ha).
- 2.2 Access to the site is gained via a right of way through adjacent land, including the farmyard of Tournembury Farm, which eventually leads to the eastern terminus of the adopted highway of Tournembury Lane.
- 2.3 The site lies within Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar Site. Tournembury is also designated as a unit of the Chichester Harbour Site of Special Scientific Interest (SSSI), and is the subject of a longstanding management agreement between the applicant and Natural England. In addition, the eastern part of the site lies adjacent to the Solent Maritime Special Area for Conservation (SAC).
- 2.4 The site lies within the Chichester Harbour Area of Outstanding Natural Beauty. Part of the access runs through a Scheduled Ancient Monument.

3 Planning History

3.1 Previous planning applications of relevance are as follows:

01/62340/001 - Partial raising of lawn to above tidal level and removal of two trees to north of cottage covered by TPO 448. Permitted 18/12/2001.

APP/12/00584 - Application to determine whether prior approval is required for the siting and appearance of proposed fish tank. Prior approval required and refused 04/07/2012.

APP/17/00207 - Construct vehicular track from the public highway to Tournerbury Woods Estates for the purpose of avoiding agricultural operations in Tournerbury Farm. Permitted 04/05/17 and part implemented.

APP/19/01262 - 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.

Refused 02/06/2021 – Appeal lodged – PINS reference APP/X1735/X/21/3278706.

APP/20/00626 - Variation of conditions 2 and 7 of Planning Permission APP/17/00207 (Construct vehicular track from the public highway to Tournerbury Woods Estates for the purpose of avoiding agricultural operations in Tournerbury Farm) to substitute a new plan "BJC Location and Site Plan (Plan no. H125/2020.07.03L/SP)" in lieu of approved plan "Site Plan and Section DN: A102"; and revised landscaping and tree planting proposals from those previously approved.

Current application under consideration.

APP/21/00536 - Part alternative to permission APP/17/00207. Construction of vehicular track from the public highway to Tournerbury Woods Estate for the purpose of avoiding agricultural operations in Tournerbury Farm.

Current application under consideration.

3.2 An Enforcement Notice was issued in respect of the site on 17th January 2020 regarding the following breach of planning control:

"Without planning permission and within the last 10 years, a material change of use of the land from agriculture and a dwellinghouse used for holiday letting's, to the use of the land for agriculture, a dwellinghouse used for holiday letting's, camping, holding of weddings and other commercial events."

The Notice took effect on 13 March 2020, and requires the following:

1 Cease the use of the Land for weddings and other commercial events.

2 Cease the use of the Land for camping associated with weddings and other commercial events.

3 Cease the use of the dwellinghouse for accommodation associated with weddings and other commercial events.

4 Remove from the Land, all buildings (excluding the dwellinghouse), structures, decking and marquees and any other paraphernalia associated with weddings and commercial events.

The Notice is currently the subject of an appeal to the Planning Inspectorate – PINS reference APP/X1735/C/20/3248610.

4 Proposal

4.1 The planning application sought retrospective consent for use of part of the Tournerbury Woods Estate on Hayling Island as a wedding & events venue. The proposal includes both a change of land use and that of an existing building on the site (Woods Cottage). It also includes the following operational development which has already been undertaken on the land:

- A marquee with dimensions of 12m x 33m plus entrance pagoda. The marquee features a peaked roof which reaches a maximum height of 8.5m. The marquee incorporates a sound attenuation system which has been installed during the life of the application.
- A raised deck area of 11.5m x 22m, with a log cabin on it of 4m x 3m. The deck is covered by a stretched tent awning which reaches a maximum height of 6.5m from ground level.
- A Victorian-style gazebo, an open-air structure of 3m diameter and 4.5m in height.

The proposal also seeks use of a temporary jetty on the foreshore.

4.2 The area, the subject of the appeal, extends to include the use of lawns and garden areas adjoining the structures and Woods Cottage, and extends down to the foreshore where a temporary jetty is erected on occasion and at request, to receive the arrival of the bride and groom from the Harbour, and/or for purpose of taking photographs of the wedding party.

4.3 In terms of the frequency of the use and its capacity, the Design and Access Statement submitted with the application indicates an aspiration for the site to hold between 100-200 weddings or events per year, ranging in size from 15-500 attendees. Other types of activities that it is proposed could be accommodated on the site are camping in connection with the Duke of Edinburgh Award Scheme; use as a forest school; and use as a wellbeing retreat.

4.4 Access to the site is taken via a private track which runs from the eastern limit of the adopted highway of Tournerbury Lane. Prior to entering the Tournerbury Estate the track passes the access to the parking area for the Tournerbury Golf Centre and then runs through the existing farmyard of Tournerbury Farm, which is surrounded by a number of dwellings and a variety of agricultural buildings.

5 Planning Policy

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

5.2 The Development Plan consists of the:

- Havant Borough Local Plan (Core Strategy) 2011
- Havant Borough Local Plan (Allocations) 2014

5.3 The Havant Borough Local Plan was submitted for examination to the Secretary of State for Housing, Communities and Local Government on 12 February 2021. It is considered that until adoption the Submission Local Plan has limited weight in the decision making process.

5.4 The following policies of the 2011 Core Strategy are considered to be of relevance:

CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS12 (Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15 (Flood and Coastal Erosion)
CS16 (High Quality Design)
CS17 (Concentration and Distribution of Development within the Urban Areas)
CS20 (Transport and Access Strategy)
CS21 (Developer Requirements)
CS5 (Tourism)
DM10 (Pollution)
DM14 (Car and Cycle Parking on Development (excluding residential))
DM8 (Conservation, Protection and Enhancement of Existing Natural Features)
DM9 (Development in the Coastal Zone)

5.5 The following policies of the Allocations document 2014 are considered to be of relevance:

AL1 (Presumption in Favour of Sustainable Development)
DM24 (Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

5.6 The following policies of the Submission Plan are considered to be of relevance.

E22 (Amenity and pollution)
E5 (Chichester Harbour Area of Outstanding Natural Beauty)
E4 (Development on the Coast)
E1* (High quality design)
E13 (Historic environment and heritage asset)
E3 (Landscape and settlement boundaries)
E19 (Managing flood risk in new development)
E15 (Protected species)
E16 (Solent Special Protection Areas)

E14 (The Local Ecological Network)
IN3 (Transport and parking in new development)
E18 (Trees, hedgerows and woodland)
EX1 (EX1 | Water Quality impact on the Solent European Sites)

5.7 Reference was also made to:

Havant Borough Council Borough Design Guide SPD 2011
Havant Borough Council Parking SPD

5.8 Reference will be made to the relevant guidance within National Planning Guidance and the National Planning Policy Framework.

6 Case for the Local Authority

- 6.1 The Council conducted a Habitats Regulations Assessment (HRA), including an Appropriate Assessment (AA), of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the Habitats Regulations).
- 6.2 The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on several European Sites due to the increase in recreation, decrease in water quality, and noise pollution arising from the development the subject of the application.
- 6.3 The planning application was then subject to Appropriate Assessment under Regulation 63. This included a number of avoidance and mitigation packages. The first is a package of site management measures to address the risks of recreational disturbance arising from the development. The second derives from limits on occupancy and is based on the Council's agreed Position Statement on Nutrient Neutral Development. The third comprises measures to control the risk of noise pollution arising from the development.
- 6.4 The Appropriate Assessment concluded that the avoidance and mitigation packages proposed are sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA has been subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. Appropriate conditions would need to be incorporated in any permission in order to secure the mitigation packages proposed..
- 6.5 The reason for refusal relates to the practical impact of the development on the occupiers of Tournerbury Farm and the risk of conflict between visitor movements and the safe, convenient and satisfactory functioning of the farm and the amenity of those who live in Tournerbury Farmhouse and 1-2 Tournerbury Farm Cottages. In essence the proposed use is a bad neighbour to the existing farm use.
- 6.6 For the avoidance of doubt, the Council does not allege that the use of the access would have an unacceptable impact on the local highways network, Nor does it rely on any other technical highways argument or expert highways evidence. Instead, this case demands a common sense assessment of the scheme and the exercise of good planning judgment.
- 6.8 Policy CS16 of the Core Strategy 2011 seeks to ensure development brings about a high level of design. Section 1(e) seeks to prevent unacceptable harm to the amenity of neighbours by reason of noise in relation to this appeal proposal. It is also considered that the policy at Section 2 seeks to produce a positive relationship between buildings streets and spaces. Evidence will be produced to demonstrate that the proposal conflicts with this policy.
- 6.9 Policy DM10 of the Core Strategy addresses pollution and looks to development not to give rise to risks to the health and safety of existing and future users of a site, nor to nearby occupiers and residents. Evidence will be produced to demonstrate that the proposal conflicts with this policy.
- 6.10 The other policies of relevance relate to issues such as principle of development, landscape character (particularly in relation to the AONB designation), ecology, highways, access, archaeology, and flood risk. The Council is taking no point on any of these matters.

6.11 Policy AL1 (quoted within the reason for refusal) reiterates the presumption in favour of sustainable development set out in the NPPF. Accordingly, it will be shown that the proposal is contrary to the development plan when considered as a whole and that there are no material considerations that are considered to outweigh the harm to the development plan. The evidence will assess the economic benefits put forward by the appellant which are not considered to outweigh the harm to the development plan caused by the development. Therefore, the scheme does not constitute sustainable development, and on that basis the Inspector will be invited to dismiss the appeal.