

‘Change of Use of land and woodland (retrospective) as a wedding and events venue...

Construction of vehicular track from the public highway to the proposed wedding and events venue at Tournerbury Wood, Tournerbury Lane, Hayling Island’

CONTEXT AND GENERAL OBJECTIONS

Planning application APP/23/00076 is a re-submission of APP-21-01310 with a different access route. As this is substantially the same application apart from the new access route (aka ‘Northern track’) I would wish to first repeat my objections from the earlier application, viz.

- The applicant has repeatedly broken the terms of the SSSI management agreement with Natural England since 2013 by bulldozing tracks, car parks and embankments, removing trees and infilling watercourses and ponds. The applicant has wantonly altered the special interest of the site to create a parkland which has become a desert to the species that should thrive here, notably the herons and bats.
- Although Natural England has failed so far to enforce the breaches of the Management agreement, the matter is under review at national level because the management agreements both a) clearly prohibit the destruction that has occurred of the original habitat and b) consent loopholes the applicant is depending on have lapsed many years ago
- The applicant has no Environmental Impact Regulations Screening Decision for the developments at the site, which have exceeded the thresholds for action since 2013-14 as this is agricultural land.
- There have been extensive breaches of Havant Tree Protection Order 448 and the Natural England management agreements, which prohibit tree cutting or the removal of buttes and root plates if trees fall naturally.
- The applicant has breached a range of previous planning conditions, notably APP-01-62340, and I am still waiting for a report from the council Enforcement Team to which these have been reported.
- There is no other permanent wedding venue in England on land that is designated as an SSSI despite the applicant trying to find one
- In Policy CS11 the council has stated that development will not be permitted that would cause harm to [nature conservation] designated interests (as at this site) and under policy DM9 it has stated that development will only be permitted in the coastal zone when it ‘has no harmful effects on nature conservation within the Chichester Harbour SSSI’.
- Councillors have not been made aware of a large amount of evidence of damage at the site and internal conflict over Natural England’s policy on enforcement as this has been forced out of them by repeated Freedom of Interest requests.

NEW ACCESS ROUTE

Tournerbury Estate wish to surface and widen a track inside the northern edge of Tournerbury Woods (‘Northern track’) that lies within the SSSI to the standard of a road that can accommodate coaches. However, this work is specifically prohibited within all versions of the 1997 Site Management Statement and would also breach the ORNECs for the Chichester Harbour SSSI as no consent exists for this work. This new track is required for a venue without planning permission,

that is subject to an Enforcement Order by Havant Borough Council and for which the developer has no legal right of access to the adjoining road.

The key omission from this new application is that there are no engineering drawings or specifications for the road that needs to be constructed across the northern edge of the site in the application. The application form simply references the earlier planning consent in APP/17/00207:

Application form: Materials/ Vehicle access and hard standing:

‘Proposed materials and finishes. As indicated on the submitted drawings Access road: details of materials and finishes submitted to the Council as part of the discharge of condition 4 on application APP/17/00207’

These attachments are missing from the planning portal:

PRE 05918_ELEVS1

PRE 05918_ELEVS2_

PRE 05918_ELEVS3_

PRE 05918_TOPO_500SHEET_REV_C

Application form: Pedestrian and vehicle access, Roads and Rights of Way:

‘The route proposed in this application is that approved under planning permission APP/17/00207, as amended by APP/21/00536, implemented and partially completed (application APP/20/00626 withdrawn)’

The following maps and drawings of the previously approved track in APP/17/00207 are posted on the portal under APP/23/00076:

- LOCATION_PLAN_FOR_NEW_ACCESS_APP1700207-1729629.pdf (APP/17/00207) 2017
- ORIGINAL_APPROVED_BLOCK_LAYOUT_PLAN-1729616.pdf (APP/17/00207) 2017
- PLANNING_STATEMENT_-JUSTIFYING_AND_DESCRIBING_AMENDED_ACCESS_SCHEME-1729594.tif (APP/17/00207) 2017
- PLAN_AND_SECTIONS_APP1700207-1729586 (APP_23_00076) 2017
- COACH_VEHICLE_TRACKING_COPY-1729583.pdf (APP-21-00536) 2021

The specimen coach dimensions require much larger widths and turning circles than the existing ‘Northern track’ within Tournerbury Woods.

The route approved in the previous applications does not extend into Tournerbury Woods, and thus the application is incomplete without new drawings. The reference to condition 4 of the APP/17/00207 application commits the applicant to the specifications of the new track as being 4.5m wide with 6m passing places, and the existing track is much narrower than this with overhanging branches, meaning that extensive alterations are required to the existing track.

In order that officers and councillors can understand the shortfall in the current specification of the Northern track, I attach drawings I have made extracted from the applicant’s own topographic survey and other official sources.

MISDIRECTIONS ON THE NORTHERN TRACK AFTER NATURAL ENGLAND HAVE GIVEN ADVICE

It is important that Natural England’s directions are carefully followed. Note the following sequence of communications:

Natural England's consultation response on 27/2/2023: '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'

[CONSULTEE_RESPONSE_-_NATURAL_ENGLAND-1733966.pdf]

The applicant's consultants Holbury responded by stating the following on 02/03/2023:

- no further works are required to make the track passable and useable to vehicles. The track exists and is fully available for vehicular use and is in regular use within the estate at the current time.
 - no materials will be imported to the woodland for any works to upgrade the existing track, as no works are necessary. The existing track is fit for purpose and does not require upgrade.
 - no works to trees or other adjacent vegetation is required for use of the track by vehicles.
- [TECHNICAL_NOTE-1736504.pdf 1.6]

Natural England responded to these assurances as follows on 27/03/2023

'Provided that Havant Borough Council are satisfied the above statements can be suitably secured with any planning permission, then Natural England considers that the proposed use of this track will not damage or destroy the interest features for which the site has been notified and has no objection on this aspect of the application.'

[APP_23_00076-CONSULTEE_RESPONSE_-_NATURAL_ENGLAND-1738265.pdf]

The consultants have misdirected Natural England, as I will show in drawings below. However, they have also contradicted their own advice in the following document where they show that

- works are required to remove a bank (Photo 5)
- materials will have to be imported into the Woods (Photo 1 and 3)
- a ditch will have to be infilled and the drainage culverted (photo 3)

TECHNICAL_NOTE_INFORMATION_PROVIDED_IN_RESPONSE_TO_OBJECTION_RECEIVED_BY_HBC-1761101.pdf

In addition trees will have to be removed and canopy removed (see below). These works are prohibited by the Natural England management agreement, which has not been modified or withdrawn. As such, Natural England's requirements in their advice of 27th February cannot be met and this proposal will breach the management agreement for Tournurbury Woods. As this is a legal consenting document it must be upheld by the planning process. Any approvals Natural England may give on the Northern are dependent on their conformance with the 1997 SMS management agreement, and it is clear that they are not.

The consultants have also provided extensive research into the origin of the earth bank in the following document:

APP_23_00076-TECHNICAL_NOTE_-_ADDITIONAL_INFO_FOR_NATURAL_ENGLAND-1828213.pdf

None of this material is relevant to the application, as the consultants have already conceded that the works are not conformant with Natural England's directions. Details are given below of a number of other impacts of upgrading the new track that the consultants have failed to draw to Natural England's attention.

The new Northern track depends entirely on the existing track south from Tournurbury Lane.

However, the applicants agent calls existing track's standing into question:

'Concern remains that implementation of permission APP/17/00207 as amended is not lawful, as it fails to comply with all conditions agreed as part of this application, including construction methodology. Formal implementation of the new permission following the discharge of any conditions precedent and with demonstrable compliance to drawings, materials and conditions, would not only supersede the original permissions, but also remove any question of unlawfulness'.

APP_23_00076-LAND_OWNERS_AGREEMENT_FOR_NEW_ACCESS_ROUTE-1744289.pdf

Note that the application provides no 'drawings, materials and conditions' for the Northern track upgrades.

Finally, note that although the consultants do not believe that the ditch lying between the existing track and the new Northern track is a drainage ditch as I do, the Flood Authority does require a consent:

Flood Authority 'We note however the intension to extend the existing surface water runoff drainage towards the ditch at the northern end of the site. Please note that the connection into the ditch is likely to require Ordinary Watercourse Consent. This is separate from planning permission and will need to be obtained from Hampshire County Council before the connection is made.

APP_23_00076-CONSULTEE_RESPONSE_-_LOCAL_LEAD_FLOOD_AUTHORITY-1733786.pdf

UPGRADES TO THE NORTHERN TRACK REQUIRED TO CARRY WEDDING VENUE TRAFFIC

1. Volume and type of material required to cross a drainage ditch inside Tournerbury Woods
2. Widening of existing track and felling of adjacent trees
3. Drainage work required at the eastern end of the track
4. Total volume of material to be imported into Tournerbury Woods

OFFICIAL SOURCES USED

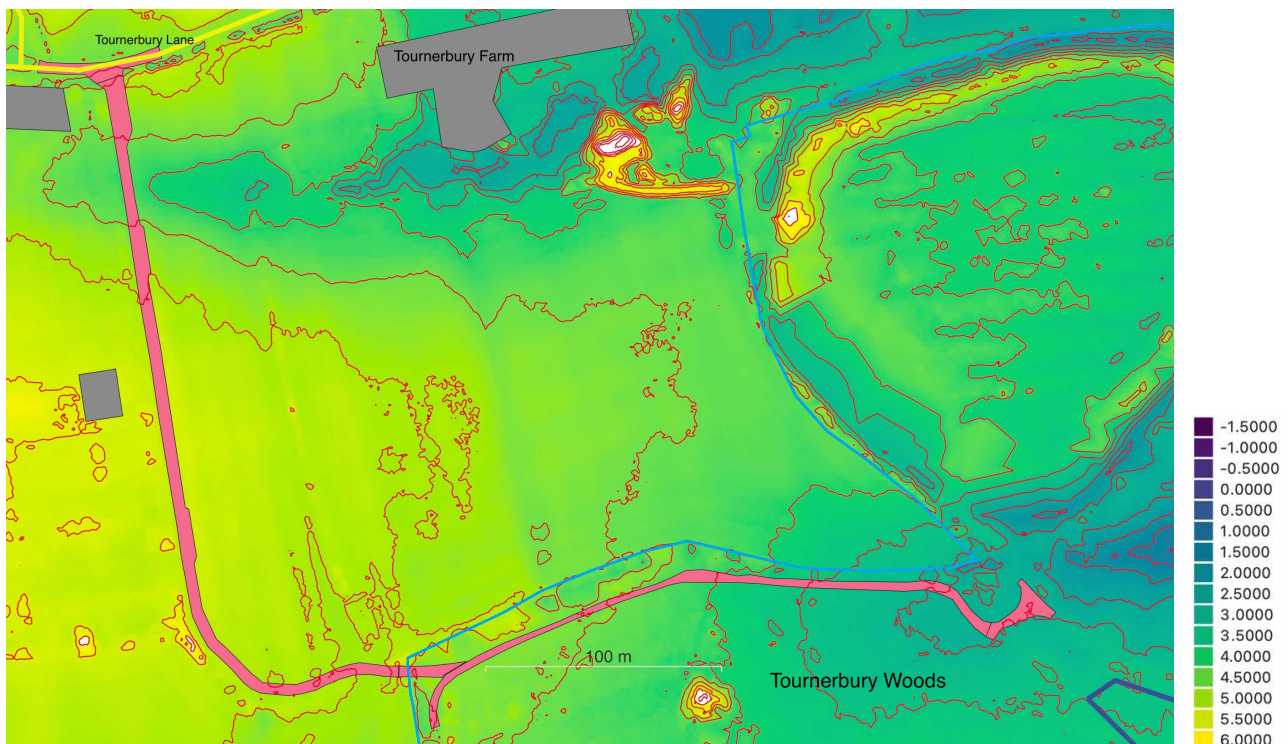
1. Topographical survey map provided by Tournerbury Estate for 2018 planning application produced by Shaw Colegate land and building surveyors at an original scale of 1:500
Name as uploaded on the Havant planning portal: APP_18_00943-
TOPOGRAPHIC_SURVEY__WITH_PARKING_ANNOTATED_-1142574.pdf
2. Plan of the new track south from Tournerbury lane to the NW corner of Tournerbury Woods by BJC Planning at a scale of 1:1250
Name as uploaded on the Havant planning portal: APP-21-00536 LOCATION_PLAN-1491434
3. Digital Terrain Model DTM_F0217936_20200919 provided by the Environment Agency on Defra Survey Data Download site at <https://environment.data.gov.uk/> dated 19/09/2020 with 1m spatial resolution at 5cm relative height accuracy- contours are derived from this data.
4. SSSI boundary from Defra Data Services Platform Sites of Special Scientific Interest (England) created on 14/09/2017.

Context

The contour map below shows the shape of the land surface from Environment Agency 2020 LIDAR data overlaid with:

1. Dimensions of the track approved from the planning consent in APP-21-00536 from Tournbury Lane to the NW corner of Tournbury Woods taken from engineering drawings and showing the as-built form.
2. Dimensions of the existing track from NW corner of Tournbury Woods to the junction with the existing track over The Bury to Tournbury Farm taken from a detailed topographic map drawn up for Tournbury Estate.

The 25m section of track crossing the boundary of Tournbury Woods (blue line) between 1 and 2 above would need to be constructed to connect these two sections of track (see below).



The map shows heights above sea level with yellow colours being higher ground and blue colours being low ground. The height legend is shown to the right of the map: the Environment Agency quote the relative height error to be $\pm 5\text{cm}$.

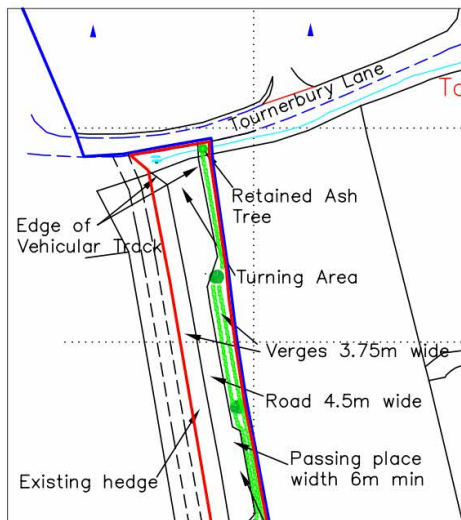
The track in 2 above runs downhill from the boundary of Tournbury Woods over its length to the junction with the existing track over The Bury to Tournbury Farm, which is located in a natural depression.

The edge of the unsentenced wedding venue without planning permission is shown as a dark blue line in the bottom right of the map.

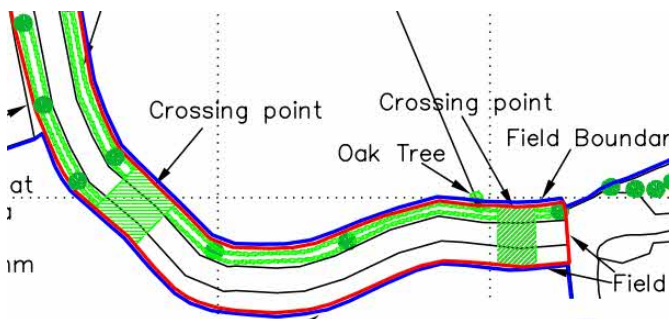
The large circular shape on the right of the map is the Tournery Bury Roman hillfort, which is a scheduled Ancient Monument and is crossed by the current access road to the wedding venue.

1. Volume and type of material required to cross drainage ditch inside Tournerbury Woods

The plans of the track south from Tournerbury Lane part-constructed under the planning consent in APP-21-00536 show that it has been built with a width of 4.5m to within c.5m of the boundary of Tournerbury Woods (see below). The track has verges of 3.75m and two passing places at 6m track width, which is the specification laid down by planning requirements. There is swing space for coaches to turn in at the entrance and height clearance for a 'National Express' size coach.

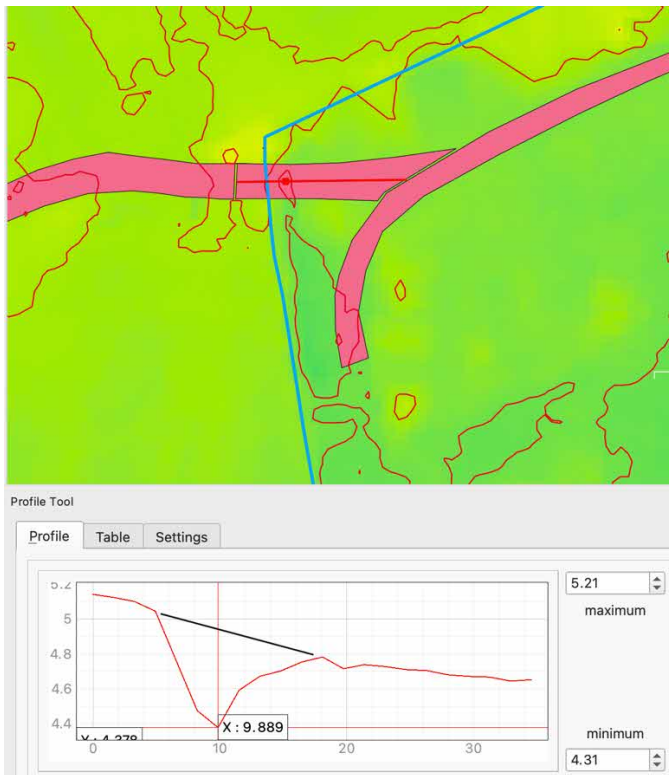


This track has not yet been finished to the approved standard as no planning permission has been given for any activity or venue in Tournerbury Woods, which is a Site of Special Scientific Interest.



This approved track stops 9.2m short of the boundary with Tournerbury Woods as design decisions would need to be made at the boundary. Just inside the boundary there is a drainage ditch that would need to be infilled by material with a culvert to allow the drainage off the surrounding fields to continue to flow down to My Lords Pond. Such works are expressly forbidden in the SMS management agreement between Natural England and the applicant for planning permission, and a breach of the Operations Requiring the Consent of Natural England (ORNECS) for the Chichester Harbour SSSI.

The track within the woods (the curved red section to the right of the blue boundary line in the map below) was surfaced by gravel in 2013 despite a prohibition of the upgrading of 'earth tracks' in the SMS management agreement of 1997. However, in the ensuing 10 years the layer of gravel has been overgrown by turf, somewhat mitigating the damage done in 2013 in conservation terms. This would now need to be removed, and in practice the gravel surfacing would have to be replaced and renewed as new surfacing cannot be laid over turf. This track is only 3-4m wide and does not match specification for the approved track (see map below) with no passing places.



A 25m section of new track would need to be constructed to link the approved track from Tournerbury Lane to the existing track within Tournerbury Woods. This new section of track crosses the drainage ditch (which was full of water draining off the fields in April 2023 -see photo).

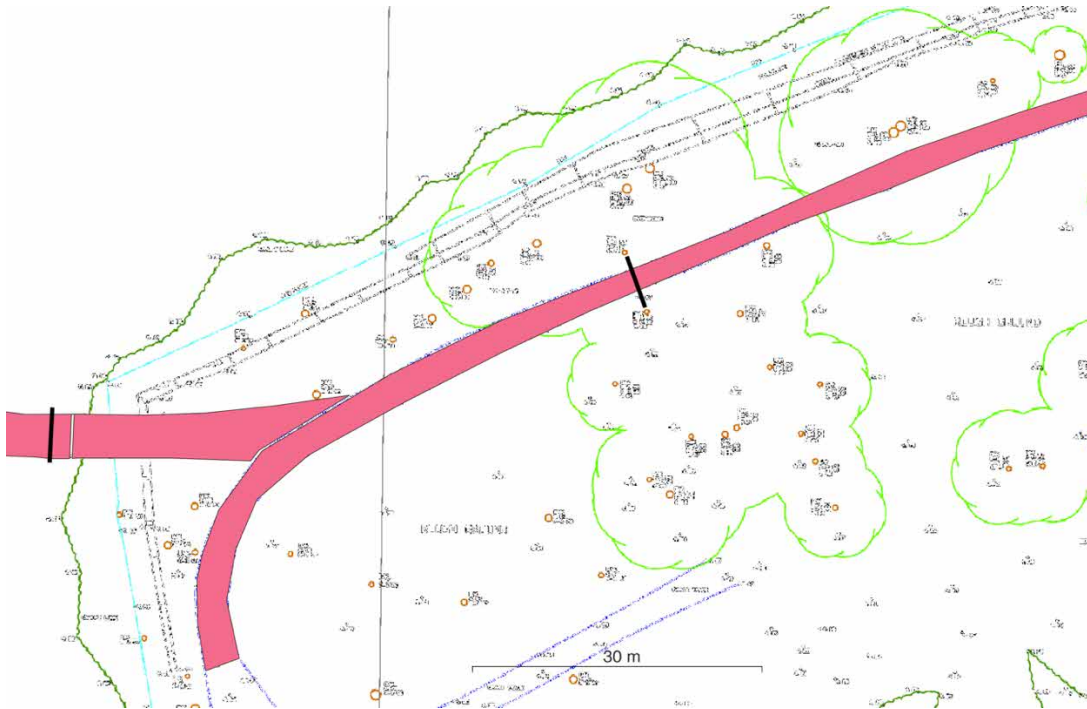
By laying the section of new track over the contour map derived from the Environment Agency LIDAR data we can produce a long profile of the current land surface plus the new section of track across the drainage ditch. The profile along the red line within the new track section shown above runs from west to east (left to right), and the vertical section in the long profile showed by the red line is at the red dot on the line at the point of maximum depth inside the boundary of the woods.

The ditch is approximately 0.5m deep, but the infill required to bring the track at a smooth gradient across the ditch and its inclined sides extends for 12m at 25cm depth across the design width of 4.5m. The volume of infill will therefore require 18 m³ of material, all of which would need to be imported into the Woods as all of the infill is required on the Tournerbury side.



2. Widening of existing track and felling of adjacent trees

The existing track within Tournerbury Woods was mapped by the applicant's own surveyors in 2018 and published on the planning portal (see sources above). This map delineates the track widths and the tree positions in the NW corner of Tournerbury Woods.



By overlaying the existing track dimensions on the original map it can be seen that in places the track is only 3m wide. The addition of 1.5m of extra width to a depth of 0.75m along tens of metres of the existing track will entail the import of another $\sim 100 \text{ m}^3$ of road material to enable the road specification to match the approved track from Tournerbury Lane.



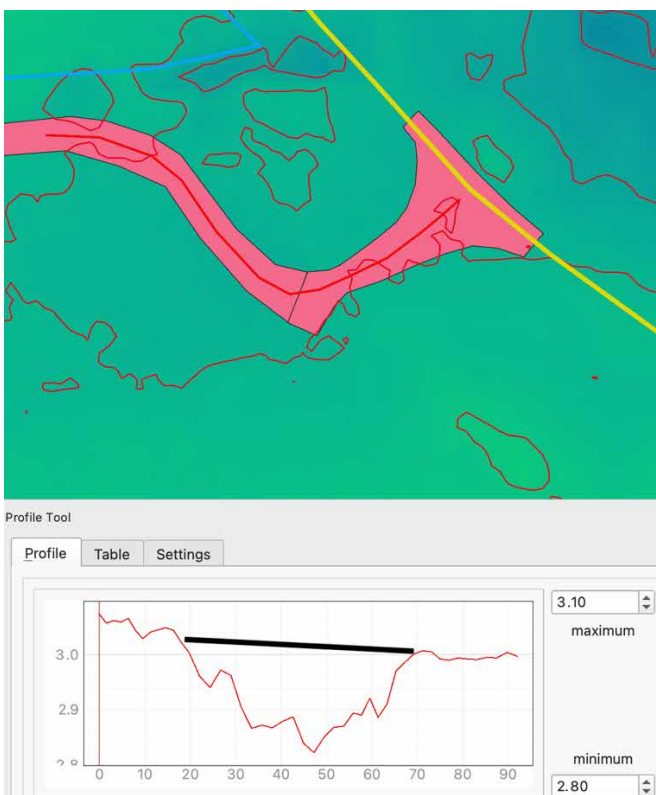
In one place (see X above) two trees trunks are only 5.4m apart and the track is at its narrowest at c. 3m, with overhanging branches. To widen the track at this point would mean a new surface within 0.5m of these 2 trees, which would clearly be harmful as per advice in the arboriculturalist's report for APP-21-00536 (TREE_REPORT_-_TOURNERBURY_WOODS-1488868). The only alternative would be to fell these trees, which is prohibited by Havant Tree Protection Order 448.

3. Drainage work required at the eastern end of the track

At the eastern end of the existing track within Tournerbury woods, the track makes an S-bend into a natural depression that lies around 20 cm below the level of the surrounding land. This section of track floods whenever there is heavy rain and the track becomes impassable (see photo taken in April 2023 below, with the track marked by the white line).



By laying the section of new track over the contour map derived from the Environment Agency LIDAR data we can produce a long profile of this section of the track (marked in red on map and profile) and show the surface that would be required to raise the road surface to the 3m level that would prevent it flooding. This would involve the infill of 50m of additional road material at an average of 15cm across the design width of 4.5m requiring import of 34 m³ of additional road building material.



4. Total volume of material to be imported into Tournerbury Woods for track upgrading

Works	Location	Volume
Ditch infill	NW end	18 m ³
Track widening	Middle section of track	100 m ³
Track raising	Just before the eastern junction	34 m ³
		152 m ³