

From: Chichester Harbour Conservancy
Ref: APP/23/00076 - Tournerbury Woods,
Tournerbury Lane, Hayling Island



CHICHESTER
HARBOUR
CONSERVANCY

Contact: info@conservancy.co.uk

Planning Services
Havant Borough Council
Public Service Plaza, Civic Centre Road,
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29 August 2023

Dear Sir / Madam,

APP/23/00076 - Tournerbury Woods, Tournerbury Lane, Hayling Island

Founded by its own Act of Parliament in 1971, Chichester Harbour Conservancy is a unique organisation as the only Statutory Harbour Authority with responsibility for an Area of Outstanding Natural Beauty (AONB). Whilst the first function of the Conservancy focuses on safe navigation, the second includes the conservation of nature, within the Chichester Harbour Amenity Area, as defined in the 1971 Act (see Appendix 1). Tournerbury Woods is entirely within the Amenity Area and therefore the site is under the Conservancy's jurisdiction, hence our strong interest and deep concern in this case.

The Conservancy has been a long-standing objector to this development due to the obvious incompatibility of operating a wedding venue within a Site of Special Scientific Interest (SSSI) – the only such example in the United Kingdom (see Appendix 2). SSSIs are the basic building blocks of site-based nature conservation legislation and most other legal nature/geological conservation designations in the UK. The intentional or reckless damage of a SSSI's features or disturbance of its wildlife, is a *prima facie* offence.

Historical satellite imagery (publicly available using Google Earth) reveals the extent of tree felling that has taken place in the SSSI for more than a decade to create space for the wedding venue, with a local expert estimating that some 175 trees have disappeared despite a Woodland Tree Preservation Order covering the whole estate (ref. 448). It is incomprehensible to the Conservancy that the developer has escaped prosecution by the authorities over this matter. That the Officer's recommendation for the Planning Committee meeting of 31 August 2023 is to regularise this development by granting permission entirely regrettable, illegal and profoundly wrong.

With regards to the current application and despite our conservation concerns, the proposed access arrangements do not make any sense either, for the following reasons.

The new track across the western side Tournerbury Farm is constructed and consented. However, it does not yet link to the track to the north-west of Tournerbury Woods, and the development application lacks any engineering plans.

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The Planning Committee must see professional plans for these proposed capital works. Passages of text, maps, and photographs are insufficient from which to make a reasoned decision.

Furthermore, the initial response of Natural England states:

*"We note this application differs to the previous application with a different access route proposed through the SSSI. The proposals include construction of a new track which joins the SSSI in the north western corner meeting an existing track which is located within the SSSI along the northern boundary. The existing track is described as 5m wide however no survey of this section is included within the supporting ecological appraisal. It is our understanding that the surface of the existing track is a soft woodland floor bordered by woodland bank. It is also not certain how this track is proposed to be used, e.g. is it intended for vehicle use or pedestrian only. **We have concerns about the use of this track for use by coaches and other vehicles, potential impacts from vehicle use include; tree root damage, soil compaction, damage to the tree canopy and vegetation.** Clarity is required as to how this existing track is to be used and if any works required to upgrade this track to make it passable for vehicles. Also if any vegetation or tree canopy along the track will be removed. **Natural England would not support importation of materials into the SSSI to upgrade the track.**"* (Public Pack, page 30, emphasis added, 22 August 2023).

It says the track to the north-western end of Tournurbury Woods is unsuitable for coaches and other vehicles in its current state and Natural England will not support the importation of materials to upgrade the track. The means it is not feasible to use the north-western access track as it cannot be upgraded. It is unsuitable for coaches and other vehicles and due to the SSSI designation it can never be upgraded to meet a standard whereby it would be fit for purpose.

If this development application is unrealistic as it cannot be built-out to serve its purpose and keep within the limits of SSSI designation.

As of time of writing, according to the published email from *Thrings* solicitors (8 August 2023) a private agreement between the clients has not yet been reached.

In the absence of an agreement to legally move the Right of Way from the existing route through the farmyard to the new north-western route, the Planning Committee is effectively being asked to approve a development application based on goodwill pending an agreement between these parties at some point in the future? The Officer recommendation indicates this would be a reasonable step. However, we think it is presumptuous and may result in a situation whereby permission is granted for the business, yet access issues to and from the site remain.

The proposed north-western track is without a revised Right of Way legal agreement between the interested parties.

In short, the proposed north-western track is an interesting concept, but no more than that at present. Without engineering plans that have been considered by Natural England and others and a legal agreement between the interested parties, the development application is premature and should be refused.

Conditions

The Officer's recommendation is: *"The use of the site as a wedding and events venue shall not commence until the access route to the venue from Tournerbury Lane, as shown on the approved 'Location Plan with access to Public Highway and camping area (green outline)' dated 20/01/2023 has been completed and made available for such use."* (Public Pack, page 52, 22 August 2023).

If planning permission is granted on 31 August 2023, it is unclear whether the existing forthcoming wedding bookings will be honoured, or whether they will be postponed or cancelled.

One would assume, if permission was granted, that the developer will appeal to have this condition removed through a Section 73 application. Likewise, the proposed condition that the venue cannot be used unless it is accessed by the north-western route could also be appealed through a Section 73 application.

The Conservancy is concerned that if this case is permitted the likelihood is that the residents of Tournerbury Farm will continue to be disturbed by c.125,000 vehicular movements every year.

Visitor Management Strategy

The Council must consider the implications of any Visitor Management Strategy. Any supervision will likely place an intolerable level of burden on the Council. As such, it is unrealistic and thus planning permission should be refused. A condition is invalid if it cannot realistically be enforced.

Precautionary Principle

The precautionary principle is an approach to risk management. If it is possible that a given policy or action might cause harm to the public or the environment and if there is still no agreement on the issue, the policy or action in question should not be carried out. Since we do not know how the north-western track is going to be upgraded without damaging the SSSI at the same time, it should not take place.

Chichester Harbour Area of Outstanding Natural Beauty (AONB)

An AONB is a statutory designation stemming from the Countryside and Rights of Way Act 2000, which applies to England and Wales. The designation means that local authorities have: "a permissive power to take action to conserve and enhance the natural beauty of the AONBs in their areas."

An AONB is a nationally important designation. The Council should be taking action to conserve and enhance this landscape, in accordance with their clear legal responsibility.

Supporting a development within the AONB, and within a SSSI and Special Protection Area (SPA) based on a mitigation plan lacking credibility is profoundly disappointing. In this case, the mitigation proffered is also complex, probably undeliverable and so not credible. As such, it goes against both the letter of the law and its spirit, undermining why these special protected landscapes are designated in the first place,

Recommendation from the Conservancy

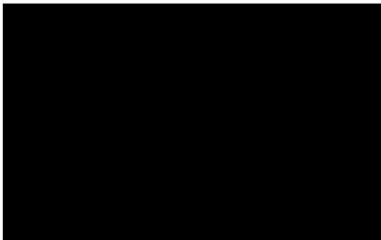
The Conservancy is of the opinion that the protracted decision-making over this application has had a detrimental impact on the integrity of the site, wildlife and the welfare of the neighbours.

We therefore urge the Planning Committee to:

- Refuse the application due to inadequate access to the site, whether by the existing Right of Way, or the via proposed revised Right of Way.
- Direct Officers to issue an immediate Stop Notice to the wedding business since it is, and has been for many years, and an unauthorised development.
- Direct and support Natural England with an enforcement case to investigate possible contraventions of SSSI legislation and the 1997 Management Agreement (dated 17/4/1997) – the only legally recognised version of this document.

Given the convoluted history of this application, we strongly feel this is the only right and proper course of action.

Yours sincerely,

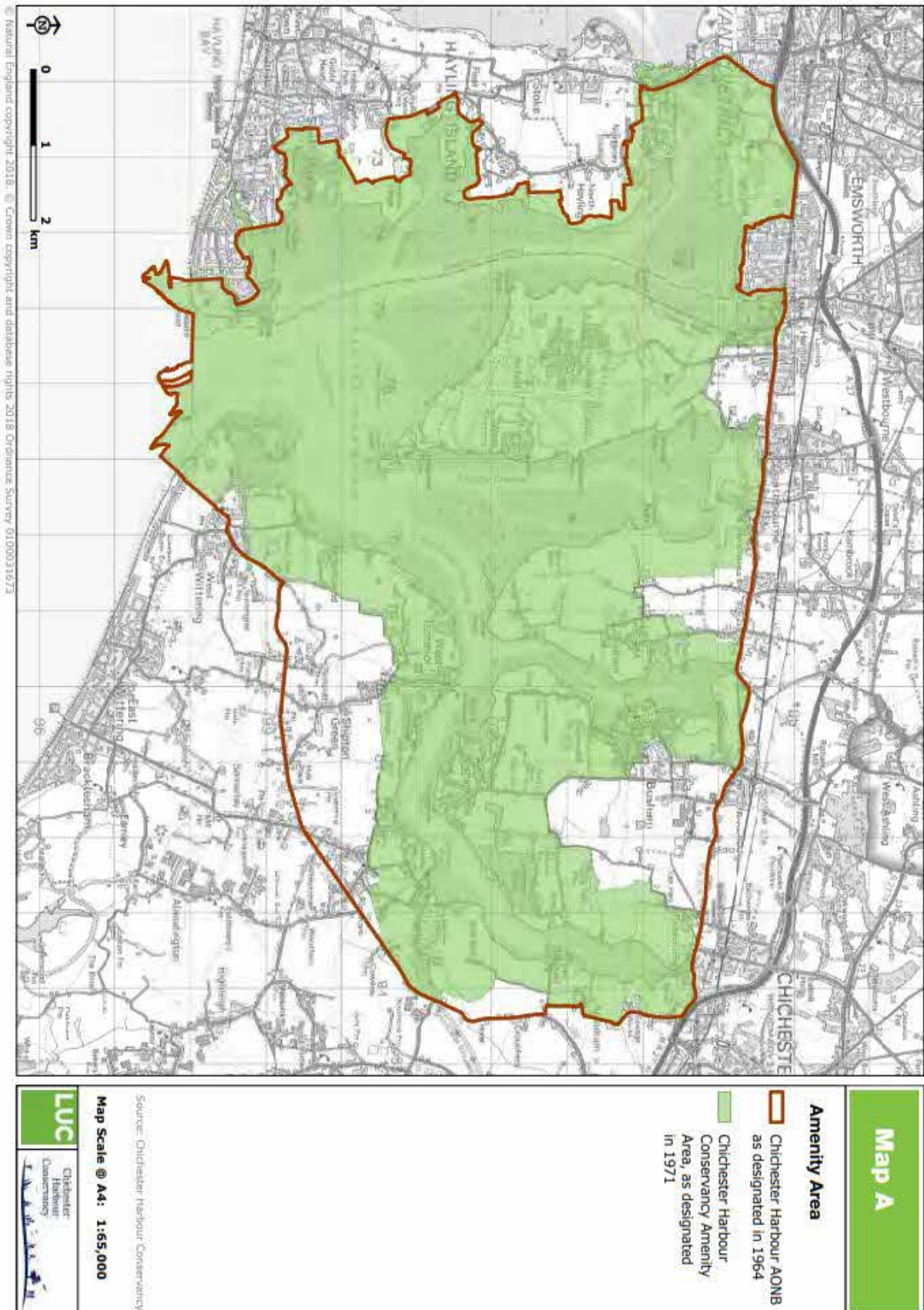


Matt Briers CBE
Chief Executive Officer

Annexes:

- A. Chichester Harbour Amenity Area
- B. List of Operations Likely to Damage the SSSI (Source: Natural England)

Annex A: Chichester Harbour Amenity Area (as defined in the 1971 Act).



Annex B: List of Operations Likely to Damage the SSSI (Source: Natural England)

Operations likely to damage the special interest

Site name: Chichester Harbour

OLD1003245

Ref. No.	Type of Operation
1	Cultivation, including ploughing, rotovating, harrowing, and re-seeding.
2	The introduction of grazing and changes in the grazing regime (including type of stock, intensity or seasonal pattern of grazing and cessation of grazing).
3	The introduction of stock feeding and changes in stock feeding practice.
4	The introduction of mowing or other methods of cutting vegetation and changes in the mowing or cutting regime (including hay making to silage and cessation).
5	Application of manure, fertilisers and lime.
6	Application of pesticides, including herbicides (weedkillers).
7	Dumping, spreading or discharge of any materials.
8	Burning.
9	The release into the site of any wild, feral or domestic animal*, plant or seed.
10	The killing or removal of any wild animal*, including pest control.
11	The destruction, displacement, removal or cutting of any plant remains, including tree, shrub, herb, hedge, dead or decaying wood, moss, lichen, fungus, leaf-mould and turf.
12	The introduction of tree and/or woodland management+ and changes in tree and/or woodland management+.
13a	Drainage (including the use of mole, tile, tunnel or other artificial drains).
13b	Modification of the structure of watercourses (eg rivers, streams, springs, ditches, dykes and drains), including their banks and beds, as by re-alignment, re-grading and dredging.
13c	Management of aquatic and bank vegetation for drainage purposes.
14	The changing of water levels and tables and water utilisation (including irrigation, storage and abstraction from existing water bodies and through boreholes).
15	Infilling of ditches, dykes, drains, ponds, pools, marshes or pits and dune slacks.
16a	The introduction of freshwater fishery production and/or management and changes in freshwater fishery production and/or management, including sporting fishing and angling.
16b	Coastal fishing or fisheries management and seafood or marine life collection, including the use of traps or fish cages.
17	Reclamation of land from sea, estuary or marsh.
18	Bait digging in intertidal areas.
19	Erection of sea defences or coast protection works, including cliff or landslip drainage or stabilisation measures.
20	Extraction of minerals, including shingle, sand and gravel, topsoil, subsoil, shells and spoil.
21	Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
22	Storage of materials.
23	Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.

- 24 Modification of natural or man-made features, clearance of boulders, large stones or loose rock and battering, buttressing or grading rock-faces and cuttings, infilling of pits, quarries and re-grading of dune and beach land forms.
- 26  Use of vehicles or craft likely to damage or disturb features of interest.
- 27 Recreational or other activities likely to damage features of interest including sand dune and beach land forms.
- 28 The introduction of game or waterfowl management and changes in game and waterfowl management and hunting practice.

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- * 'animal' includes any mammal, reptile, amphibian, bird, fish or invertebrate.
- + including afforestation, planting, clear and selective felling, thinning, coppicing, modification of the stand or underwood, changes in species composition, cessation of management.