



Tournerbury Woods Estate, Hayling Island, Hampshire

PINS Reference: APP/X1735/X/21/3278706

Havant Borough Council Reference: APP/19/01262

Appeal under section 195 of the Town and Country Planning Act 1990

PINS Reference: APP/X1735/C/20/3248610

Havant Borough Council Reference: APP/21/00006

Appeal under section 174 of the Town and Country Planning Act 1990

REPRESENTATIONS

ON BEHALF OF A.G. PHILLIPS & SON LIMITED

AUGUST 2021

TABLE OF CONTENTS

1. Introduction	4
2. Site and Surroundings	4
3. A.G. Phillips & Son Limited (“AGP”) and the operation of the farming enterprise	4
4. The AGP Representations	5
6. Conclusion	6

1. INTRODUCTION

1.1 This representation has been prepared by Thrings LLP on behalf of A.G. Phillips & Son Limited Company number 01602404 (“AGP”) in respect of the section 195 planning appeal made by Mr and Mrs Chris and Alice Snell (“the appellant”), in respect of a proposed development at Tournurbury Woods, Tournurbury Lane, Hayling Island (“the appeal site”).

1.2 AGP are content to maintain the representations made to Havant Borough Council in the course of the determination of the section 191 application (“the Certificate Appeal”) in respect of the appeal under section 195 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/X/21/3278706 and the appeal under section 174 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/C/20/3248610 (“the Enforcement Appeal”).

1.3 AGP would be content to provide a proof of evidence and be a witness in respect of their knowledge of the appeal site. If Rule 6 status is available then AGP would like to apply for it in respect of the section 191 application in respect of the appeal under section 195 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/X/21/3278706 (“the Certificate Appeal”) and the appeal under section 174 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/C/20/3248610 (“the Enforcement Appeal”). In any event AGP wishes to be give evidence at both appeals to the extent it would assist the Inspector.

Inquiry Documents

1.3 These documents are likely to have already been supplied by the local planning authority to the Planning Inspectorate as they form part of the representations to the certificate application made to the local planning authority that led to the making of the Certificate Appeal by the appellant. AGP are content to continue to rely upon these and to maintain the analysis as it is set out here as follows, subject of course to any further emerging evidence from the appellants:

AGPC1 - Representation on certificate application by Thrings on behalf of AGP

AGPC2 - photographs cited in AGPC1

AGPC3 - representation from Mr Phillips of AGP

AGPC4 - Google image

AGPC5 - Google image

AGPC6 - Letter from Thrings LLP to Case Officer at Havant Borough Council

AGPC7 - Unsigned witness statement of Sue Phillips of AGP and exhibits AGPC7A through to AGPC7C

AGPC8 - Representations from Thrings LLP dated 14 April 2021.

2. SITE AND SURROUNDINGS

The appeal site is sited to the east of the Tournembury Farm (the “AGP farm”). The greater part of the appeal site Tournembury Woods is outside the urban area, within the Chichester Harbour Area of Outstanding Natural Beauty, and in a location which is the subject of numerous national and international environmental designations. We understand the appeal site is in agricultural use.

3. A.G. PHILLIPS & SON LIMITED AND THE OPERATION OF THE FARMING ENTERPRISE

3.1 AGP is the owner and operator of the AGP Farm. The farm once formed part of the wider Tournembury Woods Estate but was sold off in around 1987, albeit the applicant retained legal access to and from Tournembury Lane through the AGP farmyard; the extent of which is not agreed but is not relevant to the issues to be decided. It is highly relevant that the alleged activities of the Certificate Appeal site require passage through the AGP Farm.

5. THE AGP REPRESENTATIONS

5.1 AGP have made a number of representations to Havant Borough Council and AGP’s Sue Phillips has also made representations in a witness statement. AGP are concerned not to duplicate the efforts of the Council, and we have asked the local planning authority to meet with us to ensure we are not duplicating efforts. For example, were AGP asked by the Council to provide a proof of evidence of use to the Council in the presentation of its case then AGP would be content to do that and co-operate.

5.2 Because the versions of what has happened on the appeal site in terms of activity passing through the AGP Farm is something to which AGP can give evidence it seems appropriate that AGP is a Rule 6 party. Another reason is because the appellant is challenging the recollections of AGP Farm’s owners.

5.3 AGP is content to rely upon its written representations, but is minded to provide a proof of evidence to introduce them if necessary with a simple explanation of AGP's first hand understanding of when activities started ramping up. This was in about 2015 or 2016.

5.6 In essence, AGP will give factual evidence in a proof of evidence that the activities did take place over 28 days until around 2016, and that the operational development took place around that time also. The appellant refutes this, but AGP are of the view that the inquiry is best placed to resolve these different recollections.

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

5.7 The points above deal generally with the appellant's case in so far as AGP can assist the inquiry but there are references about a private right of way which AGP reserve the right to challenge were they to be made in sufficient detail by the appellant to warrant a response. Suffice it to say that AGP has made representations in the past indicating that the appellant's representations on that matter are not planning matters.

6. CONCLUSION

6.1 AGP maintains a strong objection to the Certificate Appeal on the basis that continuous activity amounting to a single mixed use has not taken place over a rolling ten year period. The appellant has put forward little, if any, meaningful challenge to the very reasonable, sensible and justifiable decision of the Council to refuse a certificate. In respect of the Enforcement Appeal, AGP is content to participate in so far as necessary to assist the inquiry with establishing matters of fact.

Thrings LLP Solicitors
Stuart Court
Salisbury Road
Romsey
SO51 6DJ
Ref: A4274-4/MCK
Email: mgilks@thrings.com
19 August 2021

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

DETAILS OF THE CASE

Appeal Reference

APP/X1735/C/20/3248610

Appeal By

MR CHRISTOPHER SNELL

Site Address

Tournerbury Lane
Hayling Island
Hampshire
PO11 9DL

SENDER DETAILS

Name

MR MATT GILKS

Address

Thrings Llp
Stuart Court Salisbury Road
ROMSEY
SO51 6DJ

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
- ☐ Agent
- ☐ Interested Party / Person
- ☐ Land Owner
- ☒ Rule 6 (6)

What kind of representation are you making?

- ☐ Final Comments
- ☐ Proof of Evidence
- ☒ Statement
- ☐ Statement of Common Ground
- ☐ Interested Party/Person Correspondence
- ☐ Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section: REPRESENTATION

Document Description: Your comments on the appeal.

File name: 1. AGP - CLEUD EN appeals Thrings 19 Aug 2021 statement.pdf

File name: AGPC1 Submission on S191 28 October 2019.PDF

File name: AGPC2 photographs from 2017.pdf

File name: AGPC3 28 October 2019 - Mr Phillips AGP director.pdf

File name: AGPC4 28 Oct 2019 - Google image - April 2015.pdf

File name: AGPC5 28 Oct 2019 - Google image - April 2015 - 2.pdf

File name: AGPC6 Letter to Mr Weaver 13 February 2020.pdf

File name: AGPC7 Witness Statement SP Feb 2020.pdf

File name: AGPC7A Exhibit SP1 tables 2008 and 2009.pdf

File name: AGPC7B Exhibit SP1 tables 2010 to 2016.pdf

File name: AGPC7C Exhibit SP2.pdf

File name: AGPC8 - Reps by Thrings for AGP of 14 April 2021.pdf

PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US

The Planning Inspectorate

COMMENTS ON CASE - PERSONAL FORM (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in either the start date letter or the notification letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

SENDER DETAILS

Name MR MATT GILKS

Address Thrings LLP
Stuart Court Salisbury Road
ROMSEY
SO51 6DJ

Email Address mgilks@thrings.com

Telephone Number 01794310320

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

DETAILS OF THE CASE

Appeal Reference APP/X1735/C/20/3248610

Appeal By MR CHRISTOPHER SNELL

Site Address
Tournurbury Lane
Hayling Island
Hampshire
PO11 9DL

SENDER DETAILS

Name MR MATT GILKS

Address
Thrings Llp
Stuart Court Salisbury Road
ROMSEY
SO51 6DJ

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
- ☐ Agent
- ☐ Interested Party / Person
- ☐ Land Owner
- ☒ Rule 6 (6)

What kind of representation are you making?

- ☐ Final Comments
- ☐ Proof of Evidence
- ☒ Statement
- ☐ Statement of Common Ground
- ☐ Interested Party/Person Correspondence
- ☐ Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section: REPRESENTATION

Document Description: Your comments on the appeal.

File name: Letter to the Planning Inspectorate 28 09 21 (PDF).PDF

File name: APPX1735C203248610.pdf

PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US

The Planning Inspectorate

COMMENTS ON CASE - PERSONAL FORM (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in either the start date letter or the notification letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

SENDER DETAILS

Name MR MATT GILKS

Address Thrings LLP
Stuart Court Salisbury Road
ROMSEY
SO51 6DJ

Email Address mgilks@thrings.com

Telephone Number 01794310320

THRINGS

SOLICITORS

FAO Mr. Nick Manley
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

28 September 2021

Your Reference:

Our Reference: MCK/A4274-4

Email: mgilks@thrings.com

Dear Mr. Manley,

RE: Reordered bundles

Your Reference: APP/X1735/W/21/3278661, APP/X1735/C/2032/48610 and APP/X1735/X/21/3278706

Appellant/Applicant: Mr Christopher Snell Agent: Mr Haydn Morris

Site Address: Tournerbury Woods, Tournerbury Lane, Hayling Island, Hampshire, PO11 9DL

Please find unchanged statements of case in relation to the three inquiries above, together with reordered bundles. Please be aware that the contents of the bundles are unchanged.

In terms of AGP's case at the inquiry, the company is intending to instruct junior planning Counsel to appear on its behalf.

What is important for all parties to note, in addition to the AGP's statement of case, it that AGP does not intend to pursue the earlier application representations it had made in respect of the question of compliance or requirements with The Conservation of Habitats and Species Regulations 2017 ("the Regulations"). The reason for this stance is because it is recognised that the Chichester Harbour Conservancy will be making wholly independent and expert submissions in respect of the factual and legal considerations which relate to the interaction of the Regulations with the development at issue.

AGP are conscious that effectively the Inspector will be managing three inquiries. We would respectfully suggest that while this is only a 5 day inquiry the Inspector might think it prudent to call a pre-inquiry meeting in the New Year in order that the main issues, number and order of witnesses and any procedural issues or considerations can be discussed in advance of the inquiry which is scheduled for March 2022.

Some of the video files supplied to the Inspectorate by AGP are in a ".MOV" file format and Havant Borough Council have explained they cannot access those files. Accordingly, AGP are investigating the possibility of converting those files to a more accessible format. We shall ensure you are apprised of developments in that regard.

A copy of this letter and the reordered bundles will be provided to the Appellant, Havant Borough Council and Chichester Harbour Conservancy. The bundles have also been submitted electronically on the PINS website.

If you have any questions about the content of the letter or the attachments please contact mgilks@thrings.com or 01794 310 320.

Yours sincerely,

Matt Gilks

Senior Associate Solicitor

Thrings LLP

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300

Email: solicitors@thrings.com ■ www.thrings.com Also in Bath, Bristol, London and Swindon

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

PHILLIPS

Tournerbury Woods

APPX1735C203248610

Please note - The contents of this bundle has not changed but has been reordered for ease.

Index

		Page(s)
1	1. AGP - CLEUD EN appeals Thrings 19 Aug 2021 statement	1 - 7
2	Gilks M - 697567 - RULE 6(6) STATEMENT	8 - 9
3	Gilks M - 697567 - RULE 6(6) STATEMENT_(PERSONAL)	10
4	AGPC1 Submission on S191 28 October 2019	11 - 23
5	AGPC2 photographs from 2017	24 - 51
6	AGPC3 28 October 2019 - Mr Phillips AGP director	52 - 53
7	AGPC4 28 Oct 2019 - Google image - April 2015	54
8	AGPC5 28 Oct 2019 - Google image - April 2015 - 2	55
9	AGPC6 Letter to Mr Weaver 13 February 2020	56
10	AGPC7 Witness Statement SP Feb 2020	57 - 59
11	AGPC7A Exhibit SP1 tables 2008 and 2009	60 - 61
12	AGPC7B Exhibit SP1 tables 2010 to 2016	62 - 68
13	AGPC7C Exhibit SP2	69
14	AGPC8 - Reps by Thrings for AGP of 14 April 2021	70 - 75

Tournerbury Woods Estate, Hayling Island, Hampshire

PINS Reference: APP/X1735/X/21/3278706

Havant Borough Council Reference: APP/19/01262

Appeal under section 195 of the Town and Country Planning Act 1990

PINS Reference: APP/X1735/C/20/3248610

Havant Borough Council Reference: APP/21/00006

Appeal under section 174 of the Town and Country Planning Act 1990

REPRESENTATIONS

ON BEHALF OF A.G. PHILLIPS & SON LIMITED

AUGUST 2021

TABLE OF CONTENTS

1. Introduction	4
2. Site and Surroundings	4
3. A.G. Phillips & Son Limited (“AGP”) and the operation of the farming enterprise	4
4. The AGP Representations	5
6. Conclusion	6

1. INTRODUCTION

1.1 This representation has been prepared by Thrings LLP on behalf of A.G. Phillips & Son Limited Company number 01602404 (“AGP”) in respect of the section 195 planning appeal made by Mr and Mrs Chris and Alice Snell (“the appellant”), in respect of a proposed development at Tournurbury Woods, Tournurbury Lane, Hayling Island (“the appeal site”).

1.2 AGP are content to maintain the representations made to Havant Borough Council in the course of the determination of the section 191 application (“the Certificate Appeal”) in respect of the appeal under section 195 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/X/21/3278706 and the appeal under section 174 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/C/20/3248610 (“the Enforcement Appeal”).

1.3 AGP would be content to provide a proof of evidence and be a witness in respect of their knowledge of the appeal site. If Rule 6 status is available then AGP would like to apply for it in respect of the section 191 application in respect of the appeal under section 195 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/X/21/3278706 (“the Certificate Appeal”) and the appeal under section 174 of the Town and Country Planning Act 1990 PINS Reference: APP/X1735/C/20/3248610 (“the Enforcement Appeal”). In any event AGP wishes to be give evidence at both appeals to the extent it would assist the Inspector.

Inquiry Documents

1.3 These documents are likely to have already been supplied by the local planning authority to the Planning Inspectorate as they form part of the representations to the certificate application made to the local planning authority that led to the making of the Certificate Appeal by the appellant. AGP are content to continue to rely upon these and to maintain the analysis as it is set out here as follows, subject of course to any further emerging evidence from the appellants:

AGPC1 - Representation on certificate application by Thrings on behalf of AGP

AGPC2 - photographs cited in AGPC1

AGPC3 - representation from Mr Phillips of AGP

AGPC4 - Google image

AGPC5 - Google image

AGPC6 - Letter from Thrings LLP to Case Officer at Havant Borough Council

AGPC7 - Unsigned witness statement of Sue Phillips of AGP and exhibits AGPC7A through to AGPC7C

AGPC8 - Representations from Thrings LLP dated 14 April 2021.

2. SITE AND SURROUNDINGS

The appeal site is sited to the east of the Tournembury Farm (the “AGP farm”). The greater part of the appeal site Tournembury Woods is outside the urban area, within the Chichester Harbour Area of Outstanding Natural Beauty, and in a location which is the subject of numerous national and international environmental designations. We understand the appeal site is in agricultural use.

3. A.G. PHILLIPS & SON LIMITED AND THE OPERATION OF THE FARMING ENTERPRISE

3.1 AGP is the owner and operator of the AGP Farm. The farm once formed part of the wider Tournembury Woods Estate but was sold off in around 1987, albeit the applicant retained legal access to and from Tournembury Lane through the AGP farmyard; the extent of which is not agreed but is not relevant to the issues to be decided. It is highly relevant that the alleged activities of the Certificate Appeal site require passage through the AGP Farm.

5. THE AGP REPRESENTATIONS

5.1 AGP have made a number of representations to Havant Borough Council and AGP’s Sue Phillips has also made representations in a witness statement. AGP are concerned not to duplicate the efforts of the Council, and we have asked the local planning authority to meet with us to ensure we are not duplicating efforts. For example, were AGP asked by the Council to provide a proof of evidence of use to the Council in the presentation of its case then AGP would be content to do that and co-operate.

5.2 Because the versions of what has happened on the appeal site in terms of activity passing through the AGP Farm is something to which AGP can give evidence it seems appropriate that AGP is a Rule 6 party. Another reason is because the appellant is challenging the recollections of AGP Farm’s owners.

5.3 AGP is content to rely upon its written representations, but is minded to provide a proof of evidence to introduce them if necessary with a simple explanation of AGP's first hand understanding of when activities started ramping up. This was in about 2015 or 2016.

5.6 In essence, AGP will give factual evidence in a proof of evidence that the activities did take place over 28 days until around 2016, and that the operational development took place around that time also. The appellant refutes this, but AGP are of the view that the inquiry is best placed to resolve these different recollections.

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

5.7 The points above deal generally with the appellant's case in so far as AGP can assist the inquiry but there are references about a private right of way which AGP reserve the right to challenge were they to be made in sufficient detail by the appellant to warrant a response. Suffice it to say that AGP has made representations in the past indicating that the appellant's representations on that matter are not planning matters.

6. CONCLUSION

6.1 AGP maintains a strong objection to the Certificate Appeal on the basis that continuous activity amounting to a single mixed use has not taken place over a rolling ten year period. The appellant has put forward little, if any, meaningful challenge to the very reasonable, sensible and justifiable decision of the Council to refuse a certificate. In respect of the Enforcement Appeal, AGP is content to participate in so far as necessary to assist the inquiry with establishing matters of fact.

Thrings LLP Solicitors
Stuart Court
Salisbury Road
Romsey
SO51 6DJ
Ref: A4274-4/MCK
Email: mgilks@thrings.com
19 August 2021

The Planning Inspectorate

COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

DETAILS OF THE CASE

Appeal Reference	APP/X1735/C/20/3248610
Appeal By	MR CHRISTOPHER SNELL
Site Address	Tournerbury Lane Hayling Island Hampshire PO11 9DL

SENDER DETAILS

Name	MR MATT GILKS
Address	Thrings Llp Stuart Court Salisbury Road ROMSEY SO51 6DJ

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- ☐ Appellant
- ☐ Agent
- ☐ Interested Party / Person
- ☐ Land Owner
- ☒ Rule 6 (6)

What kind of representation are you making?

- ☐ Final Comments
- ☐ Proof of Evidence
- ☒ Statement
- ☐ Statement of Common Ground
- ☐ Interested Party/Person Correspondence
- ☐ Other

COMMENT DOCUMENTS

The documents listed below were uploaded with this form:

Relates to Section: REPRESENTATION

Document Description: Your comments on the appeal.

File name: 1. AGP - CLEUD EN appeals Thrings 19 Aug 2021 statement.pdf

File name: AGPC1 Submission on S191 28 October 2019.PDF

File name: AGPC2 photographs from 2017.pdf

File name: AGPC3 28 October 2019 - Mr Phillips AGP director.pdf

File name: AGPC4 28 Oct 2019 - Google image - April 2015.pdf

File name: AGPC5 28 Oct 2019 - Google image - April 2015 - 2.pdf

File name: AGPC6 Letter to Mr Weaver 13 February 2020.pdf

File name: AGPC7 Witness Statement SP Feb 2020.pdf

File name: AGPC7A Exhibit SP1 tables 2008 and 2009.pdf

File name: AGPC7B Exhibit SP1 tables 2010 to 2016.pdf

File name: AGPC7C Exhibit SP2.pdf

File name: AGPC8 - Reps by Thrings for AGP of 14 April 2021.pdf

PLEASE ENSURE THAT A COPY OF THIS SHEET IS ENCLOSED WHEN POSTING THE ABOVE DOCUMENTS TO US

The Planning Inspectorate

COMMENTS ON CASE - PERSONAL FORM (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in either the start date letter or the notification letter. Comments submitted after the deadline may be considered invalid and returned to sender.

Appeal Reference: APP/X1735/C/20/3248610

SENDER DETAILS

Name MR MATT GILKS

Address Thrings LLP
Stuart Court Salisbury Road
ROMSEY
SO51 6DJ

Email Address mgilks@thrings.com

Telephone Number 01794310320

Representations on an application for a Certificate of Lawfulness under section 191 of the Town and Country Planning Act 1990 ('the principal Act')

APP/19/00889 | Application for Lawful Development Certificate relating to the erection of log cabin and adjoining deck; erection of victorian [sic] style gazebo structure; and erection of marquee structure ('the application').

Tournerbury Woods, Tournerbury Lane, Hayling Island ('the application land')

The following representations on the application are made on behalf of A.G. Phillips & Son Limited ("AGP") of Tournerbury Farm, Tournerbury Lane, Hayling Island Hampshire PO11 9DL. AGP have owned Tournerbury Farm neighbouring Tournerbury Woods, Tournerbury Lane, Hayling Island ("the Application Land") during the entirety of the period specified in the application. Mr Grahame Phillips is a director of AGP and he has provided a letter and photographs that are highly relevant to the determination of this application.

AGP's knowledge of the site

1. The factual representations of AGP through this representation, as well as the photographs annexed to the undated letter of Mr Phillips are highly material and ought to carry significant weight with the local planning authority because AGP are:—
 - 1.1. the closest neighbours to the application land;
 - 1.2. have owned and farmed the neighbouring land to the application land throughout the period of the alleged activities;
 - 1.3. best placed to have knowledge of the extent, intensity, nature and timing of activities as they have developed over time; and
 - 1.4. in possession of information within their own direct knowledge together with objective information such as the photographs.
2. For these reasons AGP's representations as to factual matters and the legal implications of those factual matters ought to be given significant weight by the local planning authority. They are consistent with and supported in important respects by the applicant's prior statements and submissions to the local planning authority.

Legal Context & Requirements

3. The applicant has sought by application reference APP/19/00889 to obtain a certificate pursuant to sections 191(1)(b) and section (2) of the Town and Country Planning Act 1990.
4. The purpose of the application is to obtain a certificate to confirm that all of the operations set out in the application that have been carried out on the land are lawful.
5. It is the applicant for a certificate that bears the onus of proof of demonstrating lawfulness. The relevant test is on the balance of probability for factual matters, but the applicant's evidence must be sufficiently precise and unambiguous to be relied upon without corroboration. The issue of a certificate does not create rights but is simply a declaration binding on the authority.

6. Accordingly, in circumstances where the local planning authority must find there is an unauthorised material change of use on the application land in contravention of English and European law the authority would be fettering its discretion and acting unlawfully were they to now issue a certificate for the development described in the application. This is because in issuing certificates that would make it impossible to include steps in a planning enforcement notice issued to remedy an authorised material change of use that ensured the unauthorised operational development that was part and parcel of that breach of planning control could not be removed.
7. The application is not about the merits of any pre-existing or potential planning application for operational development or a material change of use in connection with the application land. It requires an analytical exercise establishing if there are grounds for granting or withholding a certificate of existing use or development.

Lawfulness

8. The operations are only lawful if no enforcement action may then be taken in respect of them because:—
 - 8.1. they did not involve development (s.191(2)(a));
 - 8.2. they did not require planning permission (s.191(2)(a));
 - 8.3. the time for enforcement action has expired(s.191(2)(a));
 - 8.4. for any other reason(s.191(2)(a));
 - 8.5. they do not constitute a contravention of any of the requirements of any enforcement notice then in force ((s.191(2)(b))
9. The time for taking enforcement action has not expired if, among other things:—
 - 9.1. the time limits in section 171B of the principal Act have not expired;
 - 9.2. the time for applying for an order under section 171BA(1) (“a planning enforcement order”) in relation to the matter has not expired.
10. AGP’s submission is that the relevant time limit for the buildings and structures described in the application is ten years rather than four years. Furthermore, even if that is not correct the log cabin structure was not substantially completed more than four years from the date of the application.

Time Limits

11. Section 171B of the principal Act provides that:—

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

12. In the case of the application land, AGP are of the firm view that presently planning enforcement action may be taken because immunity has not been achieved for activities on the land under section 171B(3) as a unauthorised material change of use, and there is operational development that is ancillary to that material change of use that is not capable of becoming immune under section 171B(1).

Enforcement Notice

13. Section 173 of the principal Act, provides among other things that a planning enforcement notice may require steps to:—

13.1. remedy the breach by making any development comply with the terms (including conditions and limits) of any planning permission which has been granted in respect of the land, by discontinuing the use of the land or by restoring the land to its condition before the breach took place; or

13.2. remedy any injury to amenity which has been caused by the breach.

14. The requirements of the notice may for example include among other things:—

14.1. The alteration or removal of any buildings or works;

14.2. The carrying out of any building or other operations;

14.3. Any activity not to be carried on except to the extent specified in the notice.

15. Section 172 of the principal Act provides:

(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them –

that there has been a breach of planning control; and

that it is expedient to issue the notice, having regard to the provisions of the development plan and any other material considerations.

16. It is the applicant’s submission that the unauthorised operational development and material change of use are plainly contrary to the development plan and there are also a number of material considerations including a breach of the Habitat Regulations. Failure to take action risks bringing the planning system into disrepute.

Planning Contravention Notice

17. The local planning authority must have regard to its own records including any planning contravention notices served in respect of the application land over the period relevant to the application, as well as to any office

notes. While AGP is not privy to these it would expect full reference to the evidence gathered by the local planning authority over the relevant period to be set out in its report to committee.

Identifying the correct breach of planning control

18. The legal test for the local planning authority to apply in deciding whether to grant a certificate is not solely to resolve the question of whether the operations referred to in the application have been substantially completed more than 4 years from the date of the making of this application. It is also necessary for the local planning authority to conclude that the time for enforcement action has expired (s.191(2)(a)).
19. The local planning authority can properly conclude, having regard to all of the facts and circumstances, that the breach of planning control consists not simply in respect of operational development but also of an unauthorised change of use. Thus operational development that might otherwise be immune from planning enforcement action is in fact capable of being the subject of a planning enforcement notice. As a matter of law that notice may require the taking of steps to remove that development because of its association with an unauthorised material change of use.
20. Where such a planning enforcement notice may be issued at the time of the making of the application for a certificate, then it is unlawful for the certificate to be issued because the local planning authority is unable to conclude as a matter of law that the time for enforcement action has expired(s.191(2)(a)).
21. AGP is entitled to expect the local planning authority to ensure it correctly identifies all extant breaches of planning control on the land and relates these to its determination of this application.

Relevance of a material change of use

22. The question of a material change of use of the land during the rolling period of ten years back from the date of this application is relevant because of the implications for the legal status of the operational development for which the applicant seeks a certificate.
23. Furthermore, if the operational development is integral to or forms part and parcel of the material change of use there is an appreciable danger of the grant of a certificate for operational development having effect so to permit an associated unauthorised material change of use of the land, or at the very least conceding the principle of that use.
24. The local planning authority has a firm basis on which to be able to conclude there is an extant unlawful and unauthorised material change of use and concluding there remains the scope for taking planning enforcement action.
25. It is AGP's submission that on the basis of the applicant's own planning application reference APP/18/00943 the local planning authority is compelled to conclude that what has happened on the land is not simply the carrying on of unauthorised operational development. It is instead a continuing breach of planning control by the material change of use of land without planning permission to a wedding and events venue with integral operational development to facilitate that use.
26. The applicant's planning application reference APP/18/00943 was validated on 6 November 2018. The application is an extant retrospective planning application to authorise:—

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

27. AGP is firmly of the view that the operational development for which the applicant seeks to obtain a certificate of lawfulness is encompassed and part and parcel of the currently unauthorised material change of use which the applicant has already sought and failed to regularise through retrospective planning application reference APP/18/00943.

Planning application reference APP/18/00943

28. AGP’s representations and conclusions are supported by the applicant’s own evidence submitted with the planning application reference APP/18/00943:
29. The applicant’s design and access statement entitled ‘Tournerbury Woods Estate Design and Access Statement August 2018’ (in this submission ‘DAS’) indicates that:—
- 29.1. the material change of use is not authorised: ‘The estate is currently designated as a woodland, agricultural and residential site. Planning permission is being sought to change the use of the estate to become a full time wedding and event venue.’ see page 1 of the DAS
- 29.2. the land and woodland activities require planning permission as it is admitted the only extant lawful use is ‘a woodland, agricultural and residential site’ page 1 of the DAS
- 29.3. events have always been facilitated and continue to be facilitated by, among other things, the following structures described on page 5 of the DAS:

‘Woods Cottage – 4 bedroom detached residence.

Marquee – 12m x 33m clear span marquee with 3m by 3m entrance pagoda. The eaves height is 2.4 meters from ground level. The marquee has two ‘pagoda tops’ which reach up to a height of 8.5m.

Victorian Wedding Gazebo – open air structure measuring 3m in diameter and 4.5m height, made of iron. This structure is licensed by Hampshire County Council for Civil Marriage Ceremonies.

The Deck of Love – raised deck area measuring 11.5m in width and 22m in length with 4m by 3m log cabin on it. Stretched tent awning across the whole deck provides roof cover and is 6.5 m from ground level at its highest point. This area is licensed by Hampshire County Council for Civil Marriage Ceremonies.’

30. It is the applicant’s firm submission that Marquee, Victorian Wedding Gazebo and The Deck of Love described in the DAS are also the structures named in the application as ‘log cabin and adjoining deck; erection of victorian [sic] style gazebo structure; and erection of marquee structure.’

Lawfulness

31. As it appears accepted by the applicant and the local planning authority that unquestionably:
- 31.1. there is an extant breach of planning control by the continuing use of the land and buildings for use of land and woodland as a wedding venue, including retention of permanent ancillary buildings and structures, the erection of temporary structures (including marquees and temporary facilities) and the use of land as a campsite in association with events, and use of the existing cottage for visitor accommodation;
 - 31.2. the breach of planning control is a material change of use of land to which the time limit for immunity is ten years in accordance with section 171B(3) of the principal Act;
 - 31.3. the breach of planning control has not continued for a rolling period of ten years;
 - 31.4. the structures are ancillary development being accurately described as such in the applicant's own DAS as an integral part of and facilitate the unauthorised change of use;
 - 31.5. that the development described in retrospective planning application reference APP/18/00943 and the development for which a certificate has been sought in this instance is unlawful because it does not comply with the Habitats Regulations.
32. In the circumstances the ancillary buildings and structures are *prima facie* unauthorised and unlawful and are in breach of planning control because the applicant cannot demonstrate a ten year period of continuous material change of use in a rolling period of ten years.

Identifying the date of the breach of planning control

33. The relevant test to identify whether there has been a material change of use of land or buildings is to deal with the question as to whether the present use (being carried on an unauthorised basis now) is materially different from that of ten years previously.
34. It is plain from the applicant's DAS that there has been a material change of use of the land and buildings in a manner which is materially different from that of ten years previously: see *North Devon DC v First Secretary of State* [2004] EWHC 578 (Admin).
35. The purpose of the ten-year period is:—

'give the local planning authority sufficient time to identify any significant planning problem arising as a result of the breach of planning control' (per Sullivan J. in *North Devon*).

36. It is axiomatic that the local planning authority as the competent authority for purpose of the Habitats Regulations ought to be able to conclude that planning enforcement action must be taken prior to the expiry of the rolling ten year period. Until the expiry of that period planning enforcement action may be taken and the requirements of section 191 of the principal Act are unsatisfied.

Works to create ancillary structure part and parcel of an unlawful use

37. It is plain that the works alleged undertaken in 2011, 2013 and 2015 were erected purely for the purpose of undertaking the unlawful change of use. They were part and parcel of the unauthorised material change of use and the description of their use by the applicant in these applications and elsewhere are incompatible with their erection compatibly with a lawful woodland, agricultural or residential use. In fairness to the applicant they have never suggested that the structures which are the subject to this application were erected for or were capable of being for the purpose of a lawful use of the application land.

Substantially completed

38. Section 171B(1) of the principal Act provides that:—

“Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operation in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.”

39. In the case of breaches of planning control solely referable to operational development, time runs from the date when the operations were substantially completed. It is highly relevant in respect of the consideration of this application, that if any part of the operations required to complete the development are still within the time limit then all the works including those carried out more than four years ago (if that is the appropriate time limit) can be enforced against: see *Robert Reginald Howes v Secretary of State for the Environment* [1984] JPL 439 ; *Ewen Developments. Ltd v Secretary of State for the Environment and North Norfolk District Council* [1980] JPL 404.

European Law

40. The Habitats Directive is transposed into domestic law by the Conservation of Habitats and Species Regulations 2010 (SI 2010 No 490) (“the Habitats Regulations”). Regulation 9(3) provides:

“... a competent authority, in exercising any of its functions, must have regard to the requirements of the [Habitats Directive] so far as they may be affected by the exercise of those functions.”

41. A local planning authority is a “competent authority” for these purposes. Although, under regulation 9(3), a decision-making planning authority’s obligation is restricted to “having regard” to the requirements of the Habitats Directive so far as those requirements may be affected by its decision, that does require genuine engagement (see *R (Woolley) v Cheshire East Borough Council* [2009] EWHC 1227 (Admin) at [26]-[28] per His Honour Judge Waksman QC).
42. Accordingly, in so far as unauthorised material change of use or unauthorised operational development engages that Habitats Regulations then it is critical that in determining the application the local planning authority genuinely engages in the requirements of the of the regulations particularly in so far as:—

42.1. the factual and legal circumstances mean that a certificate of lawfulness must be withheld.

42.2. that the local planning authority must consider whether it is expedient to issue a planning enforcement notice in order to give effect to the requirements of legislative scheme

43. The Application land forms part of the Chichester and Langstone Harbours Special Protection Area, Chichester Harbour Area of Outstanding Natural Beauty and the Chichester Harbour SSSI. The local planning authority should consult Natural England on the implications of issuing any form of certificate as a result of this planning application.

Application threshold

44. Section 191(4) of the principal Act provides:—

‘If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.’

45. The fact of the matter is that there is no basis upon which the local planning authority is able to conclude sufficient information has been provided so that the local planning authority can be satisfied of lawfulness on the balance of probabilities. In fact, the task that the applicant ought to be required to be carried out is to explain the contradictory information about the activities on the land that has been provided in the earlier planning application. The local planning authority must require a properly large scaled plan for each building that enables the applicant to properly demonstrating the extant (if any) of any changes in the footprints of the buildings or structures over the periods described in the application. For example, one question is if there is evidence that the marquee has not changed location over time, even during the period that it is alleged it has not have been entirely dismantled.

Application Form requirements not complied with

46. The legislative scheme requires applications to be validated only if they comply with, among other things, article 39 of the Town and Country Planning (Development Management Procedure)(England) Order 2015.
47. In summary, this requires the applicant to complete the application form in full and for the local planning authority not to validate, or where validated in error, to treat the application as invalid in circumstances where the application requirement of article 39 have not been complied with. In addition, the local planning authority has a power to require further information as may be specified to enable them to deal with the application.
48. It is AGP’s submission that the application is invalid and incomplete because the applicant has failed to complete the application form. Question 10 of the application form is in three parts. The first asks when the use or activity begun, or the building works substantially completed.
49. The second part asks: ‘In the case of an existing use or activity in breach of conditions has there been any interruption?’

50. The third question is unanswered on the form. While it refers ‘in the case of an existing use of land’ the question remains relevant for the purposes of this application. This is because the structures or buildings for which the applicant seeks the certificate are only used in the manner described in the DAS. Consequently, the failure to provide that information results in the application being defective.
51. Accordingly, the local planning authority must seek further information to decide the lawfulness of the structures or buildings.
52. The applicant has not, but must now provide an answer to the question:—

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?

53. The local planning authority must satisfy itself as to that point or reject the application in its entirety. If the local planning authority determines the planning application without reaching a judgement on this point and without requesting this information then it will have failed to properly decide the application and will have made a serious error of law leaving itself open to judicial review.

Pre-application Advice

54. The applicant has indicated that pre-application advice was received by the applicant. By this letter, AGP makes a formal request for the disclosure of that pre-application advice. That will enable the wider public to determine if the relevance of a unauthorised material change of use within the last ten years together with a failure to comply with the requirements of the Habitats Regulation have formed part of the pre-application advice and to what extent the applicant has been requested to address and rectify these aspects of the use of the application land.

The substantive applications

55. The representations below are without prejudice to the points that the application form is incomplete, there is insufficient information to determine the application, and that it is defective and requires resubmission or a request for further information.

Erection of log cabin and adjoining deck as one extended operation not immune

56. The first point to make is that the log cabin is alleged to have been erected in the autumn of 2010. It is submitted that the relocation of the log cabin (even if it was 2010 which is not accepted) was not the point in time of the substantive completion of the development from which the potential period of immunity ought to be calculated. The entire development encompassing the red line on the application plan includes the log cabin and the deck and the entire building and structure ought to be considered as one development.
57. Substantive completion of the development was achieved no earlier than 2017. We attach photographic date stamped evidence of the completion of the development at that time. This is over seven years from the date alleged by the applicant of substantial completion.

58. On the basis that the entire structure was substantially completed in 2017 it is not operational development immune from planning enforcement action: see *Sage v Secretary of State for the Environment, Transport and the Regions and others* [2003] 2 All ER 689 [2003] UKHL 22. Accordingly, a certificate ought not to be granted.
59. Those parts of the log cabin and structure erected in the past form part of ancillary development to facilitate an unauthorised change of use. Accordingly, even if the first point is not accepted, it must be accepted on the applicant's own evidence, that on this second basis the development is not immune from enforcement and a certificate ought not to be granted.

Alleged Substantial completion of deck structure August 2011 is incorrect

60. Even if contrary to the holistic approach necessitated by the case of *Sage* to the question of completion, and the treatment by the application of both structures as one, the local planning authority were to treat the log cabin and deck structure as two separate developments then the decking itself was not completed until 2017. If there was decking there previously it has been removed and hence there was an interruption or a new and unrelated period of operational development.
61. On any sensible interpretation the decking and the associated structures are not immune from planning enforcement action as operational development. In any event as explained above the decking is undoubtedly associated with the unauthorised material change of use as building or structure ancillary and part and parcel of the unauthorised change of use.
62. The applicant ought to be asked by the local planning authority to comment and explain the photographs of 2017 supplied by AGP in the context of this aspect of the application.

Erection of the log cabin in 2011 facilitated an unauthorised material change of use

63. AGP concede the log cabin was erected in 2011, but the comments about the completion of the development for which a certificate is sought, and the erection of an ancillary structure to facilitate an unauthorised material change of use are of equal force in respect of the log cabin as they are for the decking.

Relevance of applicant's photographs: log cabin and decking 0018 to 0023

64. The photographs are not properly or accurately referable to a specific area of land. It has not been demonstrated by the applicant that the photographs show the structures on the same footprint as the structures are alleged to be sited at the date of the application. The photographs do not show continuity, they only demonstrate the erection of structures but do not prove on the balance of probabilities they are the same or unaltered structures from 2011 as alleged by the applicant.
65. The photographs are of insufficient evidential value to meet the legal test. For any sense to be made of the photographs they ought to be cross-reference to far larger scale plans of each individual land area. The plan supplied with the application is far too small scale to be of any probative value or assistance to the local planning authority in determining this application.

Erection of Victorian style gazebo structure

66. The alleged substantial completion of this structure is June 2015 and AGP do not have any information to refute this aspect of the application. However, the legal consequences that the gazebo is unauthorised are unchanged, since it is on the applicant's own admission an ancillary structure erected for the explicit purpose of enabling a breach of planning control by implementing an unauthorised material change of use of the land to among other things a wedding venue.
67. As explained above a planning enforcement notice may be served by the local planning authority setting out that there is a breach of planning control and that this structure must be removed in order to put the land in the position it was prior to the unauthorised material change of use. Given the liability, duties and legal responsibilities of the local planning authority to ensure public confidence in the planning system and as a competent authority under the Habitats Regulations the local planning authority must take into account there is an extant breach of planning control on the land.

Relevance of applicant's photographs: Victorian gazebo 0055

68. The photographs are evidence of an unauthorised material change of use except in so far as the events were within permitted development rights. The point made above about cross-referencing the photographs to a much larger scale plan is repeated.

Erection of marquee structure

69. The applicant alleges substantial completion of the marquee in July 2013. That date is inaccurate and ought to be rejected.
70. AGP's director Mr Phillips is clear that the marquee was erected and disassembled each winter. It is conceded that the marquee was last erected and then retained on a permanent basis no earlier than spring 2016.
71. On the basis the marquee structure was substantially completed no earlier than 2016 it is not immune operational development. Accordingly, a certificate ought not to be granted.
72. In addition to these works, the local planning authority ought properly to consider the relevance of the engineering works forming part of the marquee development in 2019 in order to provide soundproofing. It is clear that this means that the substantive completion of the marquee did not take place until 2019. Even if that is not correct the works to create foundations is an engineering operation and consequently does not benefit from the exclusionary provision in section 55(2)(a) of the principal Act.
73. In any event, the erection of the marquee in 2016 forms part of ancillary development to give effect to an unauthorised change of use. Accordingly, even if the point about the unlawfulness of the operational development in its own terms is not accepted, the local planning authority may only conclude on the applicant's own evidence and on the basis of the factual matrix that the development is not immune from enforcement and a certificate ought not to be granted.

Relevance of applicant's photographs: marquee and events 0028 to 0036

74. These photographs show one year only. They do not demonstrate a permanent erection of the marquee. The photographs are consistent with AGP's understanding that the marquee was dismantled each winter until 2016. The photographs are evidence of an unauthorised material change of use except in so far as the events were within permitted development rights.

Event photos 0037 to 0093 (save 0055)

75. Most of the photographs are redacted. In so far as they show events in 2013 to 2018 involving the marquee the points relating to 0018 to 0023 and 0032 to 0036 are repeated. They are *prima facie* compelling evidence of an unauthorised material change of use which on the applicant's own admission requires planning permission. The failure of the local planning authority to permit development contrary to its own development plan is extraordinary.

Photographs referred to in applicant's witness statement are missing from public access website

76. Photographs 0005 and 0006 are not available on the website and so ought to be provided for public scrutiny.

AGP statement and photographs

77. Please see attached the statement of Mr Grahame Phillips of AGP and the associated photographs which are highly material to the determination of the application. The 2017 photographs show the finalisation and erection of a log cabin with substantial deck structure. This goes to the point about the substantial completion of these items, and that the allegation that they were constructed as part and parcel of the unauthorised use. The other images are Google Earth computer screenshots dated April 2015. These images demonstrate the seasonal erection and re-erection of the marquee in 2015 and are evidence to that tends to demonstrate that it is not correct for the applicant to suggest completion of the marquee took place in 2013. The seasonal nature of the erection and re-erection is evidence tending to indicate that the marquee is ancillary to an unauthorised use.

Conclusion

78. The application ought to be considered collectively. Splitting the determination of this single application in respect of these structures would be inappropriate because their commonality is that they are ancillary to an extant unauthorised material change of use of the land and so must be considered as a whole.

79. In summary AGP's objections are:—

79.1. The application form is incomplete in a material respect and further information is required or the application must be refused;

79.2. The applicant and the local planning authority must grapple with the implications of the applicant's admitted unauthorised material change of use;

- 79.3. the applicant has admitted structures are ancillary to, part and parcel of and are entirely associated with the unauthorised material change of use—this is the purpose for which they were erected;
- 79.4. the unauthorised development is in a highly sensitive environmental location with policy protection at the highest possible level;
- 79.5. the ancillary log cabin and decking was not substantially completed until 2017
- 79.6. the marquee was not permanent as a feature on the landscape until 2016;
- 79.7. all the structures including the log cabin and decking are ancillary structures that are part and parcel of the unauthorised use and are not capable of being used in accordance with the authorised lawful use;
- 79.8. sections 171B(3) and 173 of the principal act together with the *Murfitt* and *Kestrel Hydro* line of authorities enable the local planning authority to take planning enforcement action against all the structures;
- 79.9. none of the operational development in the application is immune from planning enforcement action;
- 79.10. the certificate cannot be issued because the application does not meet the tests in section 191 of the principal Act.
80. The local planning authority is now in receipt of authoritative, credible and important evidence contradicting the applicant's recollection of operations on the application land. It would be wholly unsatisfactory, unwarranted and unlawful for the certificate to be granted in these circumstances. The application ought to be refused on the basis that the applicant has not met the evidential or legal threshold for the granting of a certificate for any of the structures or buildings identified in the application.
81. Mr Phillips of AGP is content to provide evidence by way of statutory declaration should that be necessary.

Matt Gilks

Thrings Solicitors

25 October 2019



< Details

Edit

Date 27 April 2017 11:10

Size 4.50 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170427_111032_IMG_0057.JPG

LOCATION

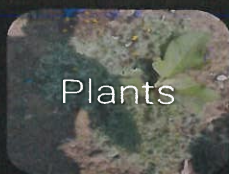


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/1131 s





< Details

Edit

Date 27 April 2017 11:10

Size 4.79 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170427_111011_IMG_0050.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

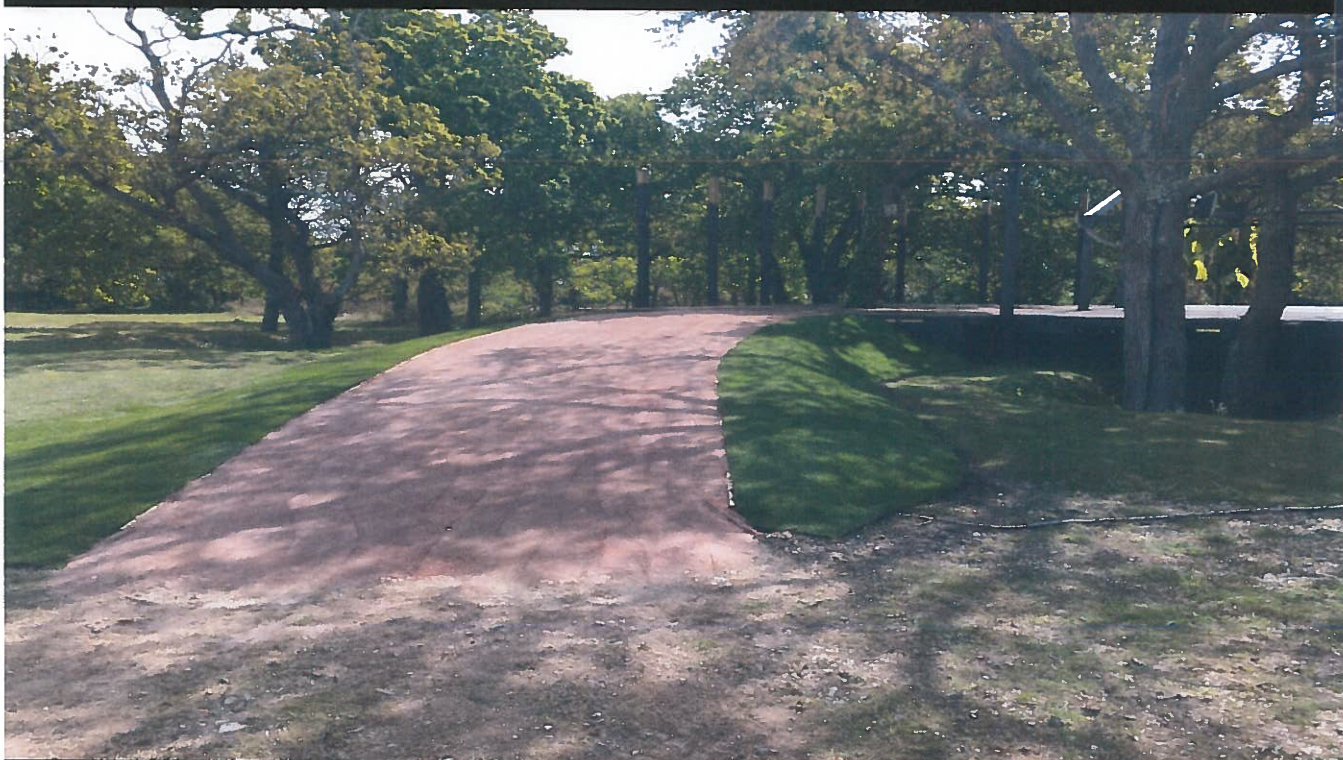
Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/605 s

23:26

4G 45%





< Details

Edit

Date 21 April 2017 20:32

Size 2.68 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_203257_IMG_0047.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s





< Details

Edit

Date 21 April 2017 20:30

Size 2.48 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_203003_IMG_0039.JPG

LOCATION

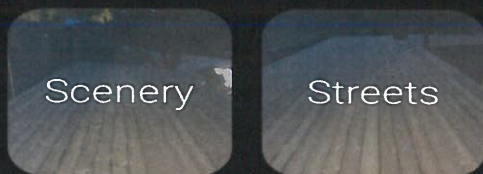


Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1000 | Exposure time 1/17 s



< Details

Edit

Date 21 April 2017 20:29

Size 2.67 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_202957_IMG_0038.JPG

LOCATION

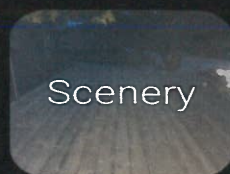


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s





< Details

Edit

Date 21 April 2017 20:30

Size 2.78 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_203020_IMG_0040.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s



< Details

Edit

Date 20 April 2017 12:13

Size 4.10 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121334_IMG_0028.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/384 s



< Details

Edit

Date 20 April 2017 12:13

Size 4.18 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121338_IMG_0032.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Benches



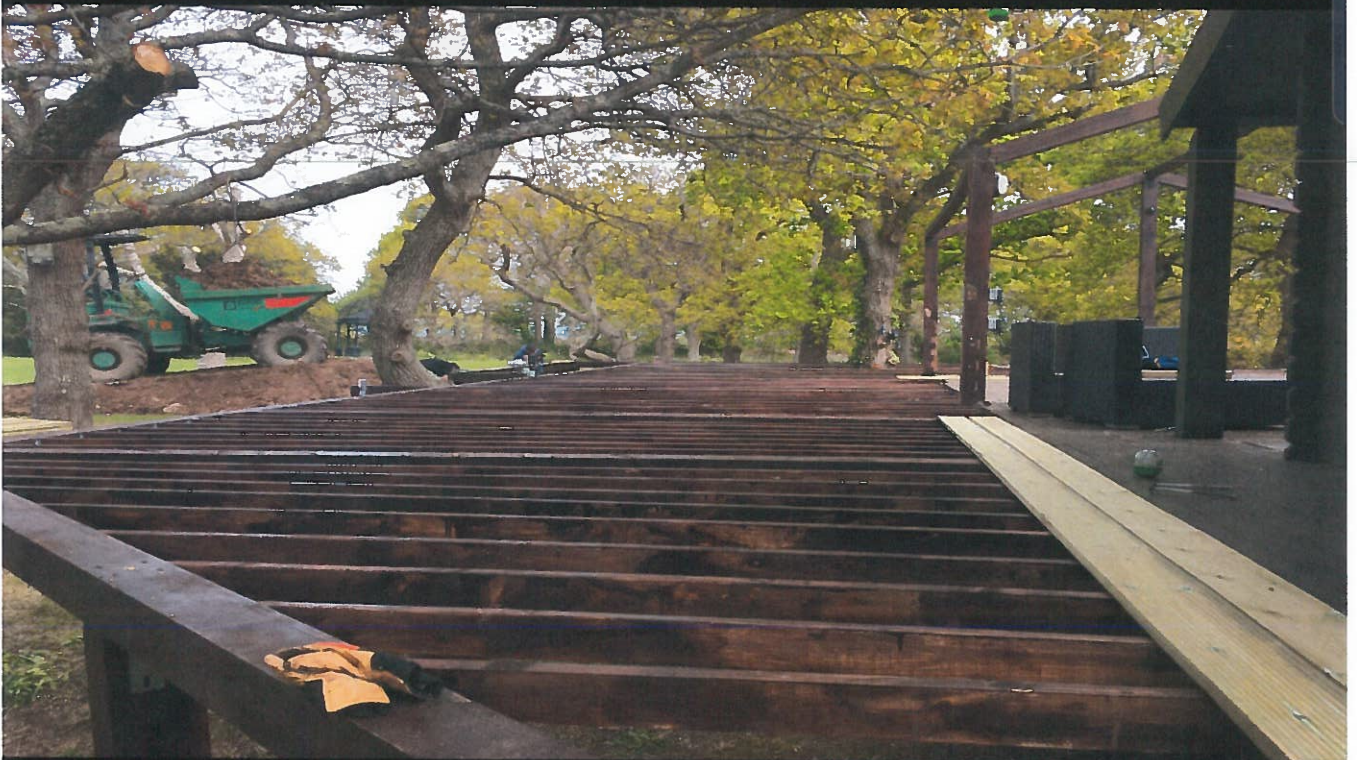
Furniture

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/1148 s



< Details

Edit

Date 20 April 2017 12:13

Size 4.20 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121335_IMG_0031.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/472 s



< Details

Edit

Date 20 April 2017 12:13

Size 5.09 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121353_IMG_0034.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/463 s







< Details

Edit

Date 14 April 2017 14:21

Size 4.04 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142110_IMG_0018.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/938 s





< Details

Edit

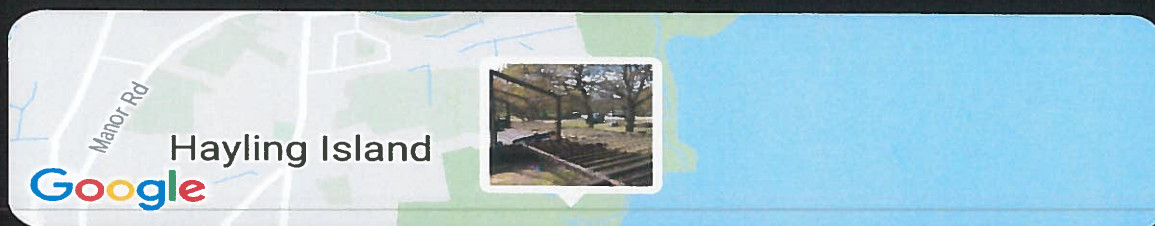
Date 14 April 2017 14:21

Size 4.50 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142157_IMG_0021.JPG

LOCATION

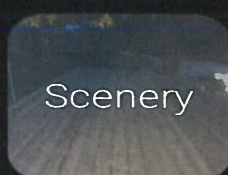


Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/725 s

23:23



4G



45%



< Details

Edit

Date 14 April 2017 14:21

Size 4.85 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142106_IMG_0017.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/793 s







< Details

Edit

Date 14 April 2017 14:21

Size 4.31 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142149_IMG_0019.JPG

LOCATION

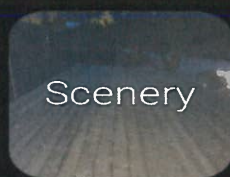


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/927 s

Mr. S Weaver
Planning Dept
Havant Borough Council.
Havant
Hants.

Mr. G Phillips
Tournbury Farm
Hayling Island
PO11 9DL

Dear Mr. Weaver.

With reference to the application for a certificate of lawfulness for Structures in Tournbury Wood app/19/00889.

In Mr. Snells witness statement he states the Marquee was erected in 2013 and had a continual presence on the site. We know that for several years the marquee was taken down + removed for the winter months. It is only since the spring of 2016 that it has stayed up permanently. We have witnesses to this effect.

The small log cabin and deck was erected in 2011, But the ^{much} larger structure of stage decking, roof & ramp area was

only constructed in April 2017.. (Photographic evidence supplied.).

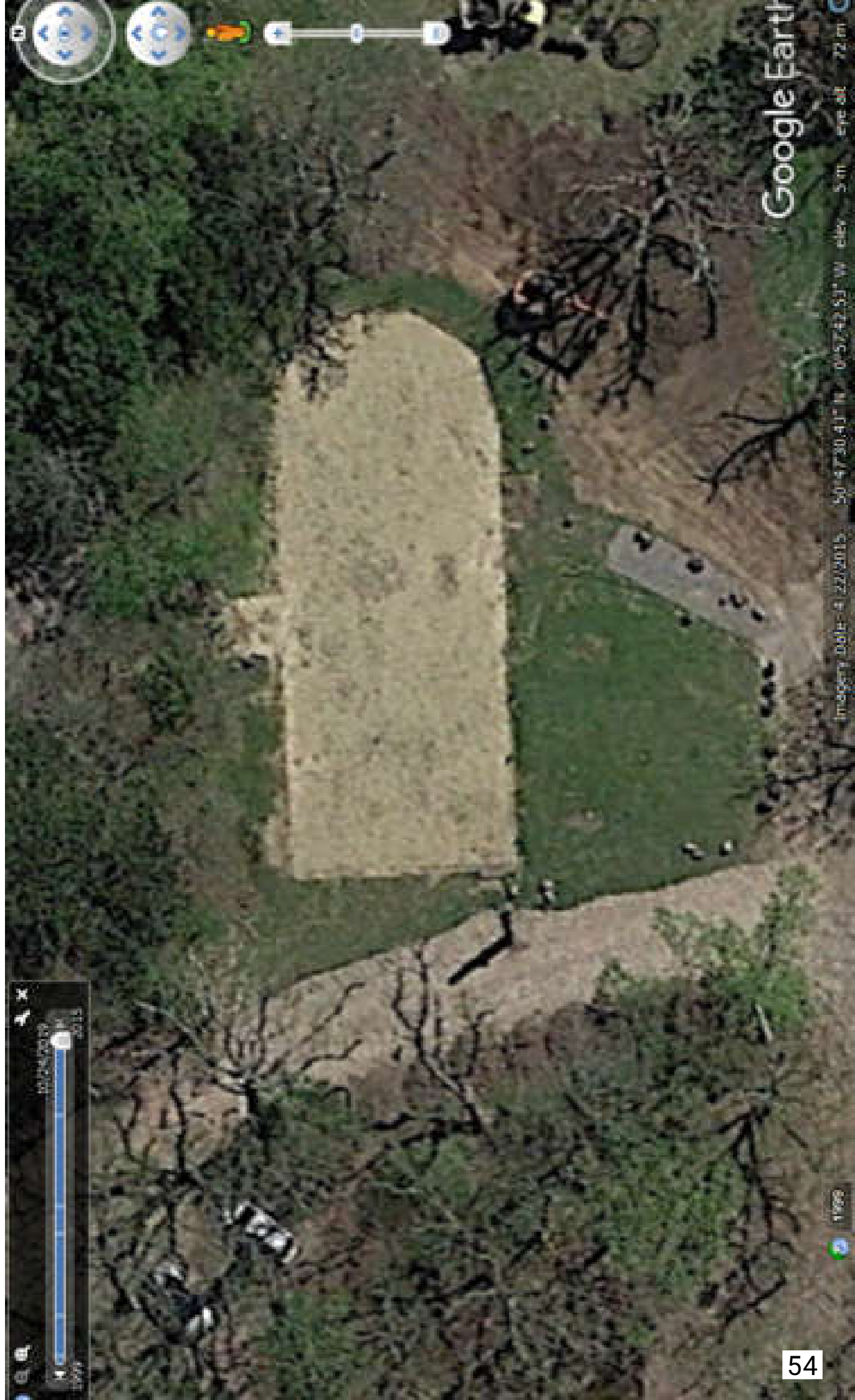
There is also a steel structure with foundations erected inside the marquee which as you know was built this year. (2019).

The victorian gazebo has been up as Mr. Snell states since 2015.

Please take this into account when deciding this application.

Yours sincerely

Grahame Phillips



Google Earth

50° 47' 30.41" N 0° 57' 42.53" W elev. 5 m eye alt. 72 m





The Tournerbury Woods Estate

Google Earth

4/22/2015

Property Date: 4/22/2015

50°47'30.10" N 0°57'44.11" W elev 5 m

eye alt 259 m

THRINGS

SOLICITORS

FAO Mr Steve Weaver
Havant Borough Council
Public Services Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

13 February 2020

Via email only: steve.weaver@havant.gov.uk

Your Reference:
Our Reference: MCK/A4274-3

Direct Line: 02380 930320
Mobile: 07387 023890
Email: mgilks@thrings.com

Dear Sirs

Representations on Planning Application APP/19/01262

Tournerbury Woods, Tournerbury Lane, Hayling Island

We act on behalf of A.G. Phillips and Son Limited of Tournerbury Farm, Tournerbury Lane, Hayling Island PO11 9DL.

Please find enclosed the following materials by way of representation:

1. Witness statement of Mrs Sue Phillips.
2. Note on the issues raised by the application focusing on material change of use of the land.
3. Representations on APP/19/00889 the content of which in our view remain relevant to the aspects of the extant application that seek confirmation of the lawfulness of operational development.

Please kindly acknowledge receipt of this correspondence.

Yours faithfully

Thrings

Thrings LLP

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300 ■ DX 45902 ROMSEY
Email: solicitors@thrings.com ■ www.thrings.com Also in Bath, Bristol, London and Swindon

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

IN THE MATTER OF AN APPLICATION FOR A CERTIFICATE OR LAWFULNESS UNDER SECTION 191 TOWN AND COUNTRY PLANNING ACT 1990 APP/19/01292 ('the Application')

WITNESS STATEMENT

OF SUE PHILLIPS

I, **SUE PHILLIPS** of of Tournebury Farm, Tournerbury Lane, Hayling Island PO11 9DL WILL SAY as follows:

1. I have looked at the evidence presented by the applicant in this matter and it has prompted me to undertake the painstaking task of producing a number of tables setting out and tallying up where possible the dates and times of events for years 2008 to 2016.
2. The tables are set out at **exhibit SP1**. It is clear that the activities are not consistent with the use of any of the land in the manner described in the application for a period of ten years. Indeed, the applicant appears to have relied upon permitted development rights for much of the period. I would ask the local planning authority to give an equal amount of energy to determining the true location and dates of the alleged activities as I have done.
2. I have not taken into account the bookings calendar because it has been redacted. I can only say that the number of events alleged to have taken place that rely upon a reference to an electronic bookings calendar appear to be far greater than that reflected in the primary documents and my own personal experience.
3. The evidence is consistent with my personal and direct experience as a neighbour to the Tournerbury Woods Estate since well before the period of time relevant to the determination of this application. The fact is there was very little activity at all but there was definite change in what was going on after 2015.
4. My understanding is that the applicant removed the marquee every year in winter up until the spring of 2016. Photographs supplied by the applicant indicate that in 2013 it was sited on grass and not on a gravel base. Much of the other development and hardstanding appeared after that time and I am sure that were the Council to consider satellite images it would not be difficult to make an assessment. Much of the area where the marquee is was woodland before being cleared. It was just part of the wood not part of the cottage area.
5. This is consistent with a significant uptick in activities from 2016 onwards. The Woods Cottage was historically part of a much larger estate that the one now held by the applicant, but shooting took place away from the Cottage. I have found a Google Image that shows a black tent that I understand was used for shooting parties and is outside the area described by the applicant as being the "Wood Cottage

and environs". I have attached this information as **exhibit SP2**. The shoot uses the whole of the woods and not just the area around the cottage. Indeed, it stands to reason that you wouldn't shoot around the Cottage, Marquee and Carpark. On shoot days, the shoot meet in Tournerbury Golf Centre Café, for breakfast and to discuss the days format. They then move into the wood in convoy. As a rule the shoot has not used the Cottage on shoot days but has used the small dark marquee situated in Woods Field which is not within the area in this application. This is endorsed by photos produced by Mr and Mrs Snell. See EB 20024 which clearly shows the marquee as being of a dark material. Mr Snell does have up to two days of his own, where he invites guests, where they may have lunched in cottage, but it is unclear if these are by invitation or commercial clients as uncertain from invoice evidence.

6. It is surely not right that the applicant can put together all the different activities he is setting out and have them lumped into one tourism and leisure use. Even the applicant has admitted that the activities are all quite different. As for Woods Cottage it was part of a larger estate that the one currently and it is wrong to suggest it was ever grand enough to have its own park and gardens.

7. I only began to have concerns about the use of the applicant's land from 2015 onwards as it impacted our amenity with participants travelling across our land. Much of what the applicant says about openness of use is not inconsistent with exercising permitted development rights. Even advertising a wedding venue from time to time from 2011 doesn't mean that there was the level of intensity we have had to put up with in later years. In fact, around 20 weddings a year would provide quite an income and so he might well have set up a company earlier than the time at which he began to ignore planning controls.

8. In terms of the background to all the buildings and their changes over time, I refer to the points made in our representation on withdrawn certificate application APP-19-00889 on behalf of AGP dated 28 October 2019 as these are enclosed stand as representations for this application. As the Council has retained the material relating to that earlier application it seems to me that it is quite right that it ought also to be taken into account. Those representations are sent together with this witness statement and a legal note on the issues drawn up by our solicitor.

9. One thing that is certain is that I witnessed big HGV's with building materials going to the site from 2016 onwards and coming out empty. We can provide a list of disruption and problems we have had with events since 2017 in a way that we had not experienced before, should the Council require further information. We are happy to be contacted by officers.

Dated this day of 13 February 2020

I believe the facts stated in this witness statement are true

SUE PHILLIPS

2009

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

WOODS COTTAGE ● VENUE ● OTHER ● CAMPING ● SHOOTING

2007 ●●15/09/07 EB 198

2008

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

WOODS Cottage

VENUE

OTHER

CAMPING

CAMPING

2016

EB 0625 - NO DATE 3 NIGHTS. SEPT

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE

VENUE

CAMPING

OTHER

SHOOTING

2015

EB-0537 - 1 NIGHT CAMPING - NO DATE ● EB 0541 + 0542 - 1 NIGHT CAMPER VAN/CAMPING - NO DATE ● EB 0544 - NIGHT CAMPING - ALL INVOICE IN 2015 BUT COULD BE FEB 2016 DATES ●

EB-0526 - CHAY SHOOT x 2 NO DATES ●

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1 ●	1	1	1	1	1	1	1	1	1	1	1
2 ●	2	2	2	2	2	2	2 ●	2	2 ●	2	2
3	3	3	3	3	3	3 ●	3	3	3 ●	3	3
4	4	4	4	4	4	4 ●	4	4 ●	4	4	4
5	5	5	5	5	5	5 ●	5	5 ●	5	5	5
6	6	6	6	6	6 ●	6	6	6 ●	6	6 ●	6
7	7	7	7	7	7 ●	7	7	7	7	7	7
8	8	8	8	8	8	8 ●	8 ●	8	8	8	8
9	9	9	9	9 ●	9	9 ●	9	9	9	9	9
10	10	10	10	10	10	10	10 ●	10	10	10	10
11	11	11	11	11	11	11	11 ●	11	11	11	11
12	12	12	12	12	12 ●	12	12	12 ●	12	12	12
13	13	13	13	13	13 ●	13	13	13	13	13	13
14	14	14	14	14	14	14	14 ●	14	14	14	14
15	15	15	15	15	15	15	15 ●	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17 ●	17	17	17	17	17
18	18	18	18	18	18	18 ●	18	18 ●	18	18	18
19	19	19	19	19	19 ●	19	19	19 ●	19 ●	19	19
20	20	20	20	20	20 ●	20	20	20	20 ●	20	20
21	21	21	21	21	21	21	21	21	21 ●	21	21
22	22	22	22	22	22	22 ●	22	22	22 ●	22	22
23	23	23	23	23	23	23 ●	23	23	23 ●	23	23
24	24	24	24	24	24	24 ●	24	24	24 ●	24	24
25	25	25	25	25	25	25 ●	25	25 ●	25 ●	25	25
26	26	26	26	26	26	26 ●	26	26 ●	26 ●	26	26
27	27	27	27	27	27 ●	27 ●	27	27	27 ●	27	27
28	28	28	28	28	28	28	28	28 ●	28 ●	28	28
29	29	29	29	29 ●	29	29	29	29 ●	29	29	29
30	30	30	30	30 ●	30	30	30	30 ●	30	30	30
31		31		31		31 ●	31		31		31

● WOODS COTTAGE ● VENUE ● CAMPING ● OTHER ● SHOOTING

EB 0443 to EB 0452 - NO DATES - POSSIBLE 38 NIGHT WOODS COTTAGE,
 EB 0412 - NO DATE CAMPING - 1 DAY, EB 0421 - NO DATE - 1 DAY
 INVOICE 2013
 EB 0450 - TEAM BUILDING EVENT - NO DATE.

2014

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE VENUE CAMPING OTHER SHOOTING

EB 0313, EB 0314, EB 0315, EB 0316 - NO DATES - VENUE HIRE
 EB 0293 - NO DATE - TEAMBUILDING EVENT, INVOICE 2012
 EB 0285 NO DATES - 9 DAYS INVOICE 2012

2012

EB 0311 - NO DATE - INVESTMENT SEMINAR } SAME
 EB 0302 - NO DATE - INVESTMENT SEMINAR }
 EB 0309 - CORPORATE HOSPITALITY NO DATE = 29-30? NEW

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE

VENUE

OTHER

CAMPING

SHOOTING

 EVIDENCE BASE N° - 0267-277- NO DATES. POSSIBLE 41 NIGHTS WOODS Cottage. INVOICED MID 2010 SO COULD BE 2010 OR 2011
 N° - 0285 NO DATES 1 DAYS INVOICED 2011 EB-020 - OCT 2011 - 4 NIGHTS
2011
 EVIDENCE BASE 0279 - NO DATE - 1 DAY - SHOOT

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31	31	31	31	31	31	31	31	31	31

 WOODS COTTAGE  VENUE  OTHER  CAMPING  SHOOTING

EVIDENCE BASE - 0232 to 0253 NO DATES NO INDICATION OF NUMBER OF NIGHTS JUST SAYS WOODS Cottage.

MIGHT BE 2010 OR 2011 - INVOICED 2010

2010

EVIDENCE BASE - 0220+0221, 0221+0225, 0229+0230, 0231. POSSIBLY 3 EVENTS, NO DATES OR DATE DETAILS.
MAY BE 2010 OR 2011 - INVOICED 2010 / EVIDENCE BASE 0254 - NO DATE, INVOICED 2010 1 DAY

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

Exhibit SP2



Mr S Weaver
Principal Planning Officer
Havant Borough Council

Via email: planning.development@havant.gov.uk

14 April 2021

Your Reference: APP/19/01262
Our Reference: RWJ/MCK/A4274-3

Direct Fax:

Dear Mr Weaver

The Town and Country Planning Act 1990 (as amended)

Town and Country Planning (Development Management Procedure) (England) Order 2015

Site Address: Tournurbury Woods, Tournurbury Lane, Hayling Island

Proposal: 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.

I refer to your letter of 1 April 2021. Thrings acts for [REDACTED]

Thank you for your invitation to comment upon further information provided to Havant Borough Council (LPA) by the applicant under cover of a letter and attachments from Irwin Mitchell Solicitors (IMS) dated 24 March 2021 (the further information (hereafter the AFI), which in turn was in response to the LPA's letter to that firm of 10 March 2021.

I preface the attached representations on the AFI by raising the point that the online planning register does not contain a copy of the LPA's correspondence with the applicant's solicitors dated 10 March 2021 (the LPA correspondence). This correspondence is directly addressed by IMS in their response of 24 March 2021, and IMS make detailed legal submissions and challenge matters of fact which are based on interim LPA conclusions of fact. They describe the LPA correspondence as "draft workings and preliminary legal advice". That advice cannot be privileged.

[REDACTED] has quite fair and important concerns that the LPA has not thus far disclosed correspondence from the LPA that might possibly amount to a 'minded to' letter or partial determination or analysis of the application. That is a concern that [REDACTED] suspect is doubtless shared by other interested persons in the locality. The discrete point is that it is not possible to comment fairly on the response of IMS

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300 ■ DX 45902 ROMSEY
Email: solicitors@thrings.com • www.thrings.com Also in Bath, Bristol, London and Swindon

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

without seeing the LPA correspondence to which IMS refer. This wrinkle is quite easily remedied by correcting the omission of the LPA correspondence on the online planning register.

Accordingly, in the interests of natural justice and to ensure fairness to all persons that have made representations, I respectfully request a copy of the LPA correspondence is provided on the online planning register in advance of the determination of this application. I also request a further 14 days for the making of representations by interested persons including [REDACTED] after the LPA's notification that the LPA correspondence is online.

In the interim, please kindly take account of the necessarily limited attached representations in response to the AFI materials.

Many thanks to officers for providing the care and thoroughness to ensure this application is properly given the consideration that is warranted. It must have taken a great deal of time. The legal and factual thresholds are exacting and stringent. The LPA ought not to have the evidential burden thrust upon it. [REDACTED] are confident officers will not make connections or unwarranted assumptions unsupported by firm evidence. It is not my intention to repeat the representations you have from this firm dated 13 February 2020 in respect of the legal tests.

Yours sincerely



Matt Gilks

Senior Associate Solicitor

Thrings LLP

Further Representations on an application for a Certificate of Lawfulness under section 191 of the Town and Country Planning Act 1990 ('the principal Act')

APP/19/00889 | Application for Lawful Development Certificate relating to the erection of log cabin and adjoining deck; erection of victorian [sic] style gazebo structure; and erection of marquee structure ('the application').

Tournerbury Woods, Tournerbury Lane, Hayling Island ('the application land')

1. Background

- 1.1. These further representations on the application are made on behalf of A.G. Phillips and Son Limited ("AGP") of Tournerbury Farm, Tournerbury Lane, Hayling Island Hampshire P011 9DL. AGP have owned Tournerbury Farm neighbouring Tournerbury Woods, Tournerbury Lane, Hayling Island ("the Application Land") during the entirety of the period specified in the application.
- 1.2. We make the following observations on the further information provided to Havant Borough Council (LPA) by the applicant under cover of a letter and attachments from Irwin Mitchell Solicitors (IMS) dated 24 March 2021 (the further information (hereafter the AFI)) . The prefix P is a reference to paragraph numbers in the letter from IMS with representations supporting the AFI: for example, a reference to P5 AFI is a reference to paragraph 5 of that letter.

2. Response to P4 to P7 AFI

- 2.1. AGP's view is that it is perfectly legitimate for the LPA to try to pin down or identify the single continuous mixed use for which the applicant is seeking a certificate. P4 AFI demonstrates that the description of what is being applied for is not clear. From AGP's perspective the confusion is evident in P5. In passing the AFI refers to a host of sui generis uses. The LPA would be forgiven for some difficulty in sorting out a comprehensive description for the ever-changing jumble of diverse alleged activities. For example, the introduction of a timeshare concept needs better evidence - how did it impact on the use of the land within the red line? None of these activities appear greater than an exercise of permitted development for the majority of the relevant period - that is consistent with such a potpourri.
- 2.2. AGP say that if any of these uses drop in or drop out during the relevant period then the certificate for the whole area (the red line) cannot be granted as a matter of law. The situation on the ground on 19 December 2009 is the base use - and the LPA will have to determine that. As an aside, AGP would ask the shooting be considered a private event at a distinct location. We await evidence from the applicant that the LPA ought to be treating this as a commercial shoot.
- 2.3. AGP is confused by a link from use classes to this broad all-encompassing medley of changing mixed uses. With respect the applicant's point goes nowhere. That some of these activities, were they to have been carried out in a certain manner (quite differently from how they are alleged to have been carried out) perhaps have fallen into a specific use class under the 1987 order in respect of buildings is nothing to the point. AGP say the alleged activities were not carried out over a relevant period to render them immune from enforcement, and even if they were carried out at all, it is not a precise fit with any single or even combined use class.
- 2.4. The root of this matter is the requirement for precision. The LPA is not being asked to certify if there was one umbrella activity that might be casually described as leisure or events, but

whether there was a material change of use of land over the applicant's defined area (the "Venue Location Plan" with land edged red submitted by the applicant and dated 9 December 2019) by the carrying out a proven activities in the precise mix of uses described over the ten years back from the date of the application. Once again, overall the factual and legal matrix demonstrates that no planning enforcement action could have been taken by the LPA over the relevant period and the new operational development is simply tied to the late material change of use. This operational development associated with an unauthorised change of use remains vulnerable to planning enforcement action - that is why the LPA were able to issue a planning enforcement notice. This ties in with AGP's earlier points about materiality and the ancillary enabling development.

- 2.5. The legal concept of an ancillary building with its own distinct use is unknown to the law. Unlike the concept of curtilage, environs is not a concept known to the law of planning; see *Blackbushe Airport Ltd v R* (on the application of Hampshire County Council) and another [2021] EWCA Civ 398 at paragraphs 26, 55 and 61 per Andrews LJ.

3. Response to P9 AFI

- 3.1. This commentary on the law ought to be interpreted cautiously in the context of this specific application. Each determination ought to be sensitive to its individual circumstances. For that reason and in the interests of brevity it is not proposed to repeat submissions already made. Suffice it to say AGP submit the legal considerations are not as binary as the applicant asserts.
- 3.2. AGP are of the view that the basis of the submission in P9 AFI introduces a new matter for enquiry; what is the precise position being adopted by the applicant?
- 3.3. The applicant proceeds on the basis that it is possible to analyse the decision before the LPA upon the basis the buildings and structures were not erected for the uses described in the certificate: "there is no requirement to ... link operations to use."
- 3.4. Accordingly, it would be sensible for the LPA to request that the applicant clarify once again the uses for which the structures were erected. If these were not uses associated with the uses stated in the application for the certificate the LPA might well ask the applicant to explain the uses that ought properly to be associated with these structures. That missing aspect of the application materials ought to be nailed down before a decision on this application is taken. In P11 in the AFI the structures are indicated to be associated with "events". Clarification from the applicant in a new statutory declaration or witness statement would be helpful, in addition to an update as to what has occurred since 2019.

4. Response to P10 to P16 AFI

- 4.1. AGP is at a disadvantage because it does not have sight of the LPA correspondence. AGP suggest any new analytical evidence such as that referred to in P11 AFI ought to be preferable to a new overarching witness statement from the applicant.
- 4.2. There has been no witness statement from the applicant dealing with these matters to properly introduce them as evidence. According to the electronic planning register there has been no statutory declaration from the applicant since December 2019, but the LPA is being asked to accept further explanatory material and commentary. How could this evidence be brought forward at an appeal against a refusal of the certificate without hearing from the

applicant? It follows that a new statement *from the applicant* is a necessary step in respect of this application.

- 4.3. In respect of the table with purple events referred to in P14.1, AGP is under the impression that the reproduction of the applicant's AFI on the LPA website does not show this. If that is wrong, please it is content to receive clarification.
- 4.4. In respect of P14.2 and P14.3 the difficulty for AGP is that it appears that in the example chosen, the days after a wedding (honeymoon days in Wood Cottage) are being adopted as wedding days, not as holiday let days. This conflates the occupants associated with an event (a wedding) with the subsequent use as a holiday let. If newlyweds choose to begin their honeymoon at another venue or abroad it would not be suggested that was a continuation of a wedding use at that new venue.
- 4.5. The flexible approach of the applicant to meeting the needs of visiting customers since 2016 cannot provide a justification for the grant of a certificate in this case. Nothing in the email of 12 August 2012 indicates this was anything other than the exercise of permitted development rights, and it is arguable that the Thursday and Friday were not even a material change of use, since it is not immediately apparent that the wedding party arrived until Saturday.

5. Response to P17 and P18 AFI

- 5.1. The series of bank statements are entirely redacted. That means that it is impossible for AGP to comment upon the explanatory material provided by the applicant's solicitor in P17.2 and P17.3.
- 5.2. What may be said with absolute confidence is that a statutory declaration or witness statement from the applicant is required, and until then this new material ought to be treated with appropriate caution as to evidential value or weight.
- 5.3. AGP say the statements made in the AFI are too general in their support for the application. AGP suggest that if there were a statutory declaration from the applicant then one would expect a far more detailed background for each transaction relied upon. This would be linked to the use of the land in order to meet the proper evidential threshold. That statutory declaration would have to be disclosed and would have to speak to each statement. There is no statutory declaration.
- 5.4. AGP are of the view this application ought to be refused, so the applicant is at liberty to put forward this evidence in renewed application in a coherent manner.

6. Response to P19 and P20

- 6.1. It is axiomatic that corroboration is required when other members of the public provide corroborative evidence rejecting the assertions made in the application materials.
- 6.2. It is not helpful for the applicant to suggest that weight ought to be given to his witness statement of 2019. Where is the necessary statement *from the applicant* support the supply by advisors of so much other information. AGP cannot identify a further supporting statutory declaration or witness statement *from the applicant*.
- 6.3. The most recent witness statement on the LPA's file is from a director of AGP. The applicant has not taken the opportunity to reject or traverse the AGP statement. AGP's evidence ought

to be preferred, as it is precise and persuasive evidence that the certificate ought not be granted. All that has happened as alleged in the application has involved the use of AGP's land for access. AGP's view is that the activities alleged by the applicant are a hotchpotch. The better interpretation of the applicant's own evidence is that for the majority of the relevant period the applicant simply relied upon and used permitted development rights. There are documents available to the LPA in which the applicant has explained reliance upon those rights. Aside from the use of permitted development rights, nothing presented was close to material before 2016. That which might be considered material varied from that time onwards over a period of far less than ten years.

- 6.4. In P20 the SFI makes a point about "non-partisan" sources. We commend the LPA on its approach thus far and ask it not to be diverted by a divergence of view on private rights which is not relevant to the matters of fact that must be proven for this application.
- 6.5. The applicant suggests a face to face meeting with the LPA's officers on MS Teams. AGP suggests that this would not be appropriate. The applicant ought to give evidence in a statutory declaration in which all the additional clarification which he is ready to offer is in the public domain. If the LPA goes ahead with a meeting in which further evidence is provided or explained, then that evidence ought to be subsequently reduced to writing in a statutory declaration. This is especially so if the meeting would include a technical clarification from the applicant of how alleged activities have been counted.

7. The activities require a planning application

- 7.1. There is an extant planning application for the activities alleged in the certificate. That is the proper resort for this applicant. In all the circumstances the certificate application ought to be refused.
- 7.2. AGP has built an alternative route for the applicant to use, and the requirement to use that new route ought to be a condition of any grant of planning permission. The fact that route is necessary is because AGP's directors have had a "front row seat" about what has been going to and from the Application Land for well over ten years. That is the reason why their evidence and the evidence of others on the period of time over which these activities have been material and brought about a change in the character of the land ought to be preferred by the LPA to that of the applicant in connection with the determination of this application.

Thrings LLP Solicitors

14 April 2021

< Details

Edit

Date 27 April 2017 11:10

Size 4.50 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170427_111032_IMG_0057.JPG

LOCATION

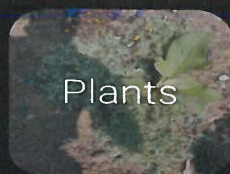


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Plants



Willows

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/1131 s



< Details

Edit

Date 27 April 2017 11:10

Size 4.79 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170427_111011_IMG_0050.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



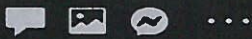
Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/605 s

23:26



4G



45%





< Details

Edit

Date 21 April 2017 20:32

Size 2.68 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_203257_IMG_0047.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s





4G
↓↑

45%

Edit

Title 20170421_203003_IMG_0039.JPG



ISO 1000 | Exposure time 1/17 s





< Details

Edit

Date 21 April 2017 20:29

Size 2.67 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_202957_IMG_0038.JPG

LOCATION

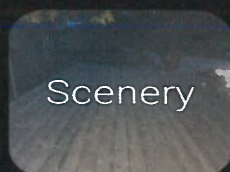


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s







< Details

Edit

Date 21 April 2017 20:30

Size 2.78 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170421_203020_IMG_0040.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Hammocks



Tools

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash Flash used | White balance Auto

ISO 1250 | Exposure time 1/17 s



23:26



4G



45%



< Details

Edit

Date 20 April 2017 12:13

Size 4.10 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121334_IMG_0028.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/384 s



< Details

Edit

Date 20 April 2017 12:13
Size 4.18 MB | Resolution 4032x3024
Path /Internal storage/iPhoneData/Pictures
Title 20170420_121338_IMG_0032.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

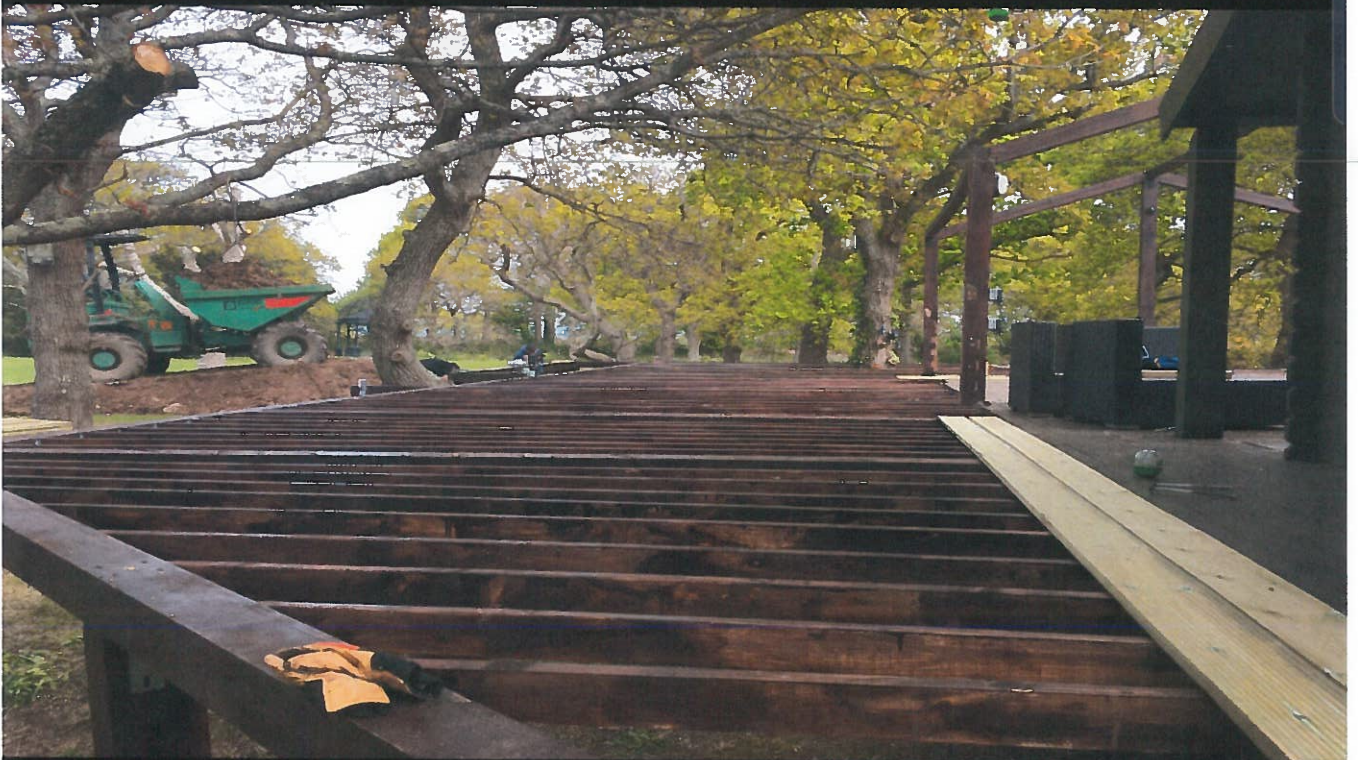
TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus
Aperture F2.2 | Focal length 4.15 mm
Flash No flash | White balance Auto
ISO 25 | Exposure time 1/1148 s



< Details

Edit

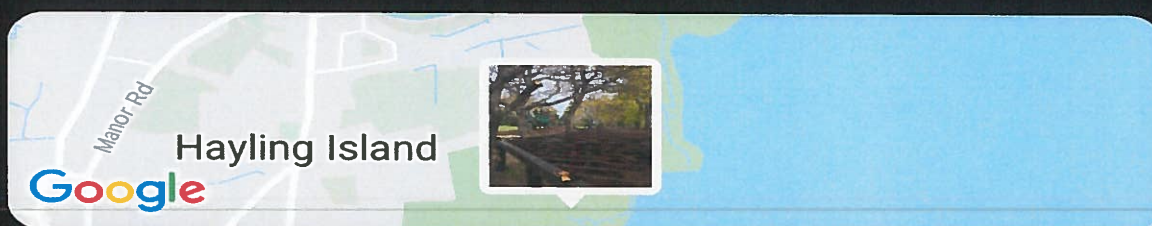
Date 20 April 2017 12:13

Size 4.20 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121335_IMG_0031.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/472 s





< Details

Edit

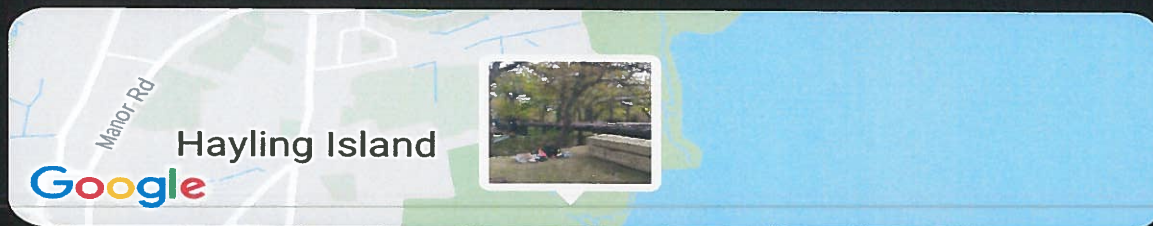
Date 20 April 2017 12:13

Size 5.09 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170420_121353_IMG_0034.JPG

LOCATION



Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Benches



Furniture

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/463 s



23:24



4G



45%



< Details

Edit

Date 14 April 2017 14:21

Size 4.04 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142110_IMG_0018.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/938 s





< Details

Edit

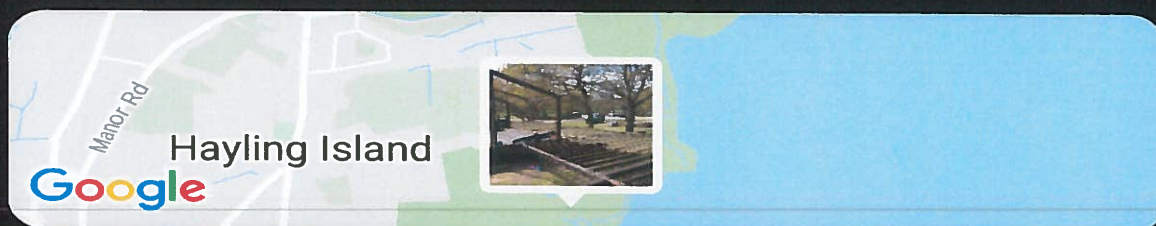
Date 14 April 2017 14:21

Size 4.50 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142157_IMG_0021.JPG

LOCATION

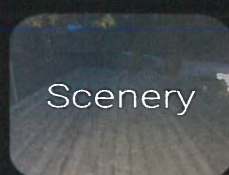


Tournerbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/725 s

23:23



4G 45%





< Details

Edit

Date 14 April 2017 14:21

Size 4.85 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142106_IMG_0017.JPG

LOCATION



Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/793 s









< Details

Edit

Date 14 April 2017 14:21

Size 4.31 MB | Resolution 4032x3024

Path /Internal storage/iPhoneData/Pictures

Title 20170414_142149_IMG_0019.JPG

LOCATION

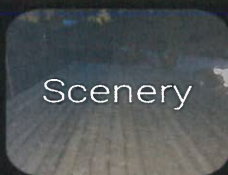


Tournurbury Lane, Hayling Island PO11 9DL, United Kingdom

TAGS

No tags

AUTO TAG



Camera Apple iPhone 6s Plus

Aperture F2.2 | Focal length 4.15 mm

Flash No flash | White balance Auto

ISO 25 | Exposure time 1/927 s



Mr. S Weaver
Planning Dept
Havant Borough Council.
Havant
Hants.

Mr. G Phillips
Toumerbury Farm
Hayling Island
PO11 9DL

Dear Mr. Weaver.

With reference to the application for a certificate of lawfulness for Structures in Toumerbury Wood app/19/00889.

In Mr. Snells witness statement he states the Marquee was erected in 2013 and had a continual presence on the site. We know that for several years the marquee was taken down + removed for the winter months. It is only since the spring of 2016 that it has stayed up permanently. We have witnesses to this effect.

The small log cabin and deck was erected in 2011, But the ^{much} larger structure of stage decking, roof & ramp area was

only constructed in April 2017.. (Photographic evidence supplied.).

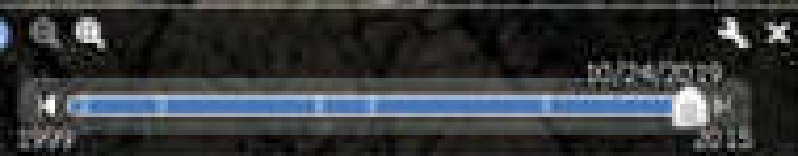
There is also a steel structure with foundations erected inside the marquee which as you know was built this year. (2019).

The victorian gazebo has been up as Mr. Snell states since 2015.

Please take this into account when deciding this application.

Yours sincerely

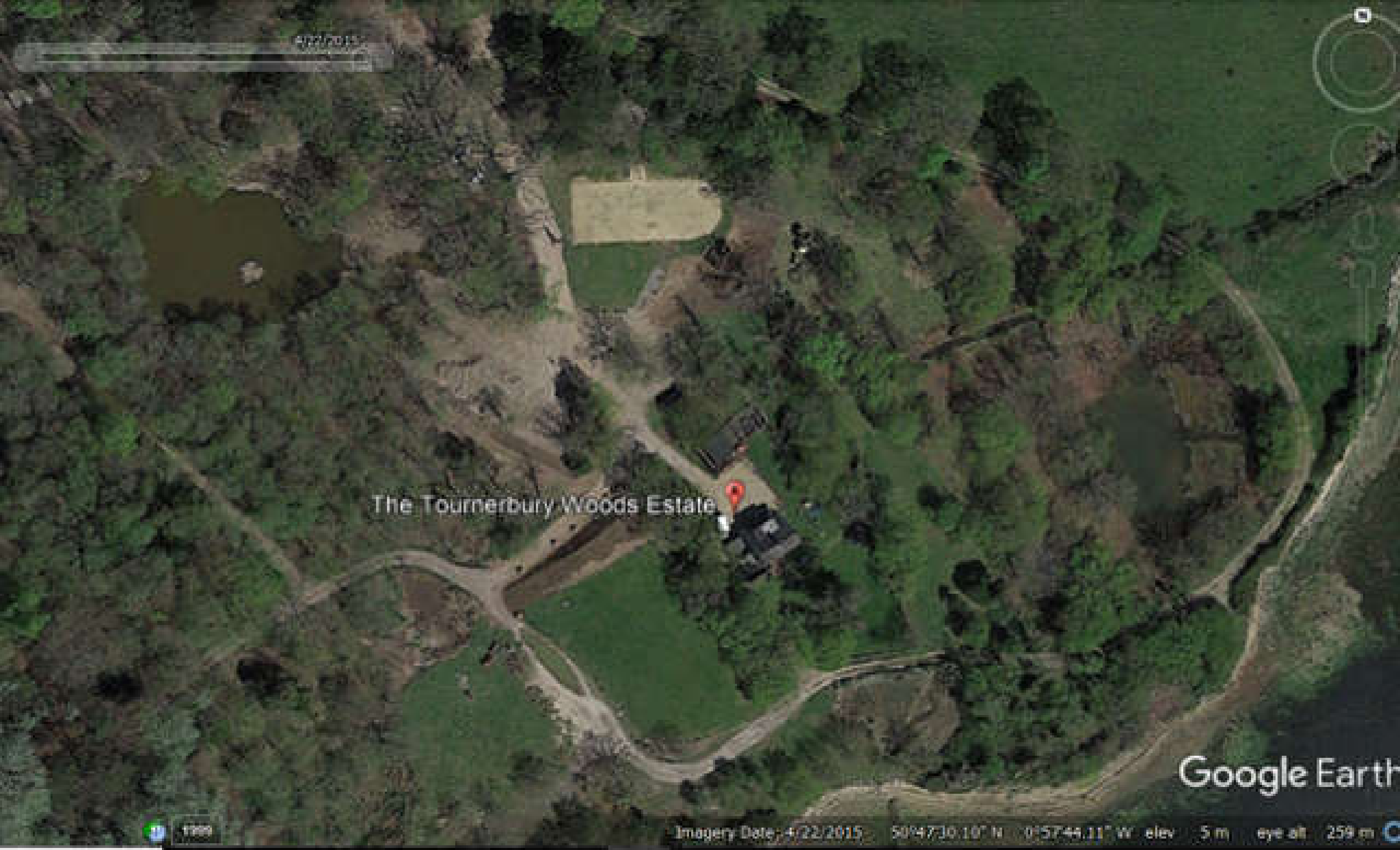
Grahame Phillips



Google Earth



Imagery Date: 4/22/2015 50°47'30.41" N 0°57'42.53" W elev: 5 m eye: 88 72 m



Google Earth

The Tournerbury Woods Estate

Google Earth

11000

Imagery Date: 4/22/2015 50°47'30.10" N 0°57'44.11" W elev: 5 m eye alt: 259 m

THRINGS

SOLICITORS

FAO Mr Steve Weaver
Havant Borough Council
Public Services Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

13 February 2020

Via email only: steve.weaver@havant.gov.uk

Your Reference:
Our Reference: MCK/A4274-3

Direct Line: 02380 930320
Mobile: 07387 023890
Email: mgilks@thrings.com

Dear Sirs

Representations on Planning Application APP/19/01262

Tournerbury Woods, Tournerbury Lane, Hayling Island

We act on behalf of A.G. Phillips and Son Limited of Tournerbury Farm, Tournerbury Lane, Hayling Island PO11 9DL.

Please find enclosed the following materials by way of representation:

1. Witness statement of Mrs Sue Phillips.
2. Note on the issues raised by the application focusing on material change of use of the land.
3. Representations on APP/19/00889 the content of which in our view remain relevant to the aspects of the extant application that seek confirmation of the lawfulness of operational development.

Please kindly acknowledge receipt of this correspondence.

Yours faithfully

Thrings

Thrings LLP

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300 ■ DX 45902 ROMSEY
Email: solicitors@thrings.com ■ www.thrings.com Also in Bath, Bristol, London and Swindon

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

IN THE MATTER OF AN APPLICATION FOR A CERTIFICATE OR LAWFULNESS UNDER SECTION 191 TOWN AND COUNTRY PLANNING ACT 1990 APP/19/01292 ('the Application')

WITNESS STATEMENT

OF SUE PHILLIPS

I, **SUE PHILLIPS** of of Tournebury Farm, Tournerbury Lane, Hayling Island PO11 9DL WILL SAY as follows:

1. I have looked at the evidence presented by the applicant in this matter and it has prompted me to undertake the painstaking task of producing a number of tables setting out and tallying up where possible the dates and times of events for years 2008 to 2016.
2. The tables are set out at **exhibit SP1**. It is clear that the activities are not consistent with the use of any of the land in the manner described in the application for a period of ten years. Indeed, the applicant appears to have relied upon permitted development rights for much of the period. I would ask the local planning authority to give an equal amount of energy to determining the true location and dates of the alleged activities as I have done.
2. I have not taken into account the bookings calendar because it has been redacted. I can only say that the number of events alleged to have taken place that rely upon a reference to an electronic bookings calendar appear to be far greater than that reflected in the primary documents and my own personal experience.
3. The evidence is consistent with my personal and direct experience as a neighbour to the Tournerbury Woods Estate since well before the period of time relevant to the determination of this application. The fact is there was very little activity at all but there was definite change in what was going on after 2015.
4. My understanding is that the applicant removed the marquee every year in winter up until the spring of 2016. Photographs supplied by the applicant indicate that in 2013 it was sited on grass and not on a gravel base. Much of the other development and hardstanding appeared after that time and I am sure that were the Council to consider satellite images it would not be difficult to make an assessment. Much of the area where the marquee is was woodland before being cleared. It was just part of the wood not part of the cottage area.
5. This is consistent with a significant uptick in activities from 2016 onwards. The Woods Cottage was historically part of a much larger estate that the one now held by the applicant, but shooting took place away from the Cottage. I have found a Google Image that shows a black tent that I understand was used for shooting parties and is outside the area described by the applicant as being the "Wood Cottage

and environs". I have attached this information as **exhibit SP2**. The shoot uses the whole of the woods and not just the area around the cottage. Indeed, it stands to reason that you wouldn't shoot around the Cottage, Marquee and Carpark. On shoot days, the shoot meet in Tournerbury Golf Centre Café, for breakfast and to discuss the days format. They then move into the wood in convoy. As a rule the shoot has not used the Cottage on shoot days but has used the small dark marquee situated in Woods Field which is not within the area in this application. This is endorsed by photos produced by Mr and Mrs Snell. See EB 20024 which clearly shows the marquee as being of a dark material. Mr Snell does have up to two days of his own, where he invites guests, where they may have lunched in cottage, but it is unclear if these are by invitation or commercial clients as uncertain from invoice evidence.

6. It is surely not right that the applicant can put together all the different activities he is setting out and have them lumped into one tourism and leisure use. Even the applicant has admitted that the activities are all quite different. As for Woods Cottage it was part of a larger estate that the one currently and it is wrong to suggest it was ever grand enough to have its own park and gardens.

7. I only began to have concerns about the use of the applicant's land from 2015 onwards as it impacted our amenity with participants travelling across our land. Much of what the applicant says about openness of use is not inconsistent with exercising permitted development rights. Even advertising a wedding venue from time to time from 2011 doesn't mean that there was the level of intensity we have had to put up with in later years. In fact, around 20 weddings a year would provide quite an income and so he might well have set up a company earlier than the time at which he began to ignore planning controls.

8. In terms of the background to all the buildings and their changes over time, I refer to the points made in our representation on withdrawn certificate application APP-19-00889 on behalf of AGP dated 28 October 2019 as these are enclosed stand as representations for this application. As the Council has retained the material relating to that earlier application it seems to me that it is quite right that it ought also to be taken into account. Those representations are sent together with this witness statement and a legal note on the issues drawn up by our solicitor.

9. One thing that is certain is that I witnessed big HGV's with building materials going to the site from 2016 onwards and coming out empty. We can provide a list of disruption and problems we have had with events since 2017 in a way that we had not experienced before, should the Council require further information. We are happy to be contacted by officers.

Dated this day of 13 February 2020

I believe the facts stated in this witness statement are true

SUE PHILLIPS

2009

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE

VENUE

OTHER

CAMPING

SHOOTING

2007 ●●15/09/07 EB 198

2008

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

WOODS Cottage

Venue

OTHER

CAMPING

CAMPING

2016

EB 0625 - NO DATE 3 NIGHTS. SEPT

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE

VENUE

CAMPING.

OTHER

SHOOTING

2015

EB-0537 - 1 NIGHT CAMPING - NO DATE ● EB 0541 + 0542 - 1 NIGHT CAMPER VAN/CAMPING - NO DATE ● EB 0544 - NIGHT CAMPING - ALL INVOICE IN 2015 BUT COULD BE FOR 2016 DATES

EB-0526 - CHAY SHOOT x 2 NO DATES ●

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1 ●	1	1	1	1	1	1	1	1	1	1	1
2 ●	2	2	2	2	2	2	2 ●	2	2 ●	2	2
3	3	3	3	3	3	3 ●	3	3	3 ●	3	3
4	4	4	4	4	4	4 ●	4	4 ●	4	4	4
5	5	5	5	5	5 ●	5 ●	5	5 ●	5	5	5
6	6	6	6	6	6 ●	6 ●	6	6 ●	6	6 ●	6
7	7	7	7	7	7 ●	7	7	7	7	7	7
8	8	8	8	8	8	8 ●	8 ●	8	8	8	8
9	9	9	9	9 ●	9	9 ●	9	9	9	9	9
10	10	10	10	10	10	10	10 ●	10	10	10	10
11	11	11	11	11	11	11	11 ●	11	11	11	11
12	12	12	12	12	12 ●	12	12	12 ●	12	12	12
13	13	13	13	13	13 ●	13	13	13	13	13	13
14	14	14	14	14	14	14	14 ●	14	14	14	14
15	15	15	15	15	15	15	15 ●	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17 ●	17	17	17	17	17
18	18	18	18	18	18	18 ●	18	18 ●	18	18	18
19	19	19	19	19	19 ●	19	19	19 ●	19	19	19
20	20	20	20	20	20 ●	20	20	20	20 ●	20	20
21	21	21	21	21	21	21	21	21	21 ●	21	21
22	22	22	22	22	22	22 ●	22	22	22	22	22
23	23	23	23	23	23	23 ●	23	23	23 ●	23	23
24	24	24	24	24	24	24 ●	24	24	24 ●	24	24
25	25	25	25	25	25	25 ●	25	25 ●	25	25	25
26	26	26	26	26	26	26 ●	26	26 ●	26	26	26
27	27	27	27	27	27 ●	27 ●	27	27	27	27	27
28	28	28	28	28	28	28	28	28 ●	28	28	28
29	29	29	29	29 ●	29	29	29	29 ●	29	29	29
30	30	30	30	30 ●	30	30	30	30 ●	30	30	30
31		31		31		31 ●	31		31		31

● WOODS COTTAGE

● VENUE

● CAMPING

● OTHER

● SHOOTING

EB 0443 to EB 0452 - NO DATES - POSSIBLE 38 NIGHT WOODS COTTAGE
 EB 0412 - NO DATE CAMPING - 1 DAY. EB 0421 - NO DATE - 1 DAY INVOICE 2013
 EB 0450 - TEAM BUILDING EVENT - NO DATE.

2014

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE
 VENUE
 CAMPING
 OTHER
 SHOOTING

EB 0313, EB 0314, EB 0315, EB 0316 - NO DATES - VENUE HIRE
 EB 0293 - NO DATE - TEAMBUILDING EVENT, INVOICE 2012
 EB 0285 NO DATES - 9 DAYS INVOICE 2012

2012

EB 0311 - NO DATE - INVESTMENT SEMINAR } SAME
 EB 0302 - NO DATE - INVESTMENT SEMINAR }
 EB 0309 - CORPORATE HOSPITALITY NO DATE = 29-30? NEW

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31	31	31	31	31

WOODS COTTAGE

VENUE

OTHER

CAMPING

SHOOTING

 EVIDENCE BASE N° - 0267-277- NO DATES. POSSIBLE 41 NIGHTS WOODS Cottage. INVOICED MID 2010 SO COULD BE 2010 OR 2011
 N° - 0285 NO DATES 1 DAYS INVOICED 2011 EB-020 - OCT 2011 - 4 NIGHTS
2011

 EVIDENCE BASE 0279 - NO DATE - 1 DAY - SHOOT

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

 WOODS COTTAGE  VENUE  OTHER  CAMPING  SHOOTING

EVIDENCE BASE - 0232 to 0253 NO DATES NO INDICATION OF NUMBER OF NIGHTS JUST SAYS WOODS Cottage.

MIGHT BE 2010 OR 2011 - INVOICED 2010

2010

EVIDENCE BASE - 0220+0221, 0221+0225, 0229+0230, 0231. POSSIBLY 3 EVENTS, NO DATES OR GTEE DETAILS.
MAY BE 2010 OR 2011 - INVOICED 2010 / EVIDENCE BASE 0254 - NO DATE, INVOICED 2010 1 DAY

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29	29	29	29	29
30		30	30	30	30	30	30	30	30	30	30
31		31		31		31	31		31		31

WOODS Cottage

VENUE

OTHER

CAMPING

SHOOTING

Exhibit SP2



THRINGS

SOLICITORS

Mr S Weaver
Principal Planning Officer
Havant Borough Council

Via email: planning.development@havant.gov.uk

14 April 2021

Your Reference: APP/19/01262
Our Reference: RWJ/MCK/A4274-3

Direct Fax:

Dear Mr Weaver

The Town and Country Planning Act 1990 (as amended)

Town and Country Planning (Development Management Procedure) (England) Order 2015

Site Address: Tournurbury Woods, Tournurbury Lane, Hayling Island

Proposal: 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.

I refer to your letter of 1 April 2021. Thrings acts for [REDACTED]

Thank you for your invitation to comment upon further information provided to Havant Borough Council (LPA) by the applicant under cover of a letter and attachments from Irwin Mitchell Solicitors (IMS) dated 24 March 2021 (the further information (hereafter the AFI), which in turn was in response to the LPA's letter to that firm of 10 March 2021.

I preface the attached representations on the AFI by raising the point that the online planning register does not contain a copy of the LPA's correspondence with the applicant's solicitors dated 10 March 2021 (the LPA correspondence). This correspondence is directly addressed by IMS in their response of 24 March 2021, and IMS make detailed legal submissions and challenge matters of fact which are based on interim LPA conclusions of fact. They describe the LPA correspondence as "draft workings and preliminary legal advice". That advice cannot be privileged.

[REDACTED] has quite fair and important concerns that the LPA has not thus far disclosed correspondence from the LPA that might possibly amount to a 'minded to' letter or partial determination or analysis of the application. That is a concern that [REDACTED] suspect is doubtless shared by other interested persons in the locality. The discrete point is that it is not possible to comment fairly on the response of IMS

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300 ■ DX 45902 ROMSEY
Email: solicitors@thrings.com • www.thrings.com Also in Bath, Bristol, London and Swindon

Thrings is the trading style of Thrings LLP, a limited liability partnership registered under No.OC342744 in England and Wales, authorised and regulated by the Solicitors Regulation Authority. A list of partners (members of Thrings LLP, or employee or consultant with equivalent standing and qualifications) is available at its registered office: 6 Drakes Meadow, Penny Lane, Swindon SN3 3LL.

without seeing the LPA correspondence to which IMS refer. This wrinkle is quite easily remedied by correcting the omission of the LPA correspondence on the online planning register.

Accordingly, in the interests of natural justice and to ensure fairness to all persons that have made representations, I respectfully request a copy of the LPA correspondence is provided on the online planning register in advance of the determination of this application. I also request a further 14 days for the making of representations by interested persons including [REDACTED] after the LPA's notification that the LPA correspondence is online.

In the interim, please kindly take account of the necessarily limited attached representations in response to the AFI materials.

Many thanks to officers for providing the care and thoroughness to ensure this application is properly given the consideration that is warranted. It must have taken a great deal of time. The legal and factual thresholds are exacting and stringent. The LPA ought not to have the evidential burden thrust upon it. [REDACTED] are confident officers will not make connections or unwarranted assumptions unsupported by firm evidence. It is not my intention to repeat the representations you have from this firm dated 13 February 2020 in respect of the legal tests.

Yours sincerely

[REDACTED]

Matt Gilks

Senior Associate Solicitor

Thrings LLP

Further Representations on an application for a Certificate of Lawfulness under section 191 of the Town and Country Planning Act 1990 ('the principal Act')

APP/19/00889 I Application for Lawful Development Certificate relating to the erection of log cabin and adjoining deck; erection of victorian [sic] style gazebo structure; and erection of marquee structure ('the application').

Tournerbury Woods, Tournerbury Lane, Hayling Island ('the application land')

1. Background

- 1.1. These further representations on the application are made on behalf of A.G. Phillips and Son Limited ("AGP") of Tournerbury Farm, Tournerbury Lane, Hayling Island Hampshire P011 9DL. AGP have owned Tournerbury Farm neighbouring Tournerbury Woods, Tournerbury Lane, Hayling Island ("the Application Land") during the entirety of the period specified in the application.
- 1.2. We make the following observations on the further information provided to Havant Borough Council (LPA) by the applicant under cover of a letter and attachments from Irwin Mitchell Solicitors (IMS) dated 24 March 2021 (the further information (hereafter the AFI)) . The prefix P is a reference to paragraph numbers in the letter from IMS with representations supporting the AFI: for example, a reference to P5 AFI is a reference to paragraph 5 of that letter.

2. Response to P4 to P7 AFI

- 2.1. AGP's view is that it is perfectly legitimate for the LPA to try to pin down or identify the single continuous mixed use for which the applicant is seeking a certificate. P4 AFI demonstrates that the description of what is being applied for is not clear. From AGP's perspective the confusion is evident in P5. In passing the AFI refers to a host of sui generis uses. The LPA would be forgiven for some difficulty in sorting out a comprehensive description for the ever-changing jumble of diverse alleged activities. For example, the introduction of a timeshare concept needs better evidence - how did it impact on the use of the land within the red line? None of these activities appear greater than an exercise of permitted development for the majority of the relevant period - that is consistent with such a potpourri.
- 2.2. AGP say that if any of these uses drop in or drop out during the relevant period then the certificate for the whole area (the red line) cannot be granted as a matter of law. The situation on the ground on 19 December 2009 is the base use - and the LPA will have to determine that. As an aside, AGP would ask the shooting be considered a private event at a distinct location. We await evidence from the applicant that the LPA ought to be treating this as a commercial shoot.
- 2.3. AGP is confused by a link from use classes to this broad all-encompassing medley of changing mixed uses. With respect the applicant's point goes nowhere. That some of these activities, were they to have been carried out in a certain manner (quite differently from how they are alleged to have been carried out) perhaps have fallen into a specific use class under the 1987 order in respect of buildings is nothing to the point. AGP say the alleged activities were not carried out over a relevant period to render them immune from enforcement, and even if they were carried out at all, it is not a precise fit with any single or even combined use class.
- 2.4. The root of this matter is the requirement for precision. The LPA is not being asked to certify if there was one umbrella activity that might be casually described as leisure or events, but

whether there was a material change of use of land over the applicant's defined area (the "Venue Location Plan" with land edged red submitted by the applicant and dated 9 December 2019) by the carrying out of proven activities in the precise mix of uses described over the ten years back from the date of the application. Once again, overall the factual and legal matrix demonstrates that no planning enforcement action could have been taken by the LPA over the relevant period and the new operational development is simply tied to the late material change of use. This operational development associated with an unauthorised change of use remains vulnerable to planning enforcement action - that is why the LPA were able to issue a planning enforcement notice. This ties in with AGP's earlier points about materiality and the ancillary enabling development.

- 2.5. The legal concept of an ancillary building with its own distinct use is unknown to the law. Unlike the concept of curtilage, environs is not a concept known to the law of planning; see *Blackbushe Airport Ltd v R* (on the application of Hampshire County Council) and another [2021] EWCA Civ 398 at paragraphs 26, 55 and 61 per Andrews LJ.

3. Response to P9 AFI

- 3.1. This commentary on the law ought to be interpreted cautiously in the context of this specific application. Each determination ought to be sensitive to its individual circumstances. For that reason and in the interests of brevity it is not proposed to repeat submissions already made. Suffice it to say AGP submit the legal considerations are not as binary as the applicant asserts.
- 3.2. AGP are of the view that the basis of the submission in P9 AFI introduces a new matter for enquiry; what is the precise position being adopted by the applicant?
- 3.3. The applicant proceeds on the basis that it is possible to analyse the decision before the LPA upon the basis the buildings and structures were not erected for the uses described in the certificate: "there is no requirement to ... link operations to use."
- 3.4. Accordingly, it would be sensible for the LPA to request that the applicant clarify once again the uses for which the structures were erected. If these were not uses associated with the uses stated in the application for the certificate the LPA might well ask the applicant to explain the uses that ought properly to be associated with these structures. That missing aspect of the application materials ought to be nailed down before a decision on this application is taken. In P11 in the AFI the structures are indicated to be associated with "events". Clarification from the applicant in a new statutory declaration or witness statement would be helpful, in addition to an update as to what has occurred since 2019.

4. Response to P10 to P16 AFI

- 4.1. AGP is at a disadvantage because it does not have sight of the LPA correspondence. AGP suggest any new analytical evidence such as that referred to in P11 AFI ought to be preferable to a new overarching witness statement from the applicant.
- 4.2. There has been no witness statement from the applicant dealing with these matters to properly introduce them as evidence. According to the electronic planning register there has been no statutory declaration from the applicant since December 2019, but the LPA is being asked to accept further explanatory material and commentary. How could this evidence be brought forward at an appeal against a refusal of the certificate without hearing from the

applicant? It follows that a new statement *from the applicant* is a necessary step in respect of this application.

- 4.3. In respect of the table with purple events referred to in P14.1, AGP is under the impression that the reproduction of the applicant's AFI on the LPA website does not show this. If that is wrong, please it is content to receive clarification.
- 4.4. In respect of P14.2 and P14.3 the difficulty for AGP is that it appears that in the example chosen, the days after a wedding (honeymoon days in Wood Cottage) are being adopted as wedding days, not as holiday let days. This conflates the occupants associated with an event (a wedding) with the subsequent use as a holiday let. If newlyweds choose to begin their honeymoon at another venue or abroad it would not be suggested that was a continuation of a wedding use at that new venue.
- 4.5. The flexible approach of the applicant to meeting the needs of visiting customers since 2016 cannot provide a justification for the grant of a certificate in this case. Nothing in the email of 12 August 2012 indicates this was anything other than the exercise of permitted development rights, and it is arguable that the Thursday and Friday were not even a material change of use, since it is not immediately apparent that the wedding party arrived until Saturday.

5. Response to P17 and P18 AFI

- 5.1. The series of bank statements are entirely redacted. That means that it is impossible for AGP to comment upon the explanatory material provided by the applicant's solicitor in P17.2 and P17.3.
- 5.2. What may be said with absolute confidence is that a statutory declaration or witness statement from the applicant is required, and until then this new material ought to be treated with appropriate caution as to evidential value or weight.
- 5.3. AGP say the statements made in the AFI are too general in their support for the application. AGP suggest that if there were a statutory declaration from the applicant then one would expect a far more detailed background for each transaction relied upon. This would be linked to the use of the land in order to meet the proper evidential threshold. That statutory declaration would have to be disclosed and would have to speak to each statement. There is no statutory declaration.
- 5.4. AGP are of the view this application ought to be refused, so the applicant is at liberty to put forward this evidence in renewed application in a coherent manner.

6. Response to P19 and P20

- 6.1. It is axiomatic that corroboration is required when other members of the public provide corroborative evidence rejecting the assertions made in the application materials.
- 6.2. It is not helpful for the applicant to suggest that weight ought to be given to his witness statement of 2019. Where is the necessary statement *from the applicant* support the supply by advisors of so much other information. AGP cannot identify a further supporting statutory declaration or witness statement *from the applicant*.
- 6.3. The most recent witness statement on the LPA's file is from a director of AGP. The applicant has not taken the opportunity to reject or traverse the AGP statement. AGP's evidence ought

to be preferred, as it is precise and persuasive evidence that the certificate ought not be granted. All that has happened as alleged in the application has involved the use of AGP's land for access. AGP's view is that the activities alleged by the applicant are a hotchpotch. The better interpretation of the applicant's own evidence is that for the majority of the relevant period the applicant simply relied upon and used permitted development rights. There are documents available to the LPA in which the applicant has explained reliance upon those rights. Aside from the use of permitted development rights, nothing presented was close to material before 2016. That which might be considered material varied from that time onwards over a period of far less than ten years.

- 6.4. In P20 the SFI makes a point about "non-partisan" sources. We commend the LPA on its approach thus far and ask it not to be diverted by a divergence of view on private rights which is not relevant to the matters of fact that must be proven for this application.
- 6.5. The applicant suggests a face to face meeting with the LPA's officers on MS Teams. AGP suggests that this would not be appropriate. The applicant ought to give evidence in a statutory declaration in which all the additional clarification which he is ready to offer is in the public domain. If the LPA goes ahead with a meeting in which further evidence is provided or explained, then that evidence ought to be subsequently reduced to writing in a statutory declaration. This is especially so if the meeting would include a technical clarification from the applicant of how alleged activities have been counted.

7. The activities require a planning application

- 7.1. There is an extant planning application for the activities alleged in the certificate. That is the proper resort for this applicant. In all the circumstances the certificate application ought to be refused.
- 7.2. AGP has built an alternative route for the applicant to use, and the requirement to use that new route ought to be a condition of any grant of planning permission. The fact that route is necessary is because AGP's directors have had a "front row seat" about what has been going to and from the Application Land for well over ten years. That is the reason why their evidence and the evidence of others on the period of time over which these activities have been material and brought about a change in the character of the land ought to be preferred by the LPA to that of the applicant in connection with the determination of this application.

Thrings LLP Solicitors

14 April 2021