

To:
Mr J Pavey
Irwin Mitchell
Belmont House
Station Way
Crawley
RH10 1JA

For: Mr & Mrs C Snell

Ref No.: APP/19/01262

**Town and Country Planning Act 1990: Section 191 and 192 (as amended by
Section 10 of the Planning and Compensation Act 1991)
Town and Country Planning (General Development Procedure) Order 1995
Article 24
REFUSAL TO GRANT CERTIFICATE OF LAWFUL USE OR DEVELOPMENT**

Havant Borough Council, as Local Planning Authority, **REFUSES** to certify that on 19 December 2019 the uses and operational development described in the First Schedule to this certificate in respect of land described in the Second Schedule was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

- 1 On the basis of the evidence submitted with the application and other material available to the Council, including the planning history of the site, the Council has concluded the following in respect of the application:

Element 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.

Woods Cottage and its limited curtilage was once a separate planning unit, and the rest of the area affected by the CLEUD was necessarily part of another planning unit. Within the last 10 years that has changed, and Woods Cottage has become associated with a larger area, thereby creating a different planning unit. Furthermore, over the 10 year period the subject of the application there has been a material change in the mix and balance of uses undertaken at the site, with the result that it cannot be said that the activities being undertaken in 2019 are equivalent to those being undertaken in 2009.

As a result, the mixed use of the larger planning unit to which Woods Cottage now belongs does not benefit from immunity from enforcement action.

Elements 2-4: erection of log cabin and adjoining deck; erection of Victorian style gazebo structure; and erection of marquee structure.

Based on the evidence submitted, officers consider that on the balance of probability, all three structures are part and parcel of the material change of use which has occurred on the land. As none of the structures has been in situ for the period of 10 years prior to the making of the application, they are not immune from enforcement action.

Having regard to these conclusions, a Lawful Development Certificate cannot be issued for the matters the subject of the application.

Simon Jenkins

Simon Jenkins
Head of Planning (East Hampshire and Havant)

02 June 2021

FIRST SCHEDULE:

This decision relates to the following development:

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 as described in the written particulars, plans and other documents submitted with your application received on 24 December 2019, and subsequent submissions during the course of consideration of the application.

SECOND SCHEDULE:

This certificate relates to land at Tournerbury Woods, Tournerbury Lane, Hayling Island as shown edged red on the submitted Location Plan received 24 December 2019.

OTHER IMPORTANT INFORMATION:

- (1) Your attention is drawn to the attached information regarding your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision. See www.planningportal.gov.uk/pcs
- (2) In view of this refusal by the Council to grant the certificate applied for, the use/development specified above on land specified above remains liable to formal enforcement action under Section 172 of the 1990 Act unless it has the benefit of a separate and valid 'planning permission' for it under the same Act.

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

- These notes are for information only and do not purport to set out the law on the subject.
- Only the applicant possesses the right of appeal.

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse express consent for the display of an advertisement and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- If this is a decision to refuse consent to work on a tree which is subject to a Tree Preservation Order and you want to appeal against your local planning authority's decision then you must do so within 28 days of the date of this notice.
- If this is a decision to refuse any other type of application and you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- **Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.**
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

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IMPORTANT NOTICE FOR APPLICANTS WITH REGARD TO BUILDING REGULATIONS

This notice only relates to the decision of Havant Borough Council under the Town and Country Planning Acts. It does not relate to any other application that may be required any other Act, Regulation, Byelaw or Order where the Council's approval may be needed.

For further guidance as the need for consent under the Building Regulations, please telephone Havant Borough Council's Building Control team on:

023 9244 6571