

From: Steve Lawrence
Sent: 02 February 2022 20:27
To: Weaver, Steve

Subject: APP/21/01310 - Tounerbury Woods, Tournerbury Lane, Hayling Island

Dear Mr Weaver

At the 31 January 2020 meeting of The Conservancy's Planning Committee the following occurred in relation to its deliberations over planning application APP/21/01310.

Some verbal updates were reported to Committee Members.

The presenting Officer stressed the change in the red line identifying the application site, but commented that wandering guests do not observe red lines and without proper supervision could easily stray into areas where wildlife – particularly birds – could be disturbed.

Staffing levels set out in paragraph 4.5.3 of the design and access statement were stressed during the presentation with specific attention drawn to paragraphs 3.12-3.14 of the Committee report.

It was re-iterated that Woods Cottage now was excluded from the red line, but Officers query this as no planning permission or lawful development certificate exists to use the property as a holiday let. Its most probable lawful use is considered by the presenting Officer to be a dwelling.

The ecology report by Holbury is far more in-depth than the previous reports in terms of the Shadow Appropriate Assessment produced under the Habitats Regulations 2017.

It identifies the potential for significant effects on the features of interest within the European sites.

With the proposed visitor management statement (VMS), the Holbury report has concluded that provided these can be conditioned and the nutrient mitigation controlled under a S.106, no adverse effects to the features of interest are predicted.

This is especially said to be so during beginning of November to end of February period annually. And particular attention has been paid to the October overlap with the core wedding season, in terms of over-wintering birds beginning to arrive in the Harbour during October.

Notwithstanding the above, your Officers remain concerned that proper enforcement of planning conditions would involve an intolerable level of supervision by Havant Borough Council as the local planning authority and thus fail the key test of enforceability.

There were no comments from Natural England on the Council's website for this application at this time.

As such, an objection is maintained on this basis as set out in the recommendation to Members.

Having listened to a deputation by the applicant, Members asked questions and then offered comments on the application. A vote was then taken and the majority vote was to support the Officer recommendation, subject to adding the final - (in quotes) - paragraph below.

"That Havant Borough Council, as local planning authority, be advised that Chichester Harbour Conservancy raises an objection to the proposed development on ecological impact grounds.

These impacts do not just create impact to the venue areas, but also those areas adjoining them, from noise, external lighting impact and vehicular movement to and from the site.

The Conservancy notes the proposal to cap the total number of events during a calendar year, but still considers that with no guarantees of supervising large numbers of guests, disturbance within the SSSI and SPA could not be adequately controlled owing to likely impacts from noise, external lighting impact and vehicular movement to and from the site.

This would place an intolerable level of supervision on the local planning authority, which The Conservancy does not think it could adequately police and enforce.

The tangible environmental benefits from granting planning permission to these proposals, in terms of the key features of the SSSI and how its condition is to be enhanced have not been demonstrated.

Where the Council may still be minded to grant planning permission, The Conservancy would appreciate being forewarned of this by Council Officers at the earliest opportunity. The Conservancy would wish to influence the wording of any recommended planning conditions and the wording of any clauses to form part of a planning obligation."

Following the majority vote on the item, Conservancy Officers would also like the following observations to be taken into account by the local planning authority (LPA), before it makes its decision:

- The application is in breach of the HBC adopted AONB Management Plan Policy 2, which reads, "All development in Chichester Harbour will continue to conserve and enhance the Area of Outstanding Natural Beauty and be consistent with all other environmental designations." This is a material planning consideration under the Council's adopted development plan Policy CS12 (4). Chichester Harbour Conservancy advises Havant Borough Council, and the LPA, that this application does not conserve and enhance the AONB.

- It was noted that the SSSI Condition Review of favourable status for the Tournerbury Woods unit of the SSSI presented by the applicant, when answering Member questions during the meeting, dates back to 2010, when the wedding business was being planned. It does not account for the deterioration which may have occurred since wedding events began and cannot be relied upon as an accurate reflection of the state of the Woods in 2022.

- In the list of operations likely to damage the SSSI (as published by Natural England for this Chichester Harbour SSSI – see Appendix 2 of previously submitted legal opinion offered to The Conservancy by RP Law Ltd), it would seem that the following operations have taken place since the establishment of the wedding events business, which would lead the Conservancy to conclude that the SSSI has been damaged.

- 4 – The introduction of mowing or other methods of cutting vegetation and changes in the mowing or cutting regime (including hay making to silage and cessation)
- 7 – Dumping, spreading or discharge of any materials
- 11 – The destruction, displacement, removal or cutting of any plant remains, including tree, shrub, herb, hedge, dead or decaying wood, moss, lichen, fungus, leaf-mould and turf
- 12 – The introduction of tree and/or woodland management - (including afforestation, planting, clear and selective felling, thinning, coppicing, modification of the stand or underwood, changes in species composition, cessation of management) – and changes in tree and/or woodland management
- 15 – infilling of ditches, dykes, drains, ponds, marshes or pits and dune slacks
- 21 – Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground
- 23 – Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling
- 26 – Use of vehicles or craft likely to damage features of interest
- 27 – Recreational or other activities likely to damage features of interest including sand dune and beach land forms

Particularly in respect of items 7 and 21, no regard appears to have been had by Natural England as to the importation of stone chippings to form extensive car parking areas. Notwithstanding the applicant's position that permitted development rights to stage a limited number of events, The Conservancy is not aware of any legal agreement with Natural England and the Tournerbury Woods Estate which, apart from "...limited infilling of ruts with rubble..." in relation to woodland tracks, would have allowed an exception to items 23, 26 and 27. The Conservancy is aware of a legal agreement between Natural England and the Tournerbury Woods Estate dated April 1997, but this does

not provide for the items referred to in this paragraph and currently does not form part of the information submitted to support application APP/21/01310, and does not appear to be referred to in the submitted design and access statement. Indeed, The Conservancy is greatly surprised that Natural England has not referred to this agreement in its various comments made on the previous application - APP/18/00943.

- Conservancy Officers are disappointed with the response from the Landscape Architect who did not account for views from the water or the landscape impact of clearing trees at the site which historic Google Earth satellite imagery suggests.
- No on-going monitoring currently seems to be offered in the draft heads of terms to the Visitor Management Strategy.

For information I attach the RM Law Ltd document referred to above and the Committee report considered by our Members.

Yours sincerely

Steve Lawrence MRTPI
Principal Planning Officer