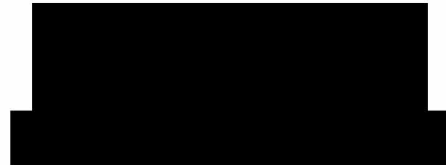


FAO Steve Weaver
Planning Officer
Development Control
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

9 September 2022

Your Reference: APP/21/01310
Our Reference: RST/A4274-4



Dear Mr Weaver

RE: Tournerbury Woods, Tournerbury Lane, Hayling Island, Hampshire, PO11 9DL ("the Site")

Application APP/21/01310 ("the Application")

As you are aware, we are instructed by

We write further to our letter of 21 July 2022 which set out substantial objections to the proposed development at the Site, and in response to the letter of HMPC Ltd on behalf of the applicants, dated 17 August 2022.

We use numbered paragraphs for ease of reference.

1. Relevance of earlier representations

- 1.1. We have previously set out in correspondence the concerns of AGP, which amount to significant material considerations which weigh against the Application. Our Client reiterates all of its previous comments. It remains our Clients position that the Application represents inappropriate development which, when assessed against adopted policy and relevant material considerations should be refused.
- 1.2. We do not intend to restate any of the representations that have been made previously in relation to the Application. Instead, this letter focuses only on the additional information presented with the HMPC Ltd letter.
- 1.3. It is notable, and disappointing, that rather than seek to address the substance of the material considerations which have been raised in objection to the Application, the HMPC Ltd letter seeks

instead to discredit the legitimate concerns that have been raised as “misinformation”. This assertion is rejected. It is a fundamental tenet of the planning system that all material considerations must be considered by a decision maker. That such material considerations do not fit the narrative the applicant seeks to present does not affect their standing. Attempts to distract the Council from these legitimate material considerations will only serve to undermine the decision-making process.

2. Use of the Track

- 2.1. Contrary to the assertions in the HMPC Ltd letter, the existing right of way and passing places have not been used for in excess of 20 years. For long periods of this time the track was in a condition which meant it was impassable by anything other than tractor or four-wheel drive vehicle. In any event, the use of “informal passing places” for occasional traffic is fundamentally different to the use proposed under the Application.
- 2.2. Simply put, a use that generates two-way traffic should be able to demonstrate conclusively that a single lane track can safely be used. References to presumed (but not conclusively demonstrated) and “informal” passing places does not show that safe access can be delivered.
- 2.3. This failing is so fundamental to the Application that it is not possible to grant consent here until this issue is dealt with. Assertions that any conflict between the applicant and AGP is down to Our Clients lawful use of their land misunderstands the fact that it is for the applicant to show that the use can actually be delivered.
- 2.4. Further, it is trite law that the legal status of a right of way is not material to a planning application. Whilst Our Client does not agree with the analysis of the applicant that there is an existing right of way, to a large degree this is not relevant. What is in question is whether, as a matter of fact, the access can be safely used without widening the track, causing damage to the land around the track, or creating hazardous traffic issues. The Application cannot demonstrate this and so the only reasonable outcome here is for the Application to be refused.
- 2.5. Any assertion that Our Client has been acting to frustrate the use of the Site is undermined by that fact that AGP have taken steps to create an alternative access route which, despite assertions, has been demonstrably constructed to a standard which would allow the use proposed by the Application to occur.

3. Amenity

- 3.1. The HMPC Ltd letter, and its appendices, attempt to deal with a number of issues by providing a Visitor Management Strategy (“VMS”). Whilst the acceptance that they should be responsible for actively managing their visitors is welcome, the strategy proposed is woefully inadequate.
- 3.2. The VMS is hopelessly light touch and offers no “teeth” in terms of enforcement. Whilst the applicant expresses confidence that it could be dealt with by way of a condition it is doubtful that such a document would be enforceable and therefore would fail the tests for conditions set out in paragraph 55 of the NPPF.

- 3.3. Further, the VMS represents a missed opportunity to address significant amenity concerns which have previously be raised and remain largely unaddressed. Notwithstanding the issues above about use of the access track, the VMS could include, at the very least, provisions of stewards directing patrons who leave the Site to drive slowly through AGPs land, prevent the playing of music at night and instruct that vehicles are not stop for any reason.
- 3.4. Instead, the VMS does nothing to address the previous reason for refusal and the issue of loss of amenity. This can only be seen as a deliberate choice by the applicant to ignore these issues.

4. Impact on SSSI

- 4.1. There is little value in repeating previous comments about whether or not the proposed use is appropriate within a protected area. The rational conclusion is clear.
- 4.2. It is worth, however, addressing the list of allegedly similar proposals which have been allowed in the vicinity of the Site. Despite the assertion that this list demonstrates that the use is appropriate here, the fact is that not one of the sites identified lies within a SSSI or AONB. As such, the submission of this document is at best unhelpful, if not directly misleading.

5. Conclusion

- 5.1. As set out in previous correspondence and echoed within this letter, the Application represents inappropriate development which should not be allowed on the Site. Whilst the applicant and their agent have tried valiantly to divert the Councils attention from these issues, given all the significant material considerations highlighted, it is apparent that the Application should be refused without further delay.

If we can be of any further assistance in this matter, please don't hesitate to contact the writer on the details above.

Yours sincerely

