

Grahame Phillips / A.G Phillips & Sons Ltd – Non-compliance and breach of Planning Control – APP/17/00207 & Objection to APP/20/00626

A) Non-compliance and breach of Planning Control – APP/17/00207

The alternative access to Tournerbury Woods has been built in contravention of, and is non-compliant with, the Grant of Planning Permission issued by HBC on 4th May 2017.

The grant lays out the following conditions –

"The permission is subject to compliance with:

- (i) The plans and other documents submitted with regard to your application; and***
- (ii) The following conditions:***

Conditions:

- 1 *The development must be begun not later than three years beginning with the date of this permission.*

Reason: *To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

- 2 *The development hereby permitted shall be carried out in accordance with the following approved plans:*

Plan showing new access to Tournebury Woods - P1

Location Plan - DN: A101

Site Plan and Section - DN: A102

Reason: *- To ensure provision of a satisfactory development.*

- 3 *No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all drainage pipes proposed have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as Our Ref: APP/17/00207 are thus approved by the Authority.*

Reason: *To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.*

- 4 No development hereby permitted shall commence until a specification of the materials to be used for the surfacing of the track has been submitted to and approved in writing by the Local Planning Authority. The track hereby permitted shall not be brought into use until the implementation of all such hardsurfacing has been completed in full accordance with that specification.

Reason: In the interests of the amenities of the locality and having due regard to policies CS11.1, CS11.4, CS16, and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

- 5 All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Local Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing hedges or hedgerows and having due regard to policies CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 6 The development shall be carried out in strict accordance with the Tree Report and Tree Protection Plan received on 3/5/17 unless otherwise agreed in writing the Local Planning Authority.

Reason: To ensure the protection of trees on and adjacent to the site and having due regard to policies CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 7 No development shall commence until details of the species of trees to be planted along the access track hereby permitted and a timescale for their planing, shall be submitted to and approved in writing by the Local Planning Authority. Any trees or shrubs planted which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted. Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16, DM8 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework. 8 No percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) to be undertaken during the bird overwintering period (i.e. October to March inclusive).

Reason: *In the interests of the nearby environmentally sensitive areas and having due regard for Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework."*

The construction of the access track which has been undertaken by Mr Grahame Phillips of A.G Phillips & Sons Ltd, between May to August 2020, contravenes the Grant of Planning Permission by HBC in May 2017 and has created a non-sustainable track that is not fit for purpose, and fails to be a satisfactory development for the following reasons:

- 1) **Position of track - Contravention A.** The approved plan A102 shows a grass verge of 3.75 meters from the existing hedgerow on the Western boundary running along the north to south run of the track. This was specified by the applicant so as to safeguard the retention of the existing hedgerow and existing trees along the western boundary as well as 'future-proofing' by allowing enough room for acoustic fencing to be erected and further hedging (to hide the acoustic fencing) to be added in future years, if over time, the residents on the eastern side of Laburnum Grove had cause to complain about vehicular noise over the track. Mr Phillips has not complied with creating a 3.75 meter grass verge on the western side of the new track and is in contravention of compliance with both the submitted plans and the approved Tree Report and Tree Protection Plan which states, in 'Arborcultural Impact Assessment' on Page 11 - *"The positioning of the track will be 3.75m from the existing boundary line to allow a sufficient distance from the trees root protection areas."* The 3.75 meter grass verge is clearly annotated on the submitted and approved 'Site Plan and Section – A102' and further on the 'Location and Site Plan H125/2020.07.03L/SP' as submitted on behalf of Mr Phillips by Michael Knappett of Brian Jezeph Planning Consultancy (BJC) for APP/20/00626. Please see attached photographs to reference this contravention.
- 2) **Position of track - Contravention B.** The position and location of the track at its southern end (where it meets Tournurbury Woods) is clearly laid out in the following submitted plans –
 - I. 'Site Plan and Section – A102',
 - II. 'Location Plan – A101',
 - III. 'Tree Report',
 - IV. 'Plan showing proposed new road',
 - V. 'Discharge of condition site layout plan with Drainage & Hedging', (submitted by Mr Phillips on 13/02/2020),
 - VI. 'Location and Site Plan H125/2020.07.03L/SP' as submitted on behalf of Mr Phillips by Michael Knappett of Brian Jezeph Planning Consultancy (BJC) for APP/20/00626.

All of the above plans show the track is due to run along the northern side of the existing hedge and tree line that separates 'Long meadow' (where the track is

situated) and 'Creek field' to the south, with the track adjoining Tournembury Woods on the woods northern boundary. The track as now constructed has substantially and materially deviated from this route, swinging south east through the treeline from 'Long meadow' and into 'Creek field' by 45 degrees, to adjoin Tournembury Woods on its western boundary. This is not sustainable, practicable or usable as it creates a vehicular blind spot, unless existing hedgerow and trees are removed. It also cuts right through the Root Protection Areas (RPA's) of Trees T14 and T15. Please see attached photographs to reference this contravention.

- 3) **Position of track - Contravention C.** The approved plan A102 shows a grass verge of 3.75 meters from the existing hedgerow on the southern boundary running along the west to east run of the track. This was specified by the applicant so as to safeguard the retention of the existing hedgerow and existing trees along the southern boundary as well as 'future-proofing' by allowing enough room for further hedging and tree planting to be added in future years. Mr Phillips has not complied with creating a 3.75 meter grass verge on the southern side of the new track and is in contravention of compliance with both the submitted plans and the approved Tree Report and Tree Protection Plan which states, in 'Arborcultural Impact Assessment' on Page 11 - *"The positioning of the track will be 3.75m from the existing boundary line to allow a sufficient distance from the trees root protection areas."* The 3.75 meter grass verge is clearly annotated on the submitted and approved 'Site Plan and Section – A102' and 'Location and Site Plan H125/2020.07.03L/SP' as submitted on behalf of Mr Phillips by Michael Knappett of Brian Jezeph Planning Consultancy (BJC) for APP/20/0062. Please see attached photographs to reference this contravention.
- 4) **Build methodology – Contravention D.** Construction using 'no dig areas' around Trees Root protection Areas (RPA's) T1, T3, T11, T13, T14 & T15 ignored. Please see photographs to reference this contravention.
- 5) **Build methodology – Contravention E.** Construction using a small *"3 ton digger to be used for spreading delivered materials and work backwards only within the 4m track area and will not travel within the 3.75m RPA"* – ignored. Please see photographs to reference this contravention.
- 6) **Build methodology – Contravention F.** Arborcultural report *"Method statement"* ignored in its entirety. Please see photographs to reference this contravention.
- 7) **Build methodology – Contravention G.** Arborcultural report states *"Ground levels within the protected areas must be maintained and not altered. No dig construction will only be implemented after drawings are approved by the TO before commencement. Signage will be attached to protective fencing "Tree Protection Area. Do not move or dismantle for any reason"* – ignored. Please see photographs to reference this contravention.

Objection to APP/20/00626 requests material alteration to the permission granted in APP/17/00207 by removing the triangular bell mouth entrance to the access track.

B) Objection to APP/20/00626

1) Request to extinguish Bell Mouth splay at northern end of track.

APP/20/00626 seeks to substantially reduce the 'entrance and exit' bell mouth splay turning area at the northern end of the access track, adjacent to the public highway that was granted under APP/17/00207.

The Tournerbury Woods Estate and A.G Phillips & Sons Ltd agreed this area at an onsite meeting



The rationale for the bell mouth turning area at the northern end of the access track was to future proof the access with potential multiple traffic flows coming from Tournerbury Farm, Tournerbury Golf Centre, and potential residential development around Tournerbury Golf Centre Car Park (now allocated in HBC Local Plan) and to facilitate the safe travel of vehicles up to large coaches entering and exiting the access track simultaneously.

Michael Knappett of Brian Jezeph Planning Consultancy (BJC), on behalf of A.G Phillips & Sons Ltd, states in his covering letter to HBC of 3rd August 2020 in regard to APP/20/00626 that *"..the approved road bellmouth, which was considered to be of excessive dimensions.....The road for the first 30m inside the site would be 12m in width and this would still be sufficient for vehicles to turn around. The remainder of the access track would be unchanged."*

The Tournerbury Woods Estate wish to object to the new proposed narrowing of the entrance bell mouth splay on the basis that it is not satisfactory from a traffic flow and restricted visibility perspective and A.G Phillips & Sons Ltd have produced no evidence to show otherwise.

The Tournerbury Woods Estate have commissioned our transport consultants, Intermodal Transportation Ltd, to run swept paths modelling of coaches entering and exiting the site with the bell mouth splay taken out as proposed by APP/20/00626.

The intermodal report states –

"We have obtained the OS tile and superimposed the latest access onto the OS base. We have run swept path assessments for a large coach to make a right turn in and a left turn out of the entrance. Attached are all the various swept paths undertaken.

The main conclusions we can draw are:

The coach would be able to enter the access with the tree retained. However, to keep within the confines of the metalled surface of Tournembury Lane, the coach would pass close to the tree and the canopy of the branches would have to be cut high to allow the coach to pass under and enter the access road. However, you will see that the coach cannot leave the access without its body (the green lines) over-sailing the north side of Tournembury Lane and indeed with the hedge flanking the verge, it may not be able to swing out. We have allowed a slight margin between the tree trunk and the coach as the driver would not normally pass close to an obstacle. On that basis you have a good case to contest reduction of the bell mouth splay in that it affects your ability to accommodate the coaches and maybe some occasional larger lorries.

Also, without the bell mouth splay you have the restricted visibility issue I made in an earlier e-mail to you and that is increased by the new proposal."

Please see attached Intermodal Transport pdf of swept path model - "ATR 001.pdf".

- 2) Request to change landscaping of APP/17/00207 by not planting any trees on the western boundary (reducing agreed tree planting from twenty-nine new trees to zero) and reducing the number of trees to be planted on the eastern boundary (reducing agreed tree planting from thirty new trees to eleven).**

The reduction in agreed and consented tree planting as per APP/17/00207 of fifty-nine new trees for habitat net gain and visual amenity purposes (please refer to 'A102 Site Plan and Section' on APP/17/00207) to the severely reduced number of trees requested under APP/20/00626 of only eleven new trees is objected to.

The design brief undertaken for APP/20/00626 was to create a visually attractive tree lined avenue that would reduce light spill at night from vehicle headlights and vehicle noise as well as screen the new access from the wider landscape (part of Chichester Harbour AONB) whilst simultaneously creating a significant gain in number of new trees planted.

The wrongful construction of the new track that has ignored the 3.75m western boundary grass verge (see above), means that it would be impossible to plant the proposed twenty-nine trees on the western boundary side and allow them to grow to maturity without infringing on the access track.

The BJC covering letter to HBC of 3rd August 2020 in regard to APP/20/00626 states –

"The additional planting along the eastern side of the new track would still create an avenue feel for drivers driving along it to visit the Woods Estate.

It is considered that the proposed change to the road bellmouth and landscaping should be acceptable and would still provide for an attractive, landscaped new track to be created."

The Tournerbury Woods Estate, having had no constructive approaches for dialogue from A.G Phillips & Sons Ltd, in regard to these changes or the construction of the new access, takes a contrary view and objects to the requested changes.

In order to illustrate this objection, please see two renders taken from APP/17/00207 and a photograph of the current track construction for comparative purposes.



