

HMPC Ltd

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28 August 2020

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

For the attention of Mr Steve Weaver

Dear Mr Weaver

APP/20/00626

Variation of conditions 2 and 7 of Planning Permission APP/17/00207 (Construct vehicular track from the public highway to Tournembury Woods Estates for the purpose of avoiding agricultural operations in Tournembury Farm) to substitute a new plan "BJC Location and Site Plan (Plan no. H125/2020.07.03L/SP)" in lieu of approved plan "Site Plan and Section DN: A102"; and revised landscaping and tree planting proposals from those previously approved.

We act for The Tournembury Estate.

You will be aware of our concerns, raised in previous correspondence (copied below) that an access road to serve operations at Tournembury Woods is not being constructed in accordance with the planning permission secured by our client (reference APP/17/00207). We suggest as a consequence, the landowner has submitted the above variations solely to regularize the situation and avoid enforcement action.

The access is being constructed to serve our client's business operations and for no other purpose. It is most important therefore the route is appropriate for the intended use. The design and construction of the route required was set out in the original planning application following agreement with the landowner (now applicant) and as a replacement to the previous Prior Notification proposal (which was not to the required standard) reference APP/12/01333. The access was to be constructed to a minimum standard commensurate with its intended use as demonstrated in that submission.

Concern raised regarding non-compliance construction was raised through an exchange of emails as follows:

- 1) My email to Mr Weaver 11th May 2020 following previous correspondence regarding the construction of the access road.

Thanks for your email. I did not respond as I understood matters had already been overtaken by events as the landowner moved forward with the access construction. I believe as this was undertaken before the 4th May deadline the development is extant and we can rely on this in our retrospective application for the

change of use and in the enforcement appeal.

One matter I have noticed is the road appears to be constructed closer to the boundary hedgerow than anticipated and therefore is not necessarily in accord with the planning approval. Could you please let me know if this causes a problem for the planning authority? My client was the applicant in this case and wishes to be assured the road is constructed to the authority's satisfaction.

2) Email from Mr Weaver 14th May 2020

I write further to your email of 11 May below.

On the matter of the access construction, I am aware that construction activity commenced on or before 4th May and so would regard the planning permission APP/17/00207 as having been lawfully commenced and capable of being relied upon. Does this mean that your client is proposing to incorporate its use in the retrospective planning application after all?

With regard to the concerns expressed regarding the access road's alignment, as you may appreciate site visit activity has been severely restricted during the current pandemic and so I would in the first instance ask if you could forward any photographs of the work undertaken to date which demonstrate the alleged departure from the planning approval for the Enforcement Team's consideration.

3) My email in response 11th June 2020

Many thanks for clarifying the position with the access road. As you will be aware from the submission by my client, provision of a new access road to serve the venue is probably the best long-term solution to access, which will avoid potential neighbour conflict. My client is fully supportive of the road and when we submitted the application for the road initially, this was clearly set out.

At present however, my client has no permission to use the route for any purpose and therefore it is not possible to include the access in the current application. My client has a legal access to his land and uses and does not wish to be placed at a disadvantage with a neighbouring landowner over use of the route by being forced to utilise the new access road.

You will also be aware the application was made retrospectively and therefore the access being provided at a much later date, cannot form part of the proposal. I suggest to include the access in the application now, will be tantamount to a new application and there will a clear conflict with the CLUED. It is best the application and CLUED are determined on their merit and once this is decided, we can discuss how best to include the potential new access. Once the existing established access is formally recognised in planning terms, we can seek to link the site and new access road, by either legal agreement or a new application proposing a revised means of access to the venue.

I have asked my client to provide further information regarding the inconsistency between the approved plans and road construction which I will forward as soon as I have it.

You will be aware that it is desirous to secure a new access to serve our client's business operations (currently subject to a CLEUD and retrospective planning application) and we have indicated to you our willingness to secure an appropriate route on reasonable terms. The approach of the landowner in this case makes such a goal impossible. We must therefore continue our objection to the access until it is constructed to the standard of design approved through our original planning permission.

I attach for your information a statement indicating the degree of non-compliance with the planning permission, a series of photos of the construction works and a 'swept path analysis diagram' indicating the need for the access bell-mouth to be constructed to the original standard approved to provide for safe access and egress to the site and our client's operations.

The covering letter submitted with this variation states that completion of the access road will "provide an alternative route through to the Estate instead of the current route via the farmyard." As simply a route, such as statement is probably correct and confirms it is being constructed for no other purpose than to serve our client's operations. However, as a route to serve our client's operations it does not meet any of his requirements and is unsafe. It is not fit for purpose and cannot therefore be used by our client, who will continue to utilize his existing right of way, which is not extinguished by the proposal, until such time as a reasonable and appropriate alternative is made available.

Further the letter advises an Ash tree, for which there is permission for removal, is to be retained, but this will result in an unsafe access and egress onto the access road. A further reason why the route cannot be used by our client. The applicant provides no evidence to suggest the access is safe in terms of visibility or vehicular swept paths with the tree retained. Our evidence indicates the tree must be removed to provide safe access and approval was gained on this evidence (as further supplemented by the swept path analysis now provided).

The reduction in proposed landscape, purely for financial savings and with no consultation with our client for who the road is ostensibly being constructed, is unacceptable and threatens the longevity of the adjacent mature hedge, now immediately adjacent to the road, and the consequential loss of amenity for the adjoining land.

We strongly request this variation is rejected as it serves no sound planning purpose.

Yours faithfully,



HMPC Ltd

On behalf of Tournbury Woods Estate Estate

28th August 2020