

CHICHESTER HARBOUR CONSERVANCY

PLANNING COMMITTEE



CHICHESTER
HARBOUR
CONSERVANCY

A meeting of the Conservancy's Planning Committee will be held at **12.00noon** on **Monday 31 January 2022** at County Hall, Chichester.

Richard Craven

Director & Harbour Master

For questions regarding this agenda please ask for Rosie Chase – email:

rosie.chase@conservancy.co.uk

AGENDA

Part 1

1. WELCOME AND APOLOGIES

2. DECLARATIONS OF INTEREST

Members and officers are reminded to make declarations of pecuniary or personal interests they may have in relation to items on the agenda and to make any declarations at any stage during the meeting if it then becomes apparent that this may be required when a particular item or issue is considered.

3. MINUTES

Minutes of the Planning Committee meeting held on 24 January 2022 (page 1)

Part 2 (*Exclusion of Press and Members of the Public*)

4. To discuss a commercially sensitive matter.

Part 1

5. DEVELOPMENT APPLICATIONS

5a. APP/21/01310 – Tournerbury Woods, Tournerbury Lane, Hayling Island

- Case Officer's Report
- Deputation(s)
- Discussion & Resolution

6. DATE OF NEXT MEETING

Monday 7 March 2022 at Eames Farm from 10.30am.

Planning Committee members: Heather Baker, Lulu Bowerman, Jane Dodsworth, John Goodspeed, Keith Martin, Pieter Montyn, Adrian Moss, Lance Quantrill, Alison Wakelin.

Chichester Harbour Conservancy

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West Sussex PO20 7AW

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PLANNING COMMITTEE

Minutes of the meeting held on Monday 24th January 2022, at County Hall, West Sussex Council, West Street, Chichester

Present Alison Wakelin (Chairman)

Heather Baker Lance Quantrill John Goodspeed Keith Martin

Adrian Moss

1.0 WELCOME AND APOLOGIES

- 1.1 Apologies for absence were received from Pieter Montyn, Lulu Bowerman, Richard Austin, and Steve Lawrence
- 1.2 Members were informed that item 4a, in respect of Tournerbury Woods has been deferred until the 31st of January 2022 where it will be considered as a standalone item.

2.0 DECLARATIONS OF INTEREST

- 2.1 There were none

3.0 MINUTES

- 3.1 The minutes of the meeting held on the 11th of October 2021 were agreed as a true record of the meeting and were signed by the Chairman.

4.0 MATTERS ARISING

- 4.1 Referring to "Any Other Business", a member said a meeting has been scheduled with the Parish Councils' and to the Association of Local Councils.

5.0 DEVELOPMENT APPLICATIONS

Land at Dairy and Calf Barn Buildings, Taylors Lane, Bosham, Chichester, West Sussex

- 5.1 The Principal Planning Officer presented his report to members. The application is for a change of use of land and redundant agricultural buildings to form two dwelling live/work units. He said that the case had been brought for committee approval as additional information came forward from the applicant and The Conservancy were being reconsulted by the Council.
- 5.2 Members agreed that as the site is outside of the settlement boundary it is therefore against the Conservancy's planning principles. A member asked if the Council should consider any attempts to use the stables commercially in the last few years. The Principal Planning officer said there was no evidence of any such use or any market research having been carried out, or that the stables had operated as a business at all. A member said essentially, this application represented a residential building, and the workspace is going to be someone's study.

Adrian Moss joined the meeting.

Recommendation

- 5.3 The Planning Committee endorsed the officer recommendation to object to the application.

- 5.4 Refusal Overview: The adopted guidance requires a clear demonstration that no harm is caused to the AONB. This application contravenes the Joint Chichester Harbour AONB SPD, and AONB guidance AONB PP01, PP04, PP05, PP06, and PP09. The site is located within a countryside location within the AONB. The proposal for the Change of Use to residential development on previously used agricultural land would physically change the character of the site within the countryside area, creating a remote enclave of two dwellings which would be out-of-place and unnecessary with this countryside location within the visually important AONB protected national landscape.
- Lack of land-use justification in the unnecessary provision of dwellings in the countryside (no exception case justified as required by AONB PP06)
 - Visible impact on the AONB landscape from the activity associated with two live/work dwelling units (domestic garden and associated items, domestic and live/work employment vehicular traffic, etc.)
 - Wastewater sewerage systems arrangements not demonstrated, or land drainage capacity proven
 - Wildlife disturbance mitigation contribution measure (Solent Bird Aware Initiative) required
- 5.5 The site lies within the AONB protected landscape and the supporting wider environment. The development area of the red-line site lies outside of a settlement policy area and therefore within the countryside. It was noted that the applicant/applicant's agent had made no acknowledgement of the application impacting upon the Area of Outstanding Natural Beauty (AONB) protected national landscape environment. The proposal has not sought to address this special setting context (a material planning consideration) in the well-established approach for the protection and enhancement of the AONB as a recognised and long held planning material interest.

Land to rear of Nutkin Barn, Main Road, Nutbourne, Chichester, West Sussex

- 5.6 The Principal Planning Officer introduced the report to members. It is an Outline Application (Principle, Means of Access, Development Layout and Building Scale) requiring consideration for 3 dwellings. He went on to say that the site is outside of the AONB and an outline application.
- 5.7 A typo was corrected at point 5.13- which should read "that" not "theat". Clarity was also sought as the report said that the development was unlikely to disturb the tranquillity but later said that it would add disturbance pressure. The Principal Planning Officer said he would clarify his meaning in the final response. A member said that this is an infill site, as building is already underway or planned for the rest of the road and it won't hugely affect the AONB. There is no wildlife corridor.

Recommendation

- 5.8 The Planning Committee resolved to raise no objection based on the officer recommendation.
- 5.9 The following planning controls to protect the AONB are considered to warrant inclusion on any permission of the proposal. Suggested considerations –
- outline and reserved matters conditional controls to ensure timing and full details of the proposal are provided to the satisfaction of the LPA

- details of materials (preference for muted dark colours), internal lighting/glazing and external lighting for Dark Skies protocol, and retention & supplementary landscape boundary planting screening
- development contribution with regards to development and disturbance of birds in Chichester and Langstone harbours Special Protection Areas

5.10 The site lies OUTSIDE of the AONB protected landscape and within the supporting wider environment. The development area of the red-line site lies outside of a settlement policy area and therefore within the countryside. It was noted that the applicant/applicant's agent had made no acknowledgement of the application impacting upon the Area of Outstanding Natural Beauty (AONB) protected national landscape environment. The proposal has not sought to address this special setting context (a material planning consideration) in the well-established approach for the protection and enhancement of the AONB as a recognised and long held planning material interest.

Bethwines Farm Blackboy Lane Fishbourne Chichester West Sussex PO18 8BL

- 5.11 The Chairman presented the report to members, in the absence of the report author. The application is for a screening opinion, in order to identify whether an Environmental Impact Assessment (EIA) will be necessary to support the planning application for the proposed development to provide up to 230 residential dwellings and associated ancillary works
- 5.12 A correction was made at point 1.3 as the Council does have a five-year land supply. A member provided a history of the site which is by owned by a resident in Fishbourne. The site has an option on it which expired in 2020 but because there are live planning applications being considered, the option continues past this date. It was confirmed that the site was originally in the local plan but was subsequently taken out.

Recommendation

- 5.13 The Planning Committee resolved to raise an objection, as it considers that the scale, nature, and composition of the development REQUIRES the submission of a comprehensive EIA Environmental Statement (ES) to support any formal planning application, specifically looking at capacity issues relating to wastewater and also the design and capacity of any Sustainable Urban Drainage Systems to be proposed to ensure that stormwater surges are fully attenuated and do not contribute to downstream pollution of Chichester Harbour in line with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 5.14 The site lies *outside* the AONB protected landscape but *within the supporting wider environment*. The development area of the red-line site lies outside of a settlement policy area and therefore within the countryside. It was noted that the applicant/applicant's agent had made no acknowledgement of the application impacting upon the Area of Outstanding Natural Beauty (AONB) protected national landscape environment. The proposal has not sought to address this special setting context (a material planning consideration) in the well-established approach for the protection and enhancement of the AONB as a recognised and long held planning material interest.

Land at G & R Harris Scrapyard, Main Road, Nutbourne, Southbourne, Chichester, West Sussex

- 5.15 The Principal Planning Officer presented the application for an Environmental Impact Assessment screening opinion in response to development for approximately 120 new homes, a children's nursery, vehicle access from the A259, pedestrian & cycle connections, associated green space and sustainable drainage solutions
- 5.16 A member said that the cumulative effect of the development should be stated in both this and the previous application. It was noted that the Neighbourhood Plan was currently with the Inspector and some changes may be made.

Recommendation

- 5.17 The Planning Committee resolved to raise an objection as they consider that the scale, nature, and composition of the development REQUIRES the submission of a comprehensive EIA Environmental Statement (ES) that singularly covers ALL LINKED consortium development proposals located to the north of Main Road, A259 at Southbourne and adjacent but outside the AONB protected national landscape designation boundary in line with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
1. The proposals should not be considered in isolation if it is properly to be regarded as an integral part of an inevitably more substantial development.
 2. Where several projects, taken together, may have significant effects on the environment their environmental impact should be assessed as a whole. It is necessary to consider projects jointly in particular where they are connected, follow on from one another, or their environmental effects overlap.
- 5.18 The site lies *outside* the AONB protected landscape but *within the supporting wider environment*. The development area of the red-line site lies outside of a settlement policy area and therefore within the countryside. It was noted that the applicant/applicant's agent had made no acknowledgement of the application impacting upon the Area of Outstanding Natural Beauty (AONB) protected national landscape environment. The proposal has not sought to address this special setting context (a material planning consideration) in the well-established approach for the protection and enhancement of the AONB as a recognised and long held planning material interest.

6.0 MODIFYING FOOTPATH 2952 TO A BRIDLEWAY

- 6.1 Members considered the report from the AONB Manager. Members noted that people were already using the footpath as a cycle way. Redesignation as a bridleway would technically mean that horses can be exercised there which would be inappropriate (even if this use is unlikely) as the path is dark and narrow in places. The AONB Manager's report suggested the Council make it a shared use cycle and footpath instead with clear signage as it could be dangerous without controls.
- 6.2 A member said that work had been underway to determine ownership as this was not clear and the path is not on a definitive map. A member said that it is used predominantly by people accessing the Itchenor Ferry.
- 6.3 A member said that they did not think the change will lead to more people using the ferry, and in terms of managing behaviour that won't improve, the change merely formalises what is already happening. A member asked if this work was included in the local cycling and walking plan? The Principal Planning Officer said he did not know but would investigate.

Recommendation

- 6.4 Following a vote, with five members in favour and one abstention, the Planning Committee resolved to object to this application on the grounds that it is unsuitable for horses; and will comment that a shared-use cycle and footpath may be a better option.

7.0 HAVANT BOROUGH LOCAL PLAN

- 7.1 The Committee considered the report from the AONB Manager. On 4 November the Inspectors responded with the conclusion that further work was needed on the emerging Local Plan before it can be adopted. The Committee agreed that it was important that the Conservancy was consistent in the comments on the plan.

Recommendation

- 7.2 The Planning Committee resolved that they would request the Chairman of the Conservancy writes to the Programme Officer to point out that the reasons for excluding Southwood Road, Beachlands and Eastoke Corner would also apply to Northney Marina, and therefore this site should also be removed from the anticipated supply.

8.0 A QUICK GUIDE TO PLANNING IN THE AONB

- 8.1 A member said they thought the document useful especially as the Conservancy's planning committee is not a statutory consultee and therefore their role is not obvious, so the flowchart makes the process clear. Members broadly welcomed the flow chart but felt that some areas could be improved.
- 8.2 The members discussed the criteria for considering planning applications outside the AONB. It was felt that more precise guidelines would be helpful not only to the Committee and Planning Officers for greater consistency in their decisions but also to the Local Planning Authorities in determining when to seek Conservancy input.
- 8.3 A suggestion for the guidelines was made, that any application should be considered if it is in the AONB, if the development is visible from the AONB, or within the 5.6 km buffer zone.
- 8.4 The Principal Planning Officer said that it should also be noted that there is no such thing as permitted development in the the AONB and as such, the Conservancy should be consulted on those applications as a matter of course.

Recommendation

- 8.5 The chairman will consult with the AONB Manager over modifications to the flowchart document presented which should come to the next meeting for further discussion.
- 8.6 It was proposed that after consultation with Chichester and Havant's planning departments about the current criteria for forwarding applications to the Conservancy a paper should be prepared for the next full meeting of the Planning Committee for further discussion.

9.0 TABLE OF DELEGATED DECISIONS

- 9.1 Members were in general agreement that the new format is fresh looking, clear in providing the information displayed and welcomed, however it was noted that the tally numbers at the top were incorrect.

9.2 Members discussed the validity of using holding objections and the feeling was that this stance should be avoided. It was felt that if significant information was lacking and making a clear assessment and comment impossible, the option to 'object' would be a suitable alternative, listing the missing information as the refusal reason suggestions. A 'holding objection' should only be considered if there is a general view of no objection but only one or two key matters are unclear or missing.

9.3 Members discussed cases where officers had raised an objection, as follows.

- Land Adjacent to Plot a Pond Farm North Newells Lane. Members suggested that the policy title should be identified for clarity; the site is half-a-mile outside of the AONB but objected to for 2 caravans only.
- Land Adjacent to Paddock View, Drift Lane. The proposal is similar to above but close to / inside the AONB but not objected to and members discussed the consistency of approach.
- Cove House ,Smugglers Lane. It was felt by members that offering change suggestions to an objection recommendation, dilutes the strength of that objection.
- Nutbourne Service Station. Members felt it was not clear if the service station canopy had been heightened, enlarged, or replaced.
- Land Adjacent to Plot 8 Priors Leaze Lane. The site outside is the AONB but a full category of issues were not identified for similar schemes inside the AONB.
- 26 Bracklesham Road, Hayling Island. Members asked why an objection was raised as the works are similar to others on neighbouring properties and so no harm will be caused to AONB.
- Longmore , Bosham Hoe. Members felt that Loggia is small scale and unlikely to impact on AONB.
- Cove House , Smugglers Lane. Members asked why no 'other conditions/reasons' were entered for the extension following the conservatory being removed?
- Church Hill Cottage,Itchenor Road. Members felt that the Conservancy should have objected rather than raise a 'holding objection' as there are too many issues for the developer to address.

9.4 The Committee noted the report

10.0 QUARTERLY REPORT

10.1 Members discussed the presentation of the report and requested clarity as it is titled 'delegated decisions'. Members wanted this report to cover all CHC consultation comments recommendations and the resulting LPA decision determinations, so that comparisons of all responses (delegated, consulted delegated, and planning committee) could be compared.

11.0 ANY OTHER BUSINESS

11.1 Members were informed that Linda Park, a former Planning Officer at the Conservancy would be returning to the role in March. This news was welcomed by members.

The meeting closed at 12.40

Chairman

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY: HAVANT BOROUGH COUNCIL

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at Tournerbury Woods, Tournerbury Lane, Hayling Island shown edged red on attached plan ("the Land").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE 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.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The development is in the countryside and the use of the land causes significant harm to this sensitive rural location and to the amenity of occupiers of the area by reason of noise and disturbance contrary to Policy AL1 of the Havant Borough Local Plan (Allocations) and Policies CS16, CS17 and M10 of the Havant Borough Core Strategy and national advice in the National Planning Policy Framework.

The development falls within the Chichester Area of Outstanding Natural Beauty, a Special Protection Area, a Site of Special Scientific Interest and a Special Area of Conservation and an appropriate assessment to assess the

development on these sensitive areas in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 has not been undertaken to ascertain whether it is likely the development would have a significant effect on these important nature conservation areas designated under UK and European Law and of International importance. Therefore, due to insufficient information and applying the precautionary principle, it has not been shown through appropriate assessment that the development would not adversely affect the integrity of these sites. The development is therefore contrary to the requirements in The Conservation of Habitats and Species Regulations 2017, Policies CS11, CS12 and DM8 and DM9 of the Havant Borough Core Strategy and national advice in the National Planning Policy Framework.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these problems.

5. WHAT YOU ARE REQUIRED TO DO

- 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.

6. TIME FOR COMPLIANCE: 3 months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 13 March 2020 unless an appeal is made against it beforehand.

Dated: 17 January 2020



Signed:

Head of Neighbourhood Support

On behalf of:
Havant Borough Council
Civic Centre Road
Havant
Hants
PO9 2AX

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the Notice. Please read the enclosed Planning Inspectorate advice note on how to appeal.

If you appeal and are pleading ground (a) and asking for the deemed planning application to be considered as part of your appeal you must pay a fee of £924.00 to the Council (made payable to "Havant Borough Council") and this should be sent with a copy of the appeal form.

Your attention is drawn to the attached extracts of the Town & Country Planning Act 1990.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.

SUBMISSION TO SECRETARY OF STATE

If you appeal against this Notice you must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring you, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

PERSONS SERVED

The following persons have been served with copies of this Enforcement Notice:

Mr CMV Snell, 196-198 Sea Front, Hayling Island, PO11 9HR
Ms AL De Pury Snell, 196-198 Sea Front, Hayling Island, PO11 9HR
The Owner, Tournerbury Woods, Tournerbury Lane, Hayling Island
The Occupier, Tournerbury Woods, Tournerbury Lane, Hayling Island

Mill Rythe Holiday Village

Hayling Island

TOURNERBURY LANE

Hayling Is

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Tournerbury Woods Estate

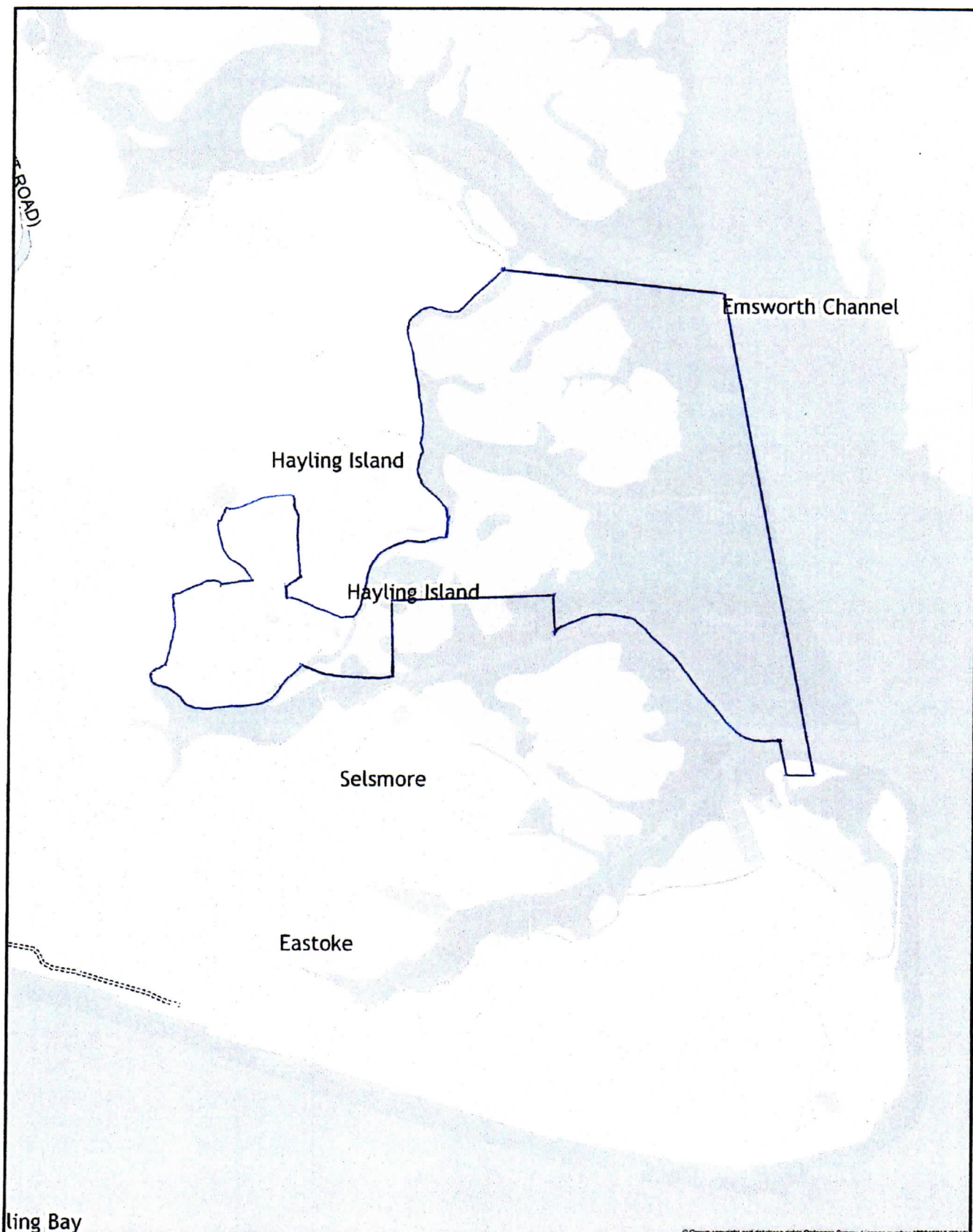
Havant
BOROUGH COUNCIL



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Tournerbury Woods Estate

Havant
BOROUGH COUNCIL



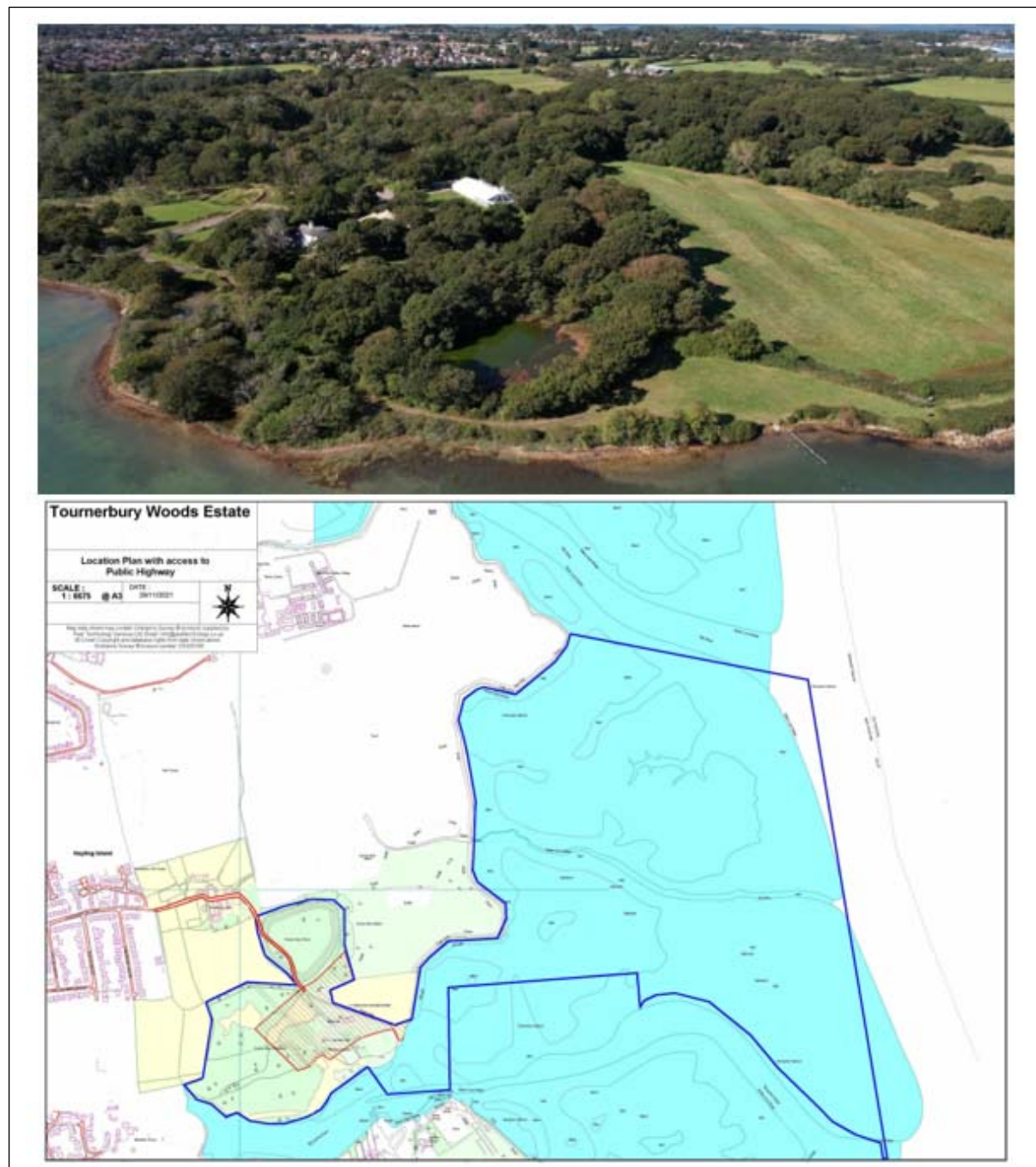
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Conservancy Officers' comments and reasoned justification

1.0 Site and its context (aerial photograph below looking west)



- 1.1 This 4.97 - (previously stated as 4.8 ha under application APP/18/00943 with now a clearly enlarged red line area) - site is located at the eastern end of Tournerbury Lane, which also gives access through Tournerbury Farm(yard). Land edged blue above shows the wider estate, purchased in 1931 by the applicant's grandfather and including a substantial proportion of this part of the Harbour.
- 1.2 Whilst not formally recognised as 'Ancient Woodland' on the Development Plan Proposals Map, the submitted phase 1 ecological report suggests that part of the wood may be considered to be ancient woodland. Paragraph 1.1.3 stating –

"The survey area comprised primarily of broadleaved woodland with Tournembury Wood (the Bury) situated on a Saxon fort considered to be ancient broadleaved semi-natural woodland. Broadleaved plantation adjoins the ancient woodland and mapping shows this was planted and developed into woodland in the late 19th Century (Tournembury plantation). The site opens out into amenity grassland and open woodland, and a small area of saltmarsh to the south, and improved grassland to the south east. Small woodland ponds are scattered through the southern woodland and a large duck pond is situated in the centre of the site. A brackish pond and drain exist in the south eastern corner."

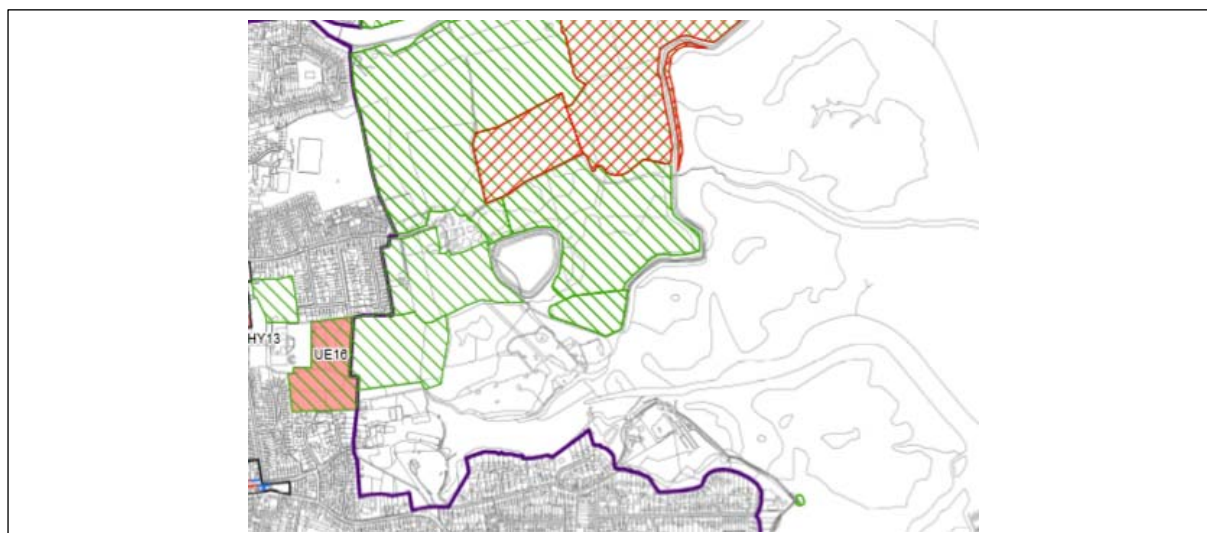
Paragraph 2.1.4 goes on to state –

"The Tournembury Estate is designated partly as a unit of the Chichester Harbour Site of Special Scientific Interest (SSSI). Tournembury is noted within the SSSI designation as follows: 'Semi-natural broadleaved woodland associated with the harbour is important for breeding birds and supports two heronries. Oak is the major tree species, usually with hazel coppice, as at Old Park Wood, although Tournembury Wood has well-spaced oaks with the occasional beech, holly and yew with a fairly dense ground flora of bramble and bracken.' The Chichester Harbour SSSI covers an area of 3695 hectares and Tournembury forms 0.4% of its total area."

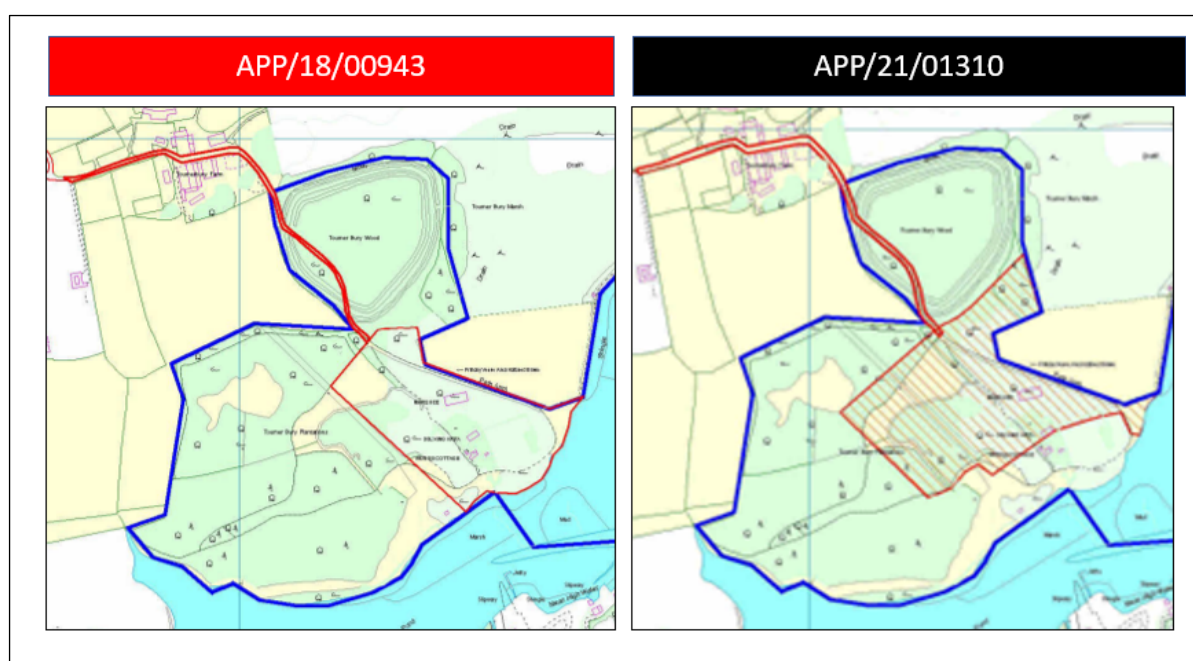
Paragraph 2.1.5 opines –

*"The SSSI falls within the Chichester and Langstone Harbour Special Protection Area (SPA) designated on account of populations of European importance of breeding, passage and over-wintering birds associated with the exposed estuarine sand and mudflats including breeding little tern (*Sterna albifrons*) and sandwich tern (*Sterna sandvicensis*), passage little egret (*Egretta garzetta*) and over-wintering waterbirds including dark-bellied Brent Goose (*Branta bernicla bernicla*), black-tailed godwit (*Limosa limosa islandica*) and dunlin (*Calidris alpina alpina*)."*

- 1.3 The northern part of the wood contains the remains of iron age fortifications, which are a scheduled Monument. The single width track leading to the application site passes through those fortifications. The whole wood is a Site of Special Scientific Interest (S.S.S.I.) and part of the wider Special Protection Area and abutting a Special Area of Conservation for the Harbour. A heronry exists within the estate. Owing to SSSI protection, works in the woodland are controllable and a Woodland Tree Preservation Order exists on the whole Tournembury Woods Estate (Council TPO 448).



- 1.4 The application site is shown as being adjacent to an uncertain site from brent geese and/or waders (Policy DM23)/Site of Importance for Nature Conservation (Policy CS11) on the Proposals Map (shown hatched green above) of the Development Plan, with the the site in Flood zone 3 (highest risk) and most of the remainder of the landed estate in flood zone 2. The site is within the council's 'coastal zone' (Policy DM9).
- 1.5 The red line site has increased since application APP/18/00943 - (comparison shown below) - currently comprises woodland and open agricultural land/open grassed areas with at least two large ponds, all accessed via the winding end of Tournurbury Lane, where one has to pass through the farmyard of Tournurbury Farm to reach the site. Officers have found no direct explanation for the enlargement of the red line, other than the visitor management strategy submitted. The 'red line' technically never represented a 'barrier' stopping patrons walking outside of it. It is notable though that the red line does cover more wooded areas than it did under APP/18/00943 and is now shown pulled back from the foreshore.



- 1.6 The various parts of the Tournurbury Woods Estate (14.78 ha in total and not all forming part of the application site), as identified by the applicant, are shown below. The Estate constitutes 19% of all woodland on Hayling Island, but only 0.4% of the Chichester Harbour SSSI.
- 1.7 Woods Cottage is nestled at the end of the 'track', with some glimpsed views of this 4 bed chalet bungalow from My Lords Pond. The Cottage has been used up till 1990 by a local painter (Keith Shackleton) and periodically offered as a holiday let since that time, but now fully serves as an administrative base for the wedding venue/events business. Occasionally a bride and groom will spend the first night of their honeymoon at the cottage.
- 1.8 Other buildings still sought for retention include a white plastic/canvas walled/double pinnacle roofed marquee, the black painted pagoda/gazebo and a covered deck. The highest part of these structures is the double pinacles of the marquee at 8.5m above ground level. There are some glimpsed views of the marquee from My Lords Pond (see below), but tree cover generally screens views. Some photographs of these structures/buildings are shown below.



2.0 Planning History

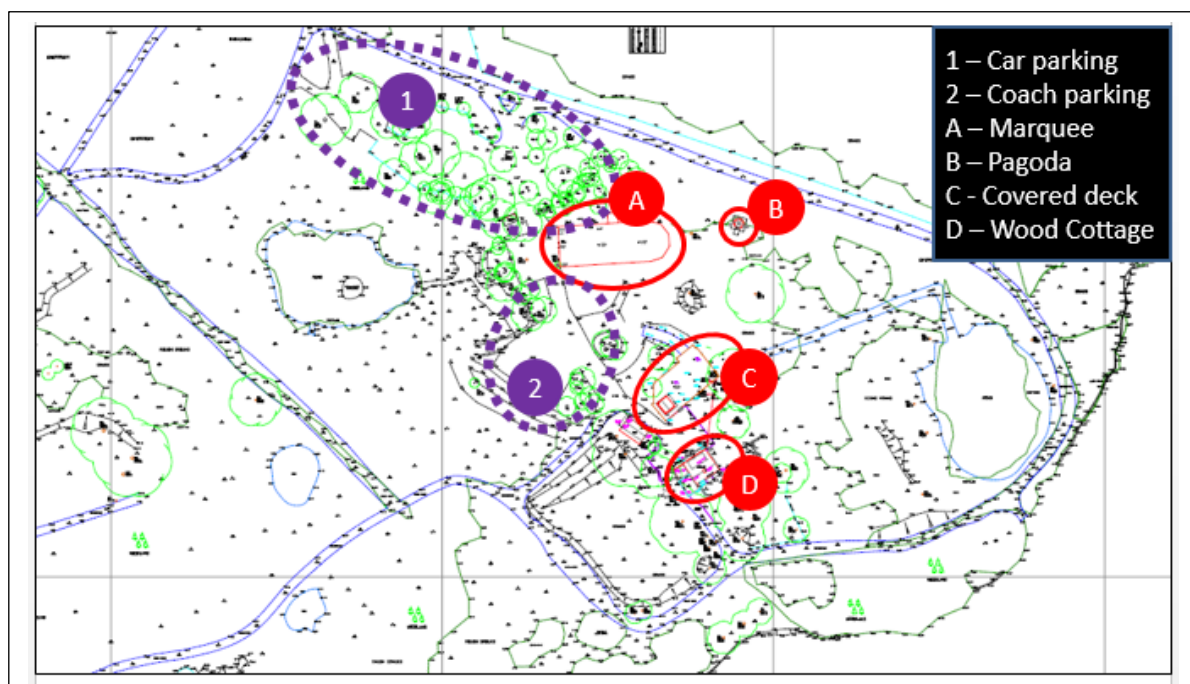
- 2.1 Land appears to enjoy historic use for agricultural/forestry purposes with applicant referring to previous industrial uses (brick making from 1800's to 1931) and prior to that 'bottle dump and tip'. Tournerbury Farm used to form part of the estate but was sold off circa 1987, albeit the applicant retained access to and from Tournerbury Lane through the farmyard.
- 2.2 **97/62340** - Clearing & Dredging of existing Duck Pond. Creation of Island in centre (retrospective) & regrading of Banks (**Conditional approval**).
- 2.3 Under application 01/62340/001, planning permission was granted 18 December 2001 for "*Partial raising of lawn to above tidal level and removal of two trees to north of cottage covered by TPO 448*" at Woods Cottage.
- 2.4 In 2012 an application was made by the current applicant to construct a private way from Tournerbury Lane, parallel to Laburnum Grove, across a field in the ownership of Tournerbury Farm to access the estate, instead of going through the farm yard. It is understood that access rights from that direction were to then be relinquished. This permission (APP/01333) was not implemented. A further similar application was made again under reference APP/17/00207. This too was granted permission. During implementation by the owner of Tournerbury Farm queries were raised as to whether the development had been undertaken in strict accordance with plans. A revised application was made under reference

- “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 Tournurbury 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."

- 2.6 Under application APP/19/00889, a lawful development certificate was sought for several structures, namely erection of log cabin and adjoining deck; erection of Victorian style gazebo structure; and erection of marquee structure. The application was withdrawn 6 November 2019.
- 2.6 Under application APP/19/01962, a lawful development certificate was sought 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. The application was declined 2 June 2021.
- 2.7 Havant Borough Council served an Enforcement Notice at the site on 17 January 2020, reproduced as **Appendix 'A'** to this report.
- 2.8 Appeals have been lodged against decisions APP/18/00943, APP/19/01262 and the Enforcement Notice. These are scheduled to be heard at an 8 day Public Inquiry in late June/ Early July 2022. The applicant has submitted APP/21/01310 in the expectation of securing planning permission, to avoid continuing with the Appeals (the agent confirming in letters dated 21 November 2021 and 1 December 2021 to The Planning Inspectorate and Council respectively the Appeals would be withdrawn if APP/21/01310 is approved). The Conservancy and owner of Tournembury Farm are Rule 6 parties to these Appeals.

3.0 Proposed development

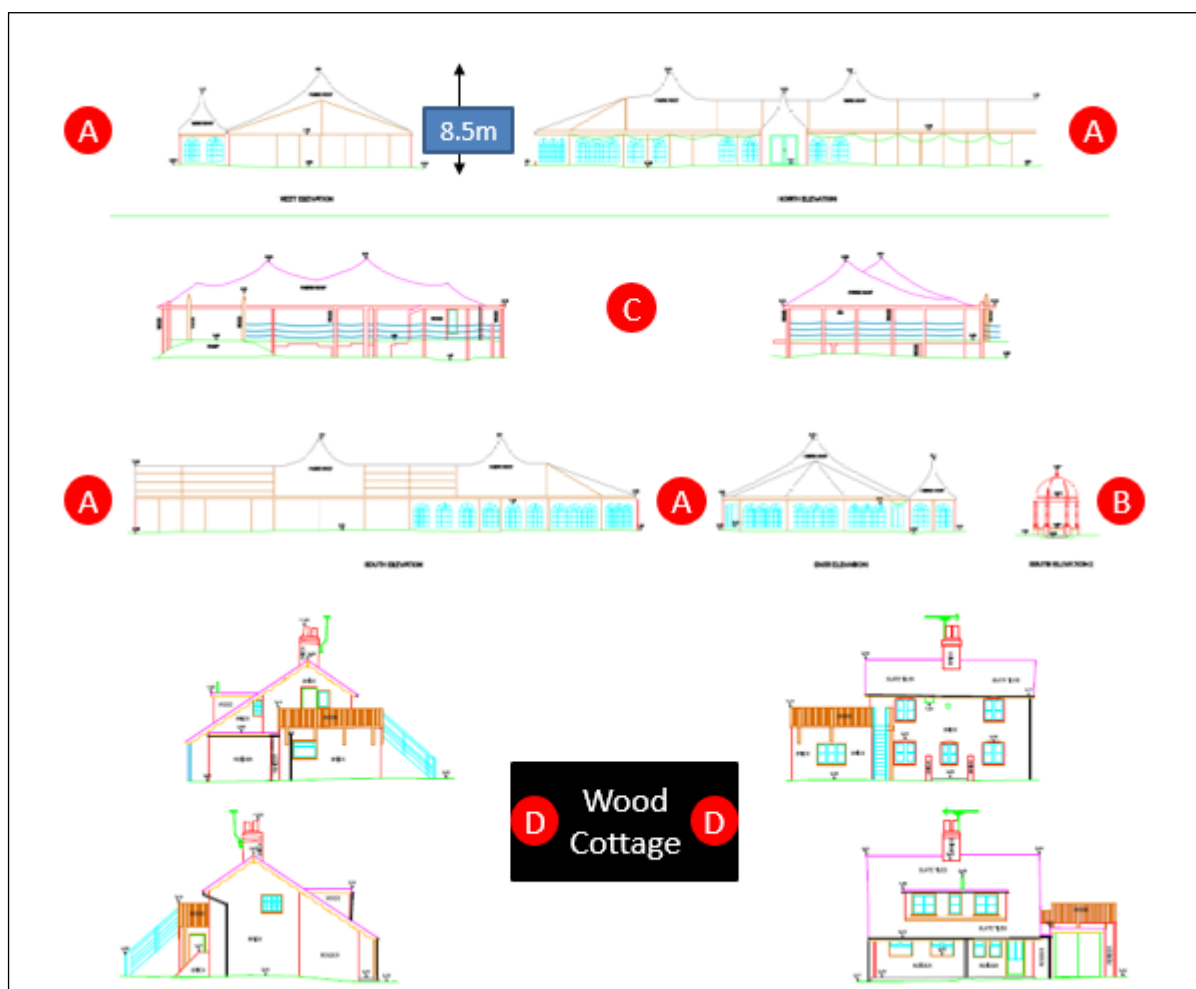


- 3.1 Apart from 'D' (Wood Cottage), which is acknowledged as a lawful structure and whose use has been removed from the current application, permission is sought to retain A-C and use them with Wood Cottage as the supporting buildings to run a wedding venue. The applicant says other temporary portaloos and caterers tents can also sometimes be brought onto the site, but those are temporary and removed once the related event is over.
- 3.2 The application is supported by a number of reports –
- Phase 1 Ecological Report
 - Further full ecological survey work including bat reports and two shadow Habitats Regulation Assessments, the most recent dated December 2021
 - Design and Access Statement/Report setting out the Environmental, Economic and Social merits of the proposals, updated since APP/ 18/00943 by a covering letter and visitor management strategy
 - Topographic survey with parking areas annotated
 - Drainage, sewerage and utilities assessment
 - Scheduled Ancient Monument impact report
 - Tree survey and arboricultural impact statement
 - Acoustic Reports
 - Flood risk assessment
 - Transport assessment, updated since APP/ 18/00943
- 3.3 The applicant is already licenced in a number of ways. Firstly as a venue to conduct civil partnerships which is arranged through Hampshire County Council. That has existed since 27 January 2016. The other two licences are administered by Havant Borough Council and include a liquor licence and public entertainment licence. The latter does allow operation until 01.00 hours in the morning. Live music typically ends at 22.30 hours (under hire contract terms imposed by the applicant), albeit a DJ can operate up to 00.00 hours. The former allows operation until 00.00 hours, but in reality this means last orders at 23.30 and time at the bar 23.45, with patrons asked to leave the site at 00.00 hours. From an operational point of view, the applicant has not traded to 01.00 hours, albeit it is worrying that the submitted October 2013 acoustic report talks in the executive summary of trading until 02.00 hours and no intended hours are set out on the submitted application form (question 19m marked unknown). At the time of your Officer's first visit in late 2018, there was a clear sign by the marquee entrance encouraging customers to have had their taxis booked for midnight, so they could depart at that time (see photo before Section 2.0).
- 3.4 Attenuation works had been undertaken in the Marquee in April 2019. The applicant also has compiled an analysis of certain dates when it is claimed that the TWE has wrongly been accused by local residents of causing noise disturbance. One incident referred to the use of fireworks, but other than two occasions 31.12.1999 and then 18.5.2002, when the applicant became married at the site, no use of fireworks is permitted by those who hire TWE. TWE do admit that on 30.3.19 there was a fault with its 'Direct Acoustics Zone Array', which could have caused an issue, but that this was quickly corrected. On some of these occasions, the council's Environmental Health Officers have been present to observe noise levels and have also travelled to the south side of My Lord's Pond to listen from there. On other occasions other organised events have also been occurring at the time of TWE events and dated evidence is submitted from those other events when no acoustic attenuation was in place and meteorological and wind direction conditions could have easily caused the nuisance local residents reported or referred to generally in objections to this planning application. The Council's Environmental Health Officers are reported later and clearly critical in the local planning authority's

determination on this issue.

- 3.5 It is permitted development to operate a use of open land (which is not the curtilage of a building) for up to 28 days in any calendar year (recently extended to 56 for a temporary period during the pandemic). There is some doubt about the extent of Woods Cottage residential curtilage, but being as the pavillion is sought for permanent retention, the events arena could be said to be within its curtilage and thus these permitted rights may not apply. There are some exceptions such as clay pigeon shooting and motorcross racing, but those operations are not proposed here. The applicant sets out that in 2009 the number of booked events, which had started modestly first in 1990 as a private school reunion party, had increased to 29, each events season generally running from the Mid-March to the end of November, operating mostly Friday to Sunday. Technically speaking, that your Officer considers that is the point at which planning permission ought to have been applied for.
- 3.5 The applicant sets out that ssome events have attracted as few as 15 people, whereas some have attracted 500 people. The submitted transport statement gives more detail in respect of events held in 2019.
- 3.6 Two transport statements have been submitted along with a letter from a Solicitor acting for the applicant. The first transport statement (TS) focuses on the capacity of Tournerbury Lane and then its junction with Church Road to absorb the traffic from the events being held at the Tournerbury Woods Estate (TWE). It, like the other TS, uses automated traffic counter data gathered from 4 events held over the 2019 summer months, but also encloses attendance data for 42 events held since March 2019. The first TS concludes that sufficient capacity does exist on Tournerbury Lane and at the aforementioned junction and thus those particular requirements of paragraph 109 of the NPPF and relevant Development Plan policy are met. The TS has been updated based on the limited number of days events are now proposed to be held.
- 3.7 The second TS focuses on that private right of way and whether it has sufficient capacity to absorb the traffic using TWE, when it holds events. Although 3 pinch points are identified along this route, leading to some delays in vehicles progressing whilst they wait for on-coming vehicles, it is concluded that the level of inconvenience to the farm users is limited. As before, the data from 4 specific events is used to demonstrate this finding. It is therefore asserted by the applicant's transport consultants that the use of the route is safe in highway safety terms.
- 3.8 The previously Solicitor's letter points to various deeds submitted to demonstrate that the applicant – or those authorised by him – has/have a legal right to pass and repass the track leading from the end of Tournerbury Lane where it ceases to be public highway, through Tournerbury Farm's farmyard to the TWE, whether on foot or in vehicles. The deeds also show the owners of Tournerbury Farm have a right, among other things, to pass through the TWE to effect repairs to the Harbour's sea wall, subject to obtaining others' consents to effect such works.
- 3.9 Images of the structures proposed to be retained and the appearance of Wood Cottage as operated as part of the use are shown below, albeit the agent is now claiming its use to accommodate 'guests' is lawful (even though your Officers can find no documentation to confirm this in law).
- 3.10 The marquee (A –purchased in 2006) has a floorspace of 33m x 12m. The circular

pagoda/gazebo is circular and 3m in diameter. The decked area (C) is just under 22m long and varies in width from 6.4m to 11.2m.



3.11 The applicant has previously made the following statements in support of the proposals –

- The proposals will not result in any harm to the woodland;
- The site has been used to host events for charities, including of more recent time the charity 'Releasing Potential' with links to the Duke of Edinburgh awards scheme in July and August of this year, in terms of Forest Schools and learning bushcraft;
- During 2018, 10,253 people came to the estate;
- Positive reports of the venue have appeared in the Sunday Times, Daily Express and Open Air magazine;
- The applicant previously stated under APP/18/00943 that employment levels could rise to 45-50 if the applicant's aspiration to operate 200 events per year/'season' were realised. The major difference with the new application is that a cap on wedding events is proposed.

3.12 Following a meeting with Council Officers on 14 September 2021, the applicant now proposes to cap wedding events at 65 per calendar year (i.e. 300 days of the year when wedding and other events would not be occurring at the site) –

"With continued use of the existing access we request the minimum number of events per annum comprising:

- Up to 10 weddings / events at no more than the marquee dining capacity (250 guests)
- Up to 10 weddings / events at no more 200 guests
- Up to 30 weddings / events at no more than 150 guests
- Up to 15 weddings / events at no more than 90 guests"

The applicant's transport statement has been updated to refer to the above figures. The agent's supporting letter goes on to say the applicant wishes to – "...retain, through the application of condition, the ability to exceed the above numbers with prior approval, in certain circumstances....limited to not more than 3", yet no details are given of the exceptional circumstances to justify such a request.

3.13 The agent goes on to state that the applicant has contacted Natural England to to identify:

- areas of the site which are particularly sensitive,
- those parts offering potential mitigation to offset increased activity,
- areas for appropriate new habitat creation,
- areas where activity could take place without harm and,
- suitable management tools for reducing any harmful impacts.

Reference has been made to requested mitigation, but otherwise no other discussion of Natural England's written advice is given or reproduced to support the current application. The agent's letter does refer to "...the areas to which patrons will have access, noise limitations, the distribution of activities across the site, controls on how patrons arrive and leave the site; and operating hours and conditions". The Visitor Management Strategy suggests signage be placed either end of the access track through the Bury inviting those in vehicles to keep moving and not stop. This is considered by the applicant to lessen the potential for disturbance to the Heronry. Guest access to the Harbour foreshore is also to be prevented 1 April to 31 October, by means of signage and a rope barrier. Use of a jetty is mentioned, but no details of it are supplied. Previously it has been a Versadock interlocking pontoon system partly held against staging posts (not installed with Natural England's approval under licence as far as The Conservancy is aware). The Conservancy's stance is to prevent the installation of new jetties in the Harbour, unless compensatory intertidal land is offered to mitigate. Asking to sanction use 1 April to 31 October is not acceptable to The Conservancy. Those bringing dogs to the site will be requested to keep them on leads. No fireworks would be allowed as part of celebrations. A noise performance level not to exceed 69 dB (A), as measured at the foreshore is suggested. Camping will be restricted to 'The Plantation' part of the site, excepting the bride and groom would be allowed to pitch a tent by Woods Cottage if they wished. No campfires will be permitted. Any external lighting to Woods Cottage and the venue area is to be angled downwards and not exceed 1 lux 'onto the trees and woodland'. Use of shields or hoods to such light fittings is suggested. Security lighting would be limited to 2000 lumens. The number and position of such light fittings is not specified.

3.14 Management controls on event days would include –

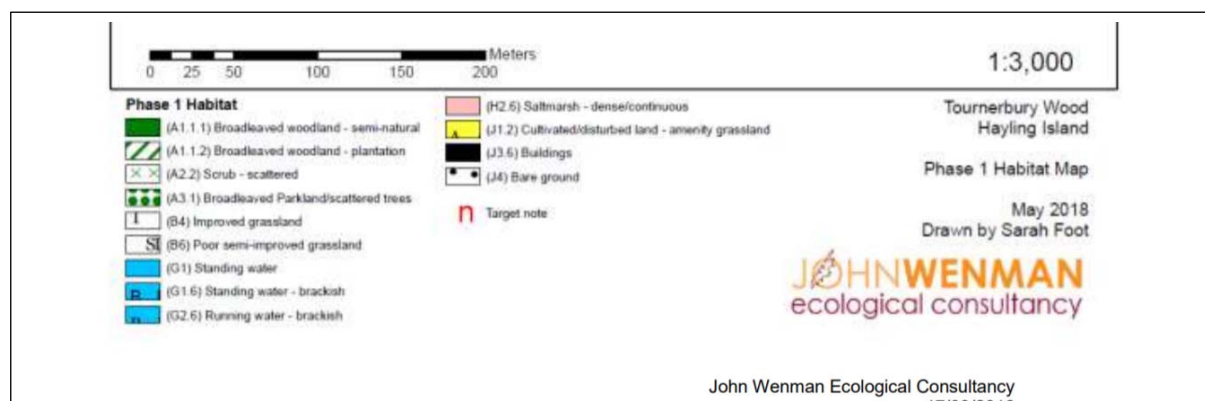
- On event days a venue manager will be present on site from hire start time to the time all guests and suppliers have left site.
- Clear signage erected at exit of the Tournembury Woods Estate (before accessing the Right of Way) requesting exiting guests / suppliers to drive quietly and considerably.
- During the 'peak' leaving hour at the end of an event, a traffic marshal to be stationed at the exit to the Tournembury Woods Estate to ensure driver compliance with the signage instructions.
- All Bands and DJ's to exclusively use the installed Zone Array sound ceiling for front of house

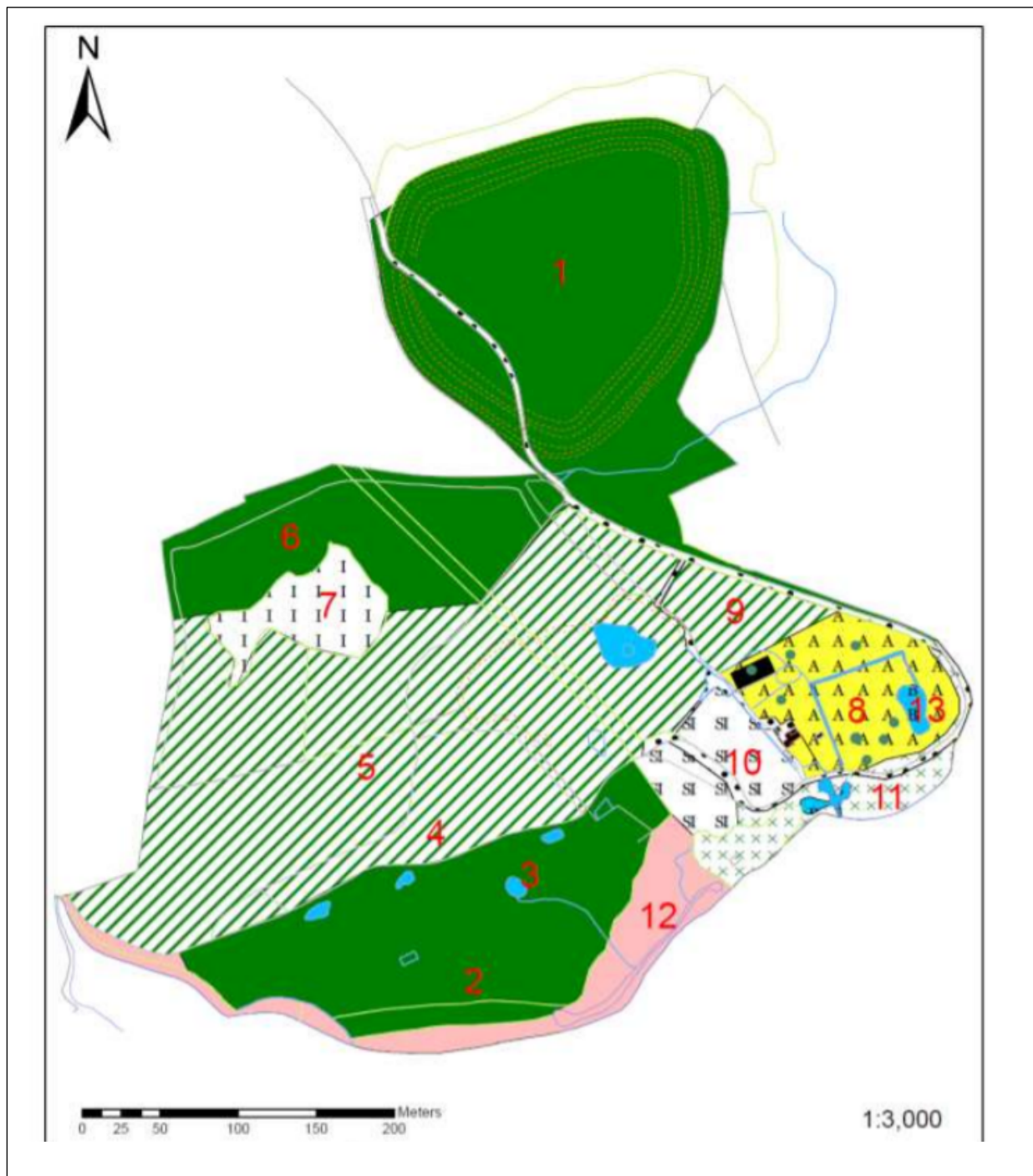
amplification when performing in the marquee. Bands and DJ's may not use their own front of house Public Address speakers.

- Throughout an event, the site manager will regularly monitor the grounds of the venue area to ensure that guests are not freely wandering away from the core venue area. It is suggested that any final 'heads of terms' be resolved via a planning condition, rather than by negotiation during the application's determination period.

3.15 A summary of the ecological information is as follows –

- The agent for the application refers to ecology research volumes and that they are not going to be submitted as they run to 60,000 words! He asserts that the applicant has applied the NPPF test that the - *"benefits of sustainable development outweigh the harm identified"* and that in respect to the intensification of the number of future events if permission is granted is - *"...a matter for future consideration should it arise"*. He talks about - *"...the management plan proposed..."* but it is not clear what he is referring to (albeit 6.1 of the submitted Habitats Regulations Assessment (HRA) says the existing site management plan, which may be the one agreed with Natural England). This Site Management Plan does not form part of the submitted application. The agent also claims there are no historic records to assess trends in the favourable condition of wildlife at the site, yet the HRA makes it clear that the heronry has been surveyed/monitored since 1966 and the new ecological report confirms that birds were surveyed at the Tournerbury Woods Estate in 2014, with specific Heronry surveys in 2015 and 2019.
- The 187 page ecological report lists the 'European Site's' notable species, which do not include herons, which are described (nationally) as having green flag favourable condition in England. Methodology used to prepare the new report seems fair and of a scientifically based, Institute approved protocol. 388 notable species (100 plant types and rest animals of which 121 invertebrates) within 1km of site, including 149 types of breeding birds (27 seen on site) and 8 types of bat. The report contains the statement - *"No habitat is due to be removed"* (see comment below). Tournerbury Woods are assessed as being in 'favourable condition' since 1997. It is stated that the wooded area of the (Tourner)bury was only reason for including Tournerbury Woods Estate within the SSSI and as that is outside the 'red line' of the application site, no adverse impact is concluded and no need for mitigation by the consultant, albeit there is an offer to place bat and bird boxes at the wider site. The Phase 1 report survey is used to identify the types of habitat on the Tournerbury Woods Estate, which are shown below. Recommendations as to what type of external lighting might be acceptable are set out, cowled downwards and not exceeding 1 lux ground spillage. There are some useful condition recommendations for lighting in Section 5.3 (paras 2, 4 & 5) if the council (or a Planning Inspector) is minded to approve.





- The report starts by talking about assessment of impact 'significance', against what the site has been designated for. S.40 Natural Environment and Rural Communities Act 2006, places a duty on the Council as local planning authority to - *"...have regard for conserving biodiversity..."* including *"...a duty to restore and enhance as well as maintain biodiversity"*. Reference is made to the NPPF and the need to achieve net gains to biodiversity.
- With regards to specific species impact, the following is set out –

Dormice – none found on site (despite right kind of habitat) and no records within 1km of site. Concludes no adverse impact to dormice.

Not suitable habitat for great crested newts or water voles so no impact predicted.

Otters may be present and crossing the site (but not during an event). Negligible impact otherwise from time of events V's all other times otters may cross.

Mammal burrows found in the Bury, but no records of badgers on Tournurbury Woods Estate.

Breeding birds. 7 amber and 2 red species, but overall typical for this type of woodland and common in Hampshire. Heron (surveyed since 1966, where the number of nests appears to have fluctuated between 2 to 18, with Conservancy Officers seeing 3 [empty] in January 2019), little egret and moorhen have low count numbers.

2015 survey showed 9 nests (8 x heron and 1 x little egret)

The report however does not then go on to talk about the 2019 survey (4 nests), the differences to 2015 and why that might be other than to use the term 'natural fluctuations' (2 paras up from Section 5.9).

Effect of habituation mentioned in para 31; so no overall impact to nesting birds concluded. 2nd para up from bottom of page 45 recommending 6 No. bird boxes (see Table 5.8.1}

Paragraph after that also recommending evergreen tree planting between venue area and shoreline to help wintering birds forage.

No impact to reptiles, as short mown grass unsuitable habitat. Might exist in longer grass cover, but no significant impact predicted.

Table 4.4.2 summarises impact to ecological receptor - (during events impact to SPA and birds on site) - described as moderately significant and impact to bats described as significant) without mitigation, table 4.4.1 showing impact to ecological receptors needing mitigation.

- The submitted Habitats Regulations Assessment concludes no significant impacts to those features the 'European Sites' were designated for, with the ecological report having concluded no adverse impact to the SSSI separately and no need for the Council to therefore carry out an appropriate assessment. No real assessment of the likely impact of the number of events increasing dramatically at the site is attempted.
- Nutrient neutrality: Whilst use of a W.C. at Woods Cottage is unlikely to have increased significantly from wedding venue use (which in any case goes to a septic tank emptied once a year and disposed of at Budds Farm WWtW). Portaloo's are supplied by a contractor from Pulborough and their waste disposed to a sewerage system there.

4.0 Key issues and related Policy framework*

NPPF – 1-3, 6-12, 15, 17-18, 20, 28, 38-43, 47-48, 55-57, 59, 81, 84-85, 92-93, 104-105, 107, 110-113, 119-120, 126, 130-131, 134, 152, 154, 159, 161-165, 167, 174-177, 179-182, 185, 187, 189-190, 194-195, 197, 199, 218-220; **NPPG** – **ID's** 6-8, 15, 17b, 18a, 20-21a, 23b, 26, 30-31, 34, 36-37, 42, 53, 65; **HBLP** –

CS1-CS3, CS5-CS6, CS8, CS11-CS17, CS19-CS21, DM1, DM5, DM8-12, DM14; **HBLPSA** – AL1-AL2, DM20, DM23; **SVHBLP 2036** – DR1, IN2-IN3, E1, E3-E6, E13-E18-E20, E22, EX1, C2, C8, C10; **CHMP** – 1-3, 6, 8, 12-13, 15; **PP** – 01, 06, 09, 11, 14, 18; **SPD**.

4.1 When was it necessary to have applied for planning permission?

- 4.1.1 It is permitted development - (under planning law, but not under the Wildlife and Countryside Act 1981 in terms of prohibited operations in a SSSI) - to operate a use of open land (which is not the curtilage of a building) for up to 28 days in any calendar year, recently extended to 56 by the Government for a temporary period during the pandemic. There are some exceptions such as clay pigeon shooting and motorcross racing, but those operations are not proposed here. The applicant sets out that in 2009 the number of booked events, which had started modestly first in 1990 as a private school reunion party, had increased to 29, each events season generally running from the Mid-March to the end of November, operating mostly Friday to Sunday.
- 4.1.2 Technically speaking, that is the point at which planning permission ought to have been applied for ***if*** one accepts Woods Cottage had ceased to be used as a dwellinghouse and if that is not the case, then the events were staged outside the curtilage of Woods Cottage on open (not wooded) land.
- 4.1.3 It is Conservancy Officers' position that planning permission to hold events was required at the outset, with a SSSI. It is wrong for the agent to suggest that intensification impact can be reviewed later; rather it is important to assess it now if that is the applicant's true (and stated) aspiration. If the Council (or a Planning Inspector) is minded to support the use, it would be possible to 'cap' the number of events that could be held in any calendar year by a planning condition.

4.2 Safeguarding intrinsic character and beauty of countryside/coast/biodiversity from inappropriate development –

- 4.2.1 It is unsatisfactory that the agent continues to refer to use of the site as being lawful. That is not currently the case and no planning permission or Certificate of Lawfulness exists at this time to substantiate that claim. The agent makes an argument relating to a fallback position of agriculture/forestry, which would have permitted rights for a related structure. It is said this application was not determined. He points to an application made in 2011, but I cannot find this on the Council webpages. He cites this fallback use and implication of a further building at the site. Whilst this may be a fallback position, it is likely to be a less intensive use with fewer vehicle movements than that sought now and a building may also require a Licence from Natural England, in addition to prior approval being sought from the Council.
- 4.2.2 The Conservancy's Ecologist is not satisfied with the level of information provided to demonstrate why such impacts should be entertained in a SSSI and considers that the mitigation offered would not be easy to enforce, involving an intollerable level of supervision. The Phase 1 ecology report even questions the basis of the SSSI designation. Whereas an appropriate assessment under the Habitats Regulations has been submitted to cover concluding no impact to features of nature conservation interest, the acceptability of this use really boils down to effective enforcement of the visitor management strategy. For example a general intention to remove dead wood from many of the trees, set out in the arboricultural impact statement is not clearly specified and being as the trees are the major feature of

the SSSI and the habitat they provide, this is of clear concern. The bat report has noted the presence of bats using Woods Cottage as a roost. It has concluded that external lighting must be controlled, yet no schedule of lighting and a plan accurately pinpointing its position is submitted. Reference is made to external lighting, acknowledging this has increased but not quantifying it. Agreeing it can affect bats foraging though but implying that it has been there throughout use, then the impact is not adverse. No assessment of impact of lighting actually installed at the site is made, other than by the applicant who has surveyed the site from the Harbour at night, stating that all external site lighting was on when the photography was taken and comparing the impact from adjacent housing, and the Mengham Rhythe and Hayling Island Sailing Clubs on the same date. Your Officers cannot verify that all site lighting was on and other than a diagram supplied by the applicant, the number of external lights has never been presented as a schedule/linked to a map base. Despite stating no mitigation would be needed, bird and bat boxes are offered and evergreen planting at the shoreline to the benefit of overwintering birds foraging in the Harbour. 6 bird boxes do not seem to offer a great deal of enhancement to the AONB.

- 4.2.3 The report plays down the significance of the heronry by stating not one of 30 notified features which led to SSSI being designated. Your Ecologist takes a contrary view. Survey data 2015 & 2019 shows number of heron nests halved during that time from 8 to 4 nests. The consultant says that the heronry is only a secondary colony from Thorney Island and that a rookery in 'The Bury' may suppress the heronry enlarging. The consultant concludes overall that herons and little egrets have continued to breed during the wedding events so no significant impact can be attributed to the wedding events use having operated.
- 4.2.4 As another specific example, a general intention to remove dead wood from many of the trees, set out in the arboricultural impact statement is not clearly specified. Being as the trees are protected by a TPO and the major feature of the SSSI and the habitat they provide, this is of clear concern.
- 4.2.5 The 187 page ecological report recently submitted makes very little mention of the AONB (until paragraph 3.4.5) or the need in policy terms to conserve and enhance its condition, when carrying out development within it. No reference is made to WeBS bird count surveys over time. The merits of utilising different vehicular access to the site thereby avoiding the heronry in 'The Bury') under APP/17/00207 or APP/21/00536 are not discussed.
- 4.2.6 The consultant says no vegetation is to be removed, so there would be no adverse impact to habitats present at the site. This is used to argue no impact to foxes, rabbits, voles, shrews or deer which may be present/using the site. However, Google Earth imagery over time and indeed the aerial photograph at the beginning of this report shows that trees have been removed to create the main grassed events space. The formation of parking areas with stone scalplings have also removed scrub habitat under trees.
- 4.2.7 The reasoning set out in the design and access statement merely seeks to suggest that Tournurbury Wood is of limited importance percentage wise within the AONB (despite referring to its favourable condition as a unit of the overall SSSI).
- 4.2.8 It has to be accepted that a large number of events have occurred assuming the permitted development tipping point was (probably) passed in 2009. There is a general suggestion that revenue made from the holding of events allows investment in the upkeep of the wood/estate and its coastal sea defences.

However, no clear accounting is presented to demonstrate this, such as receipts to contractors carrying out tree management or sea defence repairs/replenishment work. If the applicant truly wishes to demonstrate 'sustainable development', balancing environmental/economic/social planning considerations, then such further evidence ought to have been provided by now.

4.2.9 It is welcomed that the applicant's aspiration to expand events to 200 every '250 day/year season' - (Mid-March/end of November), has now been reduced to 65 events per year. However, this is still considered to skew towards the economic end of the 'sustainable development' spectrum, when it would seem the applicant was able to have a viable business on 58 events for the year before application APP/18/00943 was made.

4.2.10 Those attending events are free to roam into more sensitive parts of the site, albeit this is likely to be limited to health and safety considerations, especially when darkness has fallen and those coming to the site are more focused on enjoying the event. Even so, there is some anecdotal evidence of people 'wandering' and causing disturbance/annoyance immediately off-site and Conservancy Officers have seen video footage of inconsiderate behaviour when vehicles have been leaving the site and passing through the yard of Tournerbury Farm.

4.2.11 The physical impact of the new structures is limited to the Pavillion seen in some views from My Lords Pond, mostly due to the degree of tree cover. However, there are two other impacts to consider – light (in times of darkness) and noise. Your Officer saw a number of external light fittings and strings of decorative lights, placed around the site. It is not clear if these can be seen from the water when lit, in what is a rather dark and remote part of the AONB at night. Your Officer also saw at first hand how a specialised 'zone array sound ceiling' speaker system has been placed in the roof lining of the marquee and some sound attenuation work carried out by the applicant, who has a degree and training in such matters, as well as other works since that initial visit. I was advised that the Council's Environmental Health Team has monitored the noise from live/recorded music, as part of assessing the public entertainment licence and is satisfied. The applicant states enquiries are periodically made with the council to understand if noise complaints are made. Noise complaints have been made to the Council. The (December 2019) planning responses on-line to APP/18/00943 reveal the following-

"This office dealt with a number of noise complaints received in the latter part of 2018 and early 2019, levelled at this facility especially in relation to alleged noise nuisance from loud music, and also allegations of noise from loud voices and swearing.

The applicant has in April of this year, as advised by Direct Acoustics in the above report, further improved on the acoustic mitigation measures that previously existed within the marquee, used primarily for wedding receptions.

The report shows that these measures, have significantly improved the attenuation of noise levels produced by live or recorded music.

Direct Acoustics have, after considering their assessment in June of this year, recommended that a suitable internal noise level of 96 dBA should not be exceeded within the dance floor area. If this is adhered to, it should then ensure no impact on nearby residential receptors from loud music.

There have been no further complaints of noise nuisance logged with this office at this time, especially since the additional mitigation measures were completed, nor any related to alleged people noise including shouting and swearing, emanating from the site.

This office therefore has no objection in principle to this retrospective application for this development, but would suggest the inclusion of the following conditions, if this application were to receive approval:

Condition 1: *All recorded or live music to be provided for the entertainment of wedding or function guests should only be employed within the designated acoustic enclosure sited within the existing marquee on the site, and the noise level within this enclosure should not exceed the maximum 96 dBA LAeq recommended on the dance floor.*

Reason: to ensure the amenity of nearby residential receptors is not impacted upon.

Condition 2: *That no 'after parties' or similar activities be allowed to take place within the boundaries of the Tournerbury Woods site.*

Reason: to ensure the amenity of nearby residential receptors is not impacted upon.

In respect of the latter condition, it is recommended that the applicant submit a 'noise plan', to confirm what procedures and practices are currently in place and what, if any, additional measures are being considered to ensure no impact, especially from those guests staying over in the proposed camp site area or in the cottage."

Those are attributed to a music festival in Cosham in the applicant's own assessment.

- 4.2.12 The ecological consultant says it is very unlikely that dogs would be present at a wedding or other event. Still, this cannot be ruled out or The ecological consultant says it is very unlikely that dogs would be present at a wedding or other event. Still, this cannot be ruled out or controlled by planning condition, so disturbance to birds at the shoreline might still result. he strategy to keep dogs on a lead controlled by planning condition, so disturbance to birds at the shoreline might still result.

4.3 **Waste management, pollution, flood risk and climate change** –.

- 4.3.1 The use is unlikely to exacerbate flooding issues off the site. I am concerned about the fact that some customers attending events camp on site in what is flood zone 3, but ultimately this is a matter the council could control/prevent with conditions, if advised by the Environment Agency on this point. Clearly the Conservancy wants everyone to safely enjoy the AONB. The agent seems to have obtained his flood mapping from a different place obtainable on the EA website and asserts that no camping takes place within an area of flood risk and that although the marquee is in such an area, sea defences on the estate mean that the site has "never flooded" and as such flooding would result from tidal surges, these are highly predictable and necessary pre-alerts can be issued to those using the site.
- 4.3.2 At the time of your Officer's site visit, the site was very clean and tidy and it is obviously in the applicant's interest from a business perspective to maintain that condition of the site. Woods Cottage foul sewerage is provisioned by a 1000 gallon

underground concrete cesspit. This is pumped throughout the year by licensed waste operators and removed from site by tanker to be taken to a treatment plant. Portable chemical toilets are hired in for events and there is also mention by the applicant of naturally composting W.C.'s being introduced. Ultimately, these are matters likely to be controlled through the public entertainments licence and will no doubt be scrutinised by Southern Water and the Environment Agency, when those bodies comment on this application. Since the first application, concerns about nutrient to European sites has grown. These matters could have usefully been covered in an update.

- 4.3.3 Photos from the water by Mr Snell, purportedly with all lighting installed turned on and no leaf cover, at wintertime shows a worst case scenario. Mr Snell is basically making the case that other lighting in the creek is worse and not tempered by tree screening. He also makes reference to a scientific study – (Liley et al, 2010) - which concluded no disturbance witnessed to overwintering birds.

4.4 **Transportation considerations** –

- 4.4.1 Paragraph 105 of the NPPF sets out – *“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”*, continuing – *“However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”*. The local highway authority considered under APP/18/00943, that the site can be accessed safely and does not consider the use would have a material impact to traffic using the wider strategic highway network.
- 4.4.2 Access to the site is restricted by the single width lane/passing points, albeit the events have clearly occurred in the past and been absorbed on the local highway network. Conflict arising from those travelling to the site passing through the adjoining farmyard is clearly not ideal, but apparently legally preserved by a deed, when the farm was sold from the estate. Within the context, that for the evening, limited farm vehicle movements might be likely in hours of darkness, the consultant is estimating that for 1% of the time there might be some minor inconvenience to farm activities from a pure capacity perspective. The consultant extrapolates the percentage to 2.5% even if the number of events were to increase five-fold.
- 4.4.3 This matter formed the only reason for refusal to APP/18/00943, albeit the Enforcement Notice served 17 January 2020 specified a wider environmental harm, but pre-dated the first shadow Habitats Regulations Assessment, which concluded no harm likely to features of nature conservation interest.
- 4.4.4 The transport statement later submitted for APP/18/00943 has been updated given the reduced number of events put forward. It is not surprising that it again concludes no serious highway safety problems, nor significant additional traffic movements to the wider strategic highway network. has accompanied/supported the application, especially if the applicant aspires to grow the business from its current 58 events in 2018.
- 4.4.5 Highway matters are for the Highways Authority to consider and control in advising the local planning authority. No public footpaths within the AONB are affected by the proposals.

- 4.4.6 The highest recorded numbers from the submitted TS were recorded at a wedding that took place on 10.8.2019, when 215 guests attended. What is not clear though is how many vehicles they arrived in and how many of these vehicles were taxis and coaches. Over the 42 events listed, an average attendance was 138 guests. There are clear peaks in arrival and departure associated with the wedding events – late morning to early afternoon and then just before midnight, when most might leave. It is estimated from the survey work that at the peak time 78 two way movements could be anticipated equating to an average of 1.3 vehicle movements per minute, which is not considered to be a high flow by the traffic consultant. The consultant also considers the average of 0.9 movements per minute to be the more likely average. By way of comparison the consultant states a typical busy road might expect to see 20 vehicle movements per minute.
- 4.4.7 Fully implementing the extant consent under APP/21/00536, would remove the major point of conflict with farm activities, but does not seem to be deliverable, all the time the two parties cannot agree terms. The noise impact to wildlife and from traffic movements, especially late at night still also does not seem to have been scoped in the acoustic report, which instead focuses on noise from music being played at the wedding receptions.

4.5 **Economic and employment considerations** –

- 4.5.1 The use has and continues to offer the potential to create a sustainable, enhanced visitor attraction within the AONB, with low key visual impact, but this can only be accepted in the AONB if the maxims of ‘conserve and enhance’ under paragraph 174 of the NPPF are fully demonstrated by the applicant.
- 4.5.2 The principle and actuality of multiplier effects to the local economy from visitors spending in the local area and local businesses earning revenue from supplying goods and services to the venue are clearly understood and tangible – applicant estimates this as worth £1.32 million to the local economy, but the Conservancy must be convinced that a net gain to the condition of the AONB and its natural beauty will result, before offering its blessing to such a use.
- 4.5.3 The use currently provides direct employment for 10 part-time and 3 full-time members of staff.

5.0 **Conclusions**

- 5.1 The Conservancy’s first duty is to conserve and enhance the natural beauty of the AONB, where economic activity is to be sub-ordinate to environmental protection, but supportable where such activity is consistent with environmental enhancement of the area and of an appropriate scale of operation.
- 5.2 If a lawful development certificate is granted for the use of the land and supporting operational development at Appeal, it is not possible to attach planning conditions to such certificates, possibly leaving the only means of control being a public entertainment licence when it is reviewed.
- 5.3 For the ecological consultant to say there is no evidence of impact, when halving of the heronry population *could have* been directly attributable to disturbance is not tenable. It also ignores that the application site red line (and all vehicular traffic) passes through ‘The Bury’ (where the heronry is located) and that once on site, guests are not ‘policed’ and can wander off. The noise report produced has been principally prepared to demonstrate no harm or disturbance to human beings

at unsocial hours, not impact to wildlife per se, other than to claim wildlife has become habituated to such impact.

- 5.4 Whilst Conservancy Officers sympathise with those living at Tournerbury Farm, the disturbance from the coming and going of vehicles attending the events at unsocial hours, is more a matter for the Council to '*police*'/seek to control under all relevant legislation including planning law. Such impacts are certainly not considered in the applicant's various noise reports though. The Conservancy wants to see the farm flourish though within the AONB and its safe operation not impeded.
- 5.5 Whilst most will leave when events are finished, some will remain on site in tented accommodation. If such revellers were to stay up past the events' midnight curfew and continue to 'party', listening to their own music/sound systems, very real impact to wildlife, especially that feeding at night, could have a negative impact to the SPA/SAC/SSSI/Ramsar designations. Ultimately, it seems on occasion the applicant has had no real control over where event attendees wander off to once on site, which is also of very real concern to the owners of Tournerbury Farm, where they assert there have been instances of trespass into their farm buildings and other unwanted activities such as smoking in a hay barn.
- 5.6 The consultant says the function of the report to predict whether significant effects would result - (which may be the case if the number of annual events changes from 58 to 65) - whereas The Conservancy is arguing because the use has continued for some time, those effects could already be indicated from comparing historic to current survey data. Whereas those patrons not staying overnight are to have left by 12 midnight, the levels of disturbance generated by clearing up and those staff leaving the site in the early morning is not really assessed.
- 5.7 The submission of the visitor management strategy is a positive action, but its proper policing remains doubtful. Any new information will be reported at the meeting, at which point Members can decide whether to re-visit my recommendation, given the Council's sole reason for refusal to APP/18/00943 and Natural England's stance to that application.
- 5.8 The precautionary protection of the SPA/SAC/SSSI/Ramsar/AONB should be afforded the greatest weight by the Council in its decision

SRL – for 24.1.2022 Conservancy Planning Committee – Comments requested by 1.2.2022.

***Abbreviations used:**

NPPF – National Planning Policy Framework – (Revised July 2021)

NPPG– National Planning Practice Guidance – (2014 onwards)

HBLP – Havant Borough Local Plan (Core Strategy)(2011)

HBLPSA – Havant Borough Local Plan Allocations (2014)

SVHBLP 2036 – Submission version of emerging Havant Borough Local Plan (2021)

CHMP – Chichester Harbour AONB Management Plan (2019-2024)

PP – Chichester Harbour Conservancy Planning Principles (first adopted by CHC 17.10.2016 and amendments made/adopted since)

SDP:

- **CHAONB** – Joint AONB SPD (2017)
- **HBDG** - Havant Borough Design Guide (2011)
- **HBPS** – Parking standards (2016)

TWE - Tournerbury Woods Estate

TS – Transport statement