

CHICHESTER HARBOUR CONSERVANCY (CHC)

Town and Country Planning Act 1990 (As Amended) - Sections 195 Appeal against –

The refusal (2.6.2021) to grant a lawful development certificate by Havant Borough Council in respect of 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.

PINS REFERENCE:

APP/X1735/X/21/3278706 (Appellants - Mr C Snell & Mrs A Snell)

**Local Planning Authority (LPA)
REFERENCE:**

APP/19/01262

APPEAL SITE ADDRESS:

**Tournerbury Woods Tournerbury Lane
Hayling Island PO11 9DL**

INQUIRY DATE:

Commencing 24 February 2026

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: HAVANT BOROUGH COUNCIL

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

2. **THE LAND TO WHICH THE NOTICE RELATES**

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

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

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

4. **REASONS FOR ISSUING THIS NOTICE**

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

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

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

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

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

5. WHAT YOU ARE REQUIRED TO DO

- 1 Cease the use of the Land for weddings and other commercial events.
- 2 Cease the use of the Land for camping associated with weddings and other commercial events.
- 3 Cease the use of the dwellinghouse for accommodation associated with weddings and other commercial events.
- 4 Remove from the Land, all buildings (excluding the dwellinghouse), structures, decking and marquees and any other paraphernalia associated with weddings and commercial events.

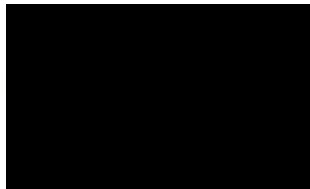
6. TIME FOR COMPLIANCE: 3 months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

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

Dated: 17 January 2020

Signed:



Head of Neighbourhood Support

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

ANNEX

YOUR RIGHT OF APPEAL

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

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

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

WHAT HAPPENS IF YOU DO NOT APPEAL

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

SUBMISSION TO SECRETARY OF STATE

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

PERSONS SERVED

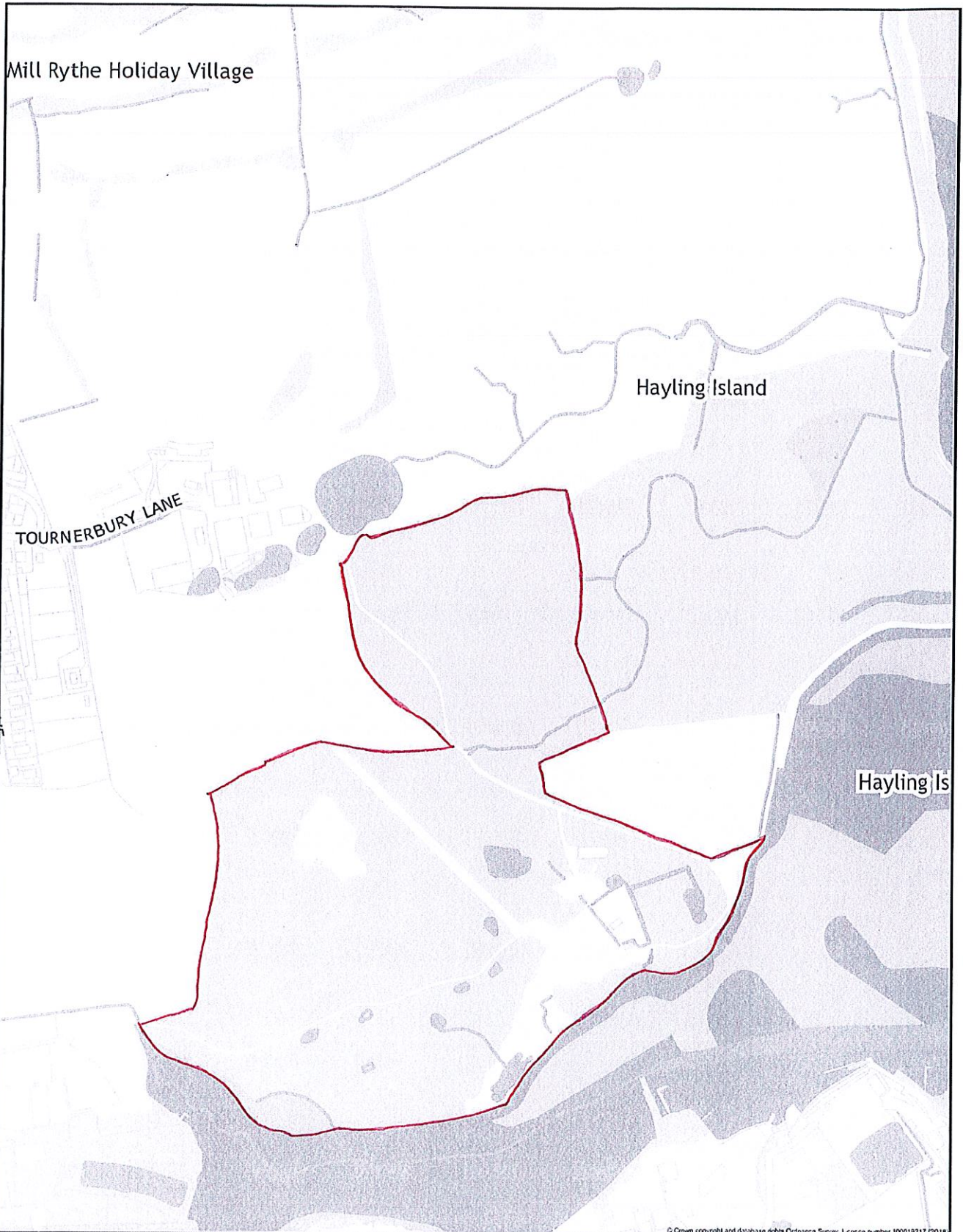
The following persons have been served with copies of this Enforcement Notice:

Mr CMV Snell, 196-198 Sea Front, Hayling Island, PO11 9HR

Ms AL De Pury Snell, 196-198 Sea Front, Hayling Island, PO11 9HR

The Owner, Tournerbury Woods, Tournerbury Lane, Hayling Island

The Occupier, Tournerbury Woods, Tournerbury Lane, Hayling Island



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Tournerbury Woods Estate

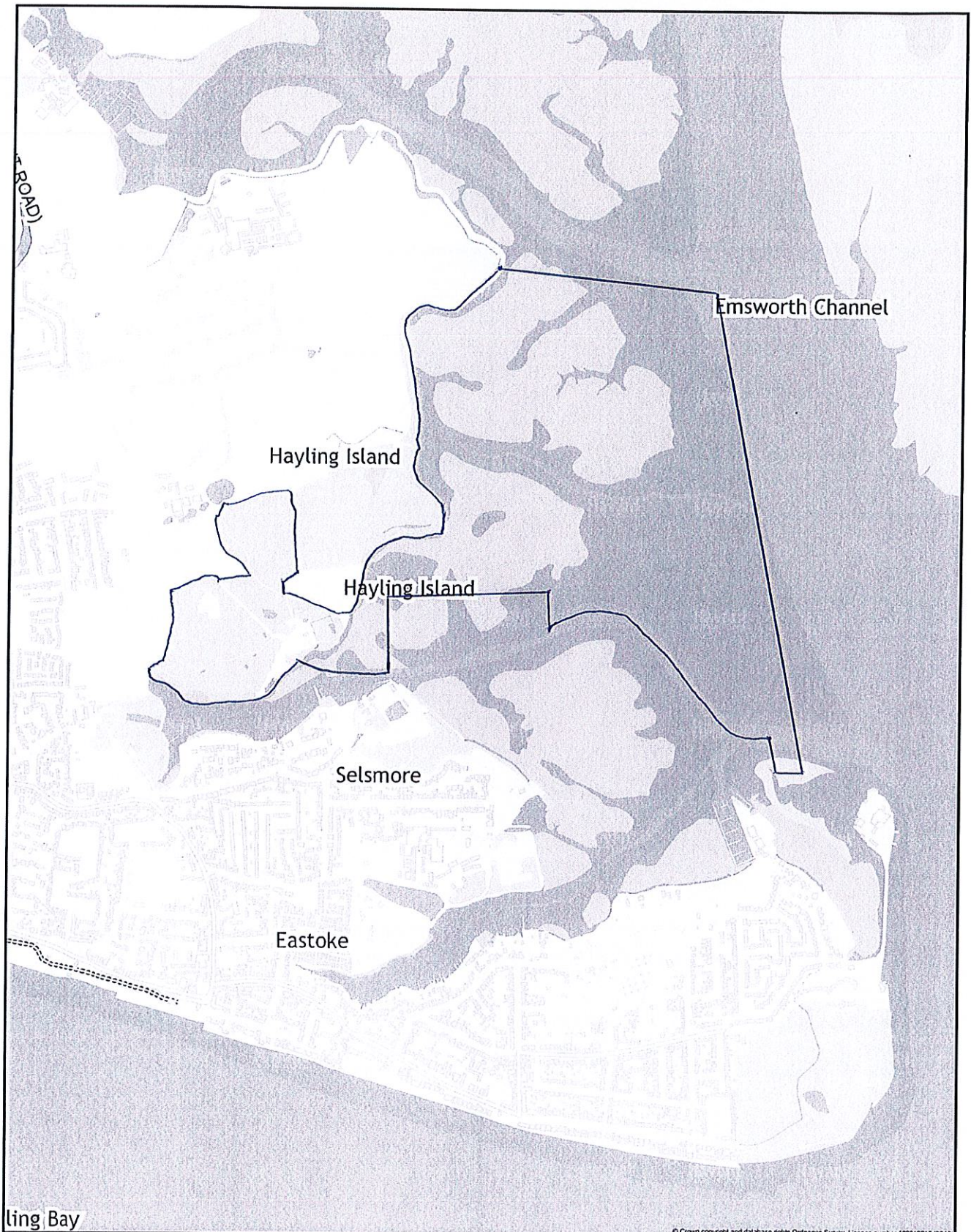
Havant
BOROUGH COUNCIL



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ling Bay

Tournerbury Woods Estate

Havant
BOROUGH COUNCIL

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HAVANT BOROUGH COUNCIL

REPORT OF ENFORCEMENT MANAGER

File Reference: 18/00051/CMP/UNCU

Officer: Amy Zelazik

Date: 17 January 2020

Address: Tournerbury Woods, Tournerbury Lane, Hayling Island

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

SITE AND BACKGROUND

Tournerbury Woods is located south of Tournerbury Lane and golf centre. It comprises a woodland estate with a holiday cottage and is located on the eastern coastline of Hayling Island and also borders a small inlet. It is located within the Chichester Harbour AONB, Flood Zones 2 and 3 and an SSSI, SAC, SPA and RAMSAR. The whole of Tournerbury Woods is subject to a Woodland Order. Access to the woodland estate is through a track which runs through the centre of Tournerbury Farm. There are several more tracks within the estate itself. There is also a scheduled ancient monument within the grounds of the estate. The site is also outside the urban area.

The Local Planning Authority (LPA) commenced a planning enforcement investigation in February 2018 where it was found that there had been an unauthorised material change of use of land as a wedding and events venue with ancillary buildings and structures and the use of land for camping associated with events and accommodation within Woods Cottage. The land is a 300 acre estate, formed by a designated woodland, agriculture and residential (Woods Cottage) (250 acres of the land is formed of inter-tidal mud flats).

The site currently includes the provision of Woods Cottage which is a 4 bedroom dwelling, a marquee, a Victorian wedding gazebo and a log cabin inclusive of a raised decking area, all of which are associated with weddings and events. Various temporary structures such as porta-loo's, compostable toilets, additional gazebo's and bouncy castles are supplied for events.

To seek to regularise this material change of use of land, a retrospective planning application was invited to be submitted for consideration.

An application for a change of use of land was received by the LPA in September 2018 under reference APP/18/00943 and is yet to be determined due to outstanding information to satisfy a decision ie ecology information.

As set out below in the planning history, an application for a Lawful Development Certificate (LDC) was received by the LPA for the consideration of the lawfulness of 3 structures and buildings within the site. This was subsequently withdrawn.

An application for the consideration of an LDC by the LPA specifically for the change of use of this land was submitted on 19 December 2019, after being anticipated for a great length of time. This application is currently with our support team for validation and as such, has not yet been allocated to an officer for consideration.

Since the commencement of this enforcement investigation, activities associated with the unauthorised material change of use of this land have continued, which has been the subject of a number of complaints made to the Council.

Due to the passage of time of this case to date and as this breach of planning control has failed to be regularised, the LPA's view is that this development must be controlled as it is unwilling to allow such activity to continue indefinitely, whilst being conscious of the potential in due course of immunity of 10 years which may be gained for this use of the land as a wedding and events venue, which would then ultimately be uncontrolled. It is therefore deemed proportionate and necessary and in accordance with the development plan to ensure the cessation of this unauthorised use of land as a wedding and events venue and removal of all associated structures and buildings, excluding the dwellinghouse (Woods Cottage).

PLANNING HISTORY

APP/12/00003 - Application for prior notification of agricultural or forestry development - proposed building. , UNK,

APP/17/00207 - Construct vehicular track from the public highway to Tournurbury Woods Estates for the purpose of avoiding agricultural operations in Tournurbury Farm. , PERM,04/05/2017

APP/18/00943 - Change of Use of land and woodland (retrospective) 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 existing cottage for visitor accommodation., AWAITING DECISION,

APP/19/00889 - Application for Lawful Development Certificate relating to the erection of log cabin and adjoining deck; erection of Victorian style gazebo structure; and erection of marquee structure., WITHDRAWN 06/11/2019

APP/19/01262 - Application for Certificate of Lawfulness relating to change of use of Woods Cottage and its environs into leisure/tourism use for the purposes of holiday letting's 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; erection of log cabin and adjoining deck; erection of Victorian style gazebo structure; erection of marquee structure. – AWAITING VALIDATION

FALL BACK POSITION AND BREACH OF PLANNING CONTROL

The 'fall back' position is that the land may be used for up to 28 days a year as a

venue for weddings and other commercial events. This is subject to any structure associated with this use being removed from the land within the 28 days. The use therefore exceeds the 28 days provided for temporary uses under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 4, Class A.

The position here is that the associated structures are not removed from the land between events and therefore based on current information before the LPA, there is no change of use between the events and therefore this use is subject to planning control.

POLICY & NEIGHBOURHOOD PLAN

Constraints of the site are as follows:

Archaeology area - Scheduled Ancient Monument Site
Chichester Area of Outstanding Natural Beauty
Flood Zones 2 & 3
SAC
SPA
SSSI
RAMS AR
TPO

Relevant Policies

Havant Borough Local Plan (Allocations)

AL1 - Sustainable development

Havant Borough Core Strategy

CS11 - Environment and Heritage
CS12 - Chichester Harbour AONB
CS16 - Design
CS17 - Spatial Distribution
DM8 - Conservation, protection and enhancement of existing natural features
DM9 - Development in a coastal zone
DM10 - Pollution

National Planning Policy Framework

Para 58 - Effective Enforcement
Para 172 - Conserving and enhancing the natural environment
Para 175 - Habitats and Biodiversity

EXPEDIENCY

The site is located within the Chichester Harbour AONB, where the LAP has a duty of regard under Section 85 of the Countryside and Rights of Way Act 2000 to conserve and enhance its natural beauty. A number of complaints have been received regarding this uncontrolled use of the land and the LPA is still not in a

position to determine the outstanding planning application, which has been valid for over a year. The current delay is the applicant's failure to submit further details on the ecology, which due to the sensitivity of the location, is fundamental to the assessment of the impact of the development on this protected designated land. The required details have been outstanding for some considerable time.

The current view of the LPA, until proven lawfully to the contrary, is that the use of the land as a wedding and other commercial events venue, is in breach of planning control, that has not been operating for 10 years, and therefore is not immune from planning control under Section 171B of the Town and Country Planning Act 1990.

The unauthorised use of the land continues to be the subject of complaints, which includes noise and disturbance associated with the events and the adverse impact it is having on the amenity of the occupiers of the area, due to the close proximity of a residential estate and that the access to the site is through an urban area and via a farm court yard to the west, which benefits from an occupied property. Complaints have also been received about the adverse impact the development is having on this protected area.

In view of the reluctance of the applicant to provide the necessary ecology details, and to avoid any further significant harm to ecology, the Chichester Area of Outstanding Natural Beauty, other protected areas and amenity, it is considered expedient and proportionate to serve an enforcement notice to require the use of the land as a wedding and events venue to cease, as currently the development is contrary to adopted policy, the National Planning Policy Framework and The Conservation of Habitats and Species Regulations 2017

If the required details are submitted and permission is forthcoming the enforcement notice would fall.

THE HUMAN RIGHTS ACT 1998

The Human Rights Act confers a number of rights, of which the following are relevant in this case.

First Protocol, Article 1: the right to peaceful enjoyment of possessions. It is necessary to balance the right to use this land as the owner wishes, against the need to protect the character and amenity of the local area. The development is contrary to the Council's adopted policies, and Government advice as outlined in the 2019 NPPF. It is considered, the requirement to cease the use of this land for weddings and events is proportional to the intended objective of the Local Plan and to protect nature conservation interests and local amenity from inappropriate and harmful development which is in the public interest.

Article 6: Right to a fair trial. If the recipients of the notice are aggrieved by the Local Planning Authority's (LPA) decision there is the right of appeal to the Planning Inspectorate, which is an independent body. It is therefore considered, that the decision-making process falls within the requirements of Article 6.

Article 14: Prohibition of discrimination. Prohibits discrimination on grounds such as sex, race, colour, language, religion, political opinion, national or social origins, property birth or other status. By taking enforcement action the LPA would be treating the occupiers no differently from any other member of society. Conversely, by not taking formal action this would be an act of positive discrimination.

THE BREACH OF PLANNING CONTROL

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

REASONS FOR ISSUING THE NOTICE

1. The development is in the countryside and the use of the land causes significant harm to this sensitive rural location and to the amenity of occupiers of the area by reason of noise and disturbance contrary to Policy AL1 of the Havant Borough Local Plan (Allocations) and Policies CS16 , CS17 and DM10 of the Havant Borough Core Strategy and national advice in the NPPF.

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

STEPS REQUIRED BY THE NOTICE

- 1 Cease the use of the Land for weddings and other commercial events.
- 2 Cease the use of the Land for camping associated with weddings and other commercial events.
- 3 Cease the use of the dwellinghouse for accommodation associated with weddings and other commercial events.

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

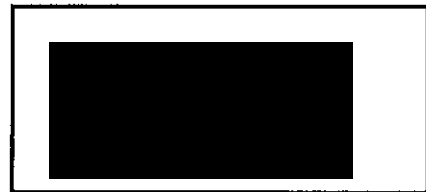
COMPLIANCE PERIOD: 3 Months

STEPS AUTHORISED TO BE TAKEN BY THE ENFORCEMENT MANAGER

That the Solicitor to the Council be instructed to:

- (i) take all action necessary, including legal proceedings, to remedy the breaches of listed building and planning control, and
- (ii) commence legal proceedings, for failure to comply with any notices issued by the Council.

HEAD OF NEIGHBOURHOOD SUPPORT



Report to Land Charges

Date sent: 17 January 2020