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Director of Planning
Havant Borough Council
Public Service Plaza,
Civic Centre Road,
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PO9 2AX

For the attention of Mr S Weaver

Dear Mr Weaver

Tournerbury Woods – Application APP/21/01310

You will recall during early June, we discussed a letter I had prepared (dated 23rd May), which responded to further representations made by Thrings LLP on behalf of A G Phillips and Son Ltd. (AGP) dated 25th April 2022. We agreed that matters had moved on significantly since I wrote that letter and correspondingly, some aspects of the letter were out of date. We agreed that the posting of the letter to the application website could give rise to public misunderstanding and invite further comment about matters to which we had received further information and clarification, and subsequently were no longer matters outstanding between us. Nevertheless, other matters remain unchanged, required comment or challenge, and consequently are repeated in this letter.

In my letter of 23rd May, I stated that I had written on 25th April, to respond to the further representations made by Thrings LLP on behalf of AGP and to provide factual accuracy on a number of matters raised. Subsequent to that letter we note that on 27th April another representation from Mr and Mrs Phillips was posted to the application website. The letter is undated, but website references indicate it was received by the Council on 19th April 2022.

Although not stated, we assume the letter was prompted by our serving of Notice on the author (although not a necessary action, it was issued to ensure there was no reason to claim lack of formal knowledge of the application), but it goes on to state specifically that it responds to “*the misinformation in a number of the letters of support for application APP/21/03110.*” We do not believe there to be any misinformation offered and remain confident the planning authority will consider such comment in the context of the on-going opposition to the application by the neighbour. We believe the letter’s subject matter strays far beyond such parameters, taking the opportunity to once again reiterate comment presented previously by Mr and Mrs Phillips, and their legal representatives Thrings LLP on behalf of AGP.

The letter does not introduce any new argument or evidence to the case presented previously by Mr and Mrs Phillips, it simply recasts their claims. It is a further case of the objector modifying a limited area of opposition, each time the applicant provides evidence to counter the claims raised. Our response of 25th April applies equally to these latest comments, but we find ourselves having to write,

yet again, to correct the further misinformation and interpretation of facts presented by these objectors. Similarly, to correct a few misinformed comments made on the planning portal as a result of a known doorstep campaign (set out in Appendix 1 to this letter).

The correspondence from Thrings LLP and Mr and Mrs Phillips perpetuate, the tit-for-tat approach adopted to delay determination for their own personal interests and in an attempt to provide credence to a development context that is factually incorrect. We trust that officers and members should not be unduly influenced by these repeated, misleading claims, to which we must, yet again, offer correction.

It should be common ground between the applicant and planning authority that only two areas of planning concern remain to be satisfied at the application site; the continued use of an existing access and the potential for loss of private amenity. All other material planning matters have been addressed satisfactorily as confirmed by the officer report of June 2021, with the exception of a changed requirement for Nitrate Neutrality mitigation, introduced recently by Natural England, but since addressed positively through the submission of revised mitigation proposal. Up to date evidence indicates the situation remains unchanged under the revised requirements from that previously considered and found acceptable.

The latest Nitrate calculation and mitigation measures were considered by Natural England and found acceptable (letter 25th July). This enables the application to progress to final determination and I am aware you have completed the amended HRA/AA accordingly, and this has too been agreed by Natural England (16th August), subject to mitigation. The required mitigation is contained within the revised Visitor Management Strategy (VMS) submitted for your agreement. We are content that adherence to the VMS provisions is conditioned through any planning permission.

The VMS has been amended to accommodate the recommendations of Natural England's consultation response letter (received from Amy Kitching, dated 25th July). The changes comprise additional controls on camping activity, in particular the location, number of permitted pitches and permitted nights, and also with regard to the management of the woodland campsite, to reflect the preferences set out in the Natural England letter. The opportunity has also been taken to prepare a Code of Conduct, for issue on arrival to all users of the campsite, and to reinforce the importance of responsible camping. This is appended to the VMS at Appendix 2 and forms part of the commitment of Tournerbury Woods Estate to the responsible use of the woodland for purpose of occasional camping. The revised VMS is provided in support of Natural England's position of 'no objection' to the application and is aligned with the recommendations made; therefore a further round of consultation is not required.

Right of way

Turning to the two matters of concern contained in the previous reason for refusal, the suitability of the access is long rehearsed. It can be used lawfully by the applicant ("*...and their tenants agents licensees and others authorised by them...*") for any purpose at any time without restriction. The route is suitable for the proposed use and has been so used without incident of danger or concerns for safety claimed by the objectors, over a number of decades.

In recent times, AGP has undertaken works to restrict the width of the right of way, particularly through and on the approach to the farmyard. Without any readily apparent farming purpose, such restriction must be interpreted as a means of frustrating our clients' activities in an attempt to justify a refusal of planning permission. You will appreciate this situation has given rise to considerable interaction between the parties, and this has spilled over into opposition to this application, skewing the weight to be applied to consideration of the access ways suitability.

The physical limits of the right of way are described (within legal documentation) in text and on accompanying plans as "*the tracks shown hatched black*" to illustrate the route's location. The black

hatched area is consistent along all of its length, and is not, as suggested by AGP in correspondence and action on the ground, of varying width. If scaled from the plan this route is 7 metres wide, or more in some places, but for practicality, this application and day-to-day operational purposes, the right of way is taken to include the clearly visible trackway, and associated pull-off areas, which have been used as passing space (without force or secrecy) in excess of 20 years. This represents the physical and usable track that has existed between the applicant's property and the public highway, that is indicated on a great deal of documentary and publicly available photographic evidence.

The right of way was not constructed to any acknowledged highway standard but to a width that allowed for its daily and reasonable use at all times and for all purposes from 1987. When established some parts of the route were of sufficient width to allow vehicles travelling in opposite directions to pass safely, but in others, where the track was narrow, passing vehicles could travel, or pull-over, onto land either side of the track to pass. This practice has operated at least for the past 20 years and it is evident that informal passing places have developed. It is only recently and corresponding to our client's planning applications that such space has been obstructed; it is reasonable our client suggests in an attempt to reduce the width of the route and impact adversely on the planning application. I attach for your information the latest legal exchange between our clients' solicitor and those acting for AGP, regarding the continuing obstructions and the offer of an alternative access about which we have corresponded previously (Appendix 3). You will appreciate that as a consequence, any conflict with Tournerbury Farm activities claimed in correspondence on behalf of AGP or Mr and Mrs Philips, it is primarily of their own making.

In this vein we have very real concerns that fabricated and unrealistic scenarios have been presented and may continue to be enacted along the right of way until this application is determined (including during any site visit by the Planning Committee). The Tournerbury Woods Estate would like to point out that to date, whilst there are occasional minor delays along the right of way whilst incoming traffic waits for outgoing traffic to pass, these are very minor and amount to no more than a few seconds of inconvenience for either party (as accurately described in our Transport submissions). These minor delays are entirely new and have never been an issue previously, but are believed to be a direct result of obstructions placed in previously regularly used passing places by AGP, as they have tried to create scenarios that might negatively impact and frustrate this planning application, including reports of changed and moved signage, to create deliberate difficulties. Correspondence from us to AGP reflects our concern with this on-going activity.

You will be aware of the long-standing neighbour dispute between the applicant and AGP. For the purposes of this planning application it is the suitability of the access as defined in legal documents and through the passage of time that must be taken as evidence, not the state of the access, its appearance or availability at any time, nor the subjective views of third-party objectors. These matters are affected continuously by the actions and reactions of the two parties, to be resolved only on the grant of planning permission.

It is fact that the objector does not oppose the use of Tournerbury Woods as proposed by the applicant (confirmed in paragraph 1 of the latest letter). Objection is raised only to the continued use of the existing right of way. This objection, first raised on grounds of farm operations and more recently on grounds of residential amenity, is now shown to be insecure for reason of an on-going land sale (as described below) for which the access is a most undesirable encumbrance on both the seller (AGP) and the purchaser, Chichester Harbour Trust and Chichester Harbour Conservancy (the main opponents to the application and Rule 6 parties to the lodged appeals).

There is no formal highway objection to the use of the existing access to serve the proposed development. It is however recognised by the applicant that continued use of the route is not ideal for the residents and operations of Tournerbury Farm, should they continue, or for successors in title, even though these shortcomings were accepted and agreed by AGP when it purchased the then farm holding. The applicants are consequently willing to provide an alternative means of access and have gained planning permission for a different route. Provision of that route, to an appropriate standard and

on a like-for-like basis, has been frustrated by the actions of the landowner AGP in response to the applications to regularise the planning position.

AGP continue to use the potential of an alternative access they offer as justification why the application should be refused. We have provided evidence to demonstrate why such potential is not available and consequently is not material to this application. Moreover, we are aware that the HBC Enforcement Team is actively investigating the recent construction of an alternative route, proposedly pursuant to the planning permission received for it, and the non-compliance to such planning permission's conditions. We believe the alternative access has been constructed in breach of its permission, and with the permission of AGP, the TWE commissioned an independent survey of the access' construction which concluded that it has not been constructed in accordance with the planning permission and attached conditions. For the avoidance of doubt and should the matter be raised further in respect of the applications determination, a copy of the report accompanies this letter.

In the absence of a suitable, lawful alternative access, the applicant has no choice other than to continue with the lawful route.

Amenity

The applicant does not dispute that any resident has a right to an appropriate level of private amenity, but this will vary according to locational context. Notwithstanding, the many activities and uses of land at and surrounding Tournembury Farm, in mitigation of the potential further loss of private amenity to any resident from a continued use of the right of way, the applicants through this latest application have reduced the number of events considerably from that previously proposed or claimed through lawful use, and introduced further restrictions on noise and patron management.

You will be aware the objector previously indicated a willingness to accept events at Tournembury Woods served by the existing access route, providing an upper limit is imposed through any planning permission. This was suggested at 30 per year (see BJC Planning letters 6th December 2019 and 15th July 2020), before the further mitigation measures introduced by the applicants. Such a level of activity will not be viable to maintain both the business and the environmental benefits arising from appropriate management of the site, its woodlands, ancient monument and environmental attributes. We submit the additional mitigation measures now provided, more than adequately accommodate the small difference in the number of events between those proposed and those accepted by A G Phillips and Son Ltd.

Further matters

I have been made aware, as documented in the recent minutes and agenda of the Chichester Harbour Conservancy (CHC), that the purchase of land at Tournembury Farm for salt marsh creation / carbon capture is indeed an active operation by the conservancy and Chichester Harbour Trust (CHT) with the purchase likely to be completed shortly. Although not of direct relevance to this application, as it does not adjoin our application, nor is it affected by our right of way, it does further question the context of concerted opposition raised by both principal opponents (Chichester Harbour Conservancy and AGP) to our application. This is especially relevant as public records show that these discussions between AGP and CHT/CHC have been on-going for over a year.

We understand the golf course, driving range, the Tee Caddy Café and buildings and farmyard are to be retained for redevelopment opportunities, which as previously explained, might account for some of the opposition to the continued right of way through that area. Similarly, we note that both parties have, or propose to undertake other developments, or already undertake activities and operations (within the SSSI and AONB), which have a potential to impact on environmental matters, in a manner similar to those for which the applicant is being criticised (details can be provided as appropriate). All correspondence to you relating to cattle movements and the difficulties posed by our clients' activities

to farming operations, plus its importance to the continuing viability of Tournerbury Farm are evidently in question. This is a position which will have existed for some considerable time as discussions about the sale progressed.

We must assume that CHT / CHC has undertaken due diligence in respect of the purchase and will be aware of the outstanding enforcement issues at Tournerbury Farm being investigated by the Council, and for which it will become responsible (on any land subject to enforcement that is included in the sale) should the sale proceed. My client recently wrote to the Council's enforcement team, querying the lack of action and time being taken to investigate the very clear planning breaches. This delay results in the matter not being in the public realm and our client, in the absence of a response from the Council, has written to CHC to bring the matter to its attention.

Further Public comments

The recent delay in determination arising from the latest requirements of Natural England, has offered an opportunity for further public comment, principally the result of a known doorstep campaign. The latest public comments raise no new planning issues and, as we have advised previously, appear misinformed, failing to represent the factual position as seen on the ground, or as might be experienced when visiting, and appear written without any understanding of the historical context of the site, its operation, and the long-standing working agreements with Natural England.

Setting aside comments of a personal nature and those relating to non-planning issues, matters of ecology and the SSSI are once again repeated in these latest comments. Two issues appear to dominate; claims that the marquee and or activity is visible from outside the site (disproved by visual appraisal and photographic evidence) and inappropriate development within an AONB.

It has been accepted from the outset that the application site is within or adjoins areas of environmental and landscape sensitivity. Considerable care has been taken and evidence collected to demonstrate the absence of harm to any of these sensitivities, and this is reflected in the conclusions of your report to application 18/00943. Since then, considerable additional discussion has taken place with Natural England to clarify the lack of ecological and SSSI harm and to address changed requirements for Nitrate Neutrality; confirming the acceptability of the proposal.

You are well aware that new development within an AONB, is neither precluded nor inappropriate, with the NPPF requiring only that weight is given to AONB conservation and enhancement. Through your application of an appropriate planning balance for application 18/00943 you applied the tests required by the NPPF and concluded a lack of harm and positive enhancement. There is no material change of circumstance in this proposal and we expect the consideration to give rise to the same conclusion. (For information, a sample list of wedding and event venues within AONB's and SSSI's is included in Appendix 4 demonstrating the existence and suitability of appropriately controlled developments.)

To conclude, TWE is the long-term custodian of the application site, discussing proposals and issues extensively over many years with Natural England, Historic England, the Forestry Commission and the local planning authority. Through this application the case for the development has been made fully and accurately. The proposal represents a sustainable and sensible use of the landholding in order to preserve and conserve it for the future, without harm to adjoining interests managed by others.

With the latest submissions, that have been subjected to a further lengthy period of public consultation undertaken for reason of completeness rather than necessity, provided in response to our on-going discussions with the Council's Environmental Health Officer regarding noise and yourself in respect of material planning matters, most recently Nitrates and HRA, and to address the matters which gave rise to previous reasons for refusal.

With the recent agreement by Natural England to the Nutrient Calculation and HRA/AA, we do not believe there is any additional information the Council requires before it can make its determination. Nevertheless, should you require any further clarification or information, please let me know.

Also, and despite the efforts of principal objectors to deflect attention from appropriate and material planning considerations, we submit that the two reasons for refusal previously raised against this proposal have been addressed satisfactorily and there is now no reason why planning permission should be withheld and we request this is considered at the next available opportunity, to bring a positive and speedy conclusion to this long-standing issue. This letter and the information contained within it, updates and brings to a conclusion, all outstanding matters. It does not introduce any new evidence or changed proposal that should be subject to further consultation.

It is not our intention to prolong the decision-making process through the submission of this letter and appendices, but it is essential the decision maker is fully aware of matters which are likely to have influenced opposition to the proposal, and the steps taken by the applicant to address reasonable concerns. You will appreciate that should any additional inaccurate information be provided by any party in response to this letter, or important information withheld, in an attempt to further prolong discussions or skew the consideration, we will have little alternative than to provide further corrections to ensure the planning authority determines this application on the basis of an accurate planning context.

Yours sincerely

A black rectangular box redacting the signature of Haydn Morris.

Haydn Morris
For and on behalf of HMPC Ltd