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Your ref: APP/18/00943
Our ref: TO 2019 005
Email: [REDACTED]
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Date: 16 January 2019

By email: planning.development@havant.gov.uk

Dear Mr Weaver

APP/18/00943 Retrospective change of use of land as a wedding venue, including retention of buildings and structures and use of land as a campsite and use of cottage for visitor accommodation, Tournurbury Woods, Hayling Island

The National Farmers Union is a trade representative organisation aiming to safeguard the business interests of farmers and growers. We write to **object** to the above retrospective application as the information provided by applicant is factually incorrect and the operation of the site has caused a serious negative impact on the adjacent farm. These significant unsustainable effects will cause a continuing impact on the neighbouring farm if allowed to continue and as such we feel the application should be refused.

Right of Access

It is important to note that the application is factually incorrect. As detailed on the application form, a Certificate A declaration states that the applicant is the sole owner of the land to which the application relates. This is not the case as access to the woodland is achieved by means of a farm track under the freehold ownership of the adjacent landowners Mr and Mrs G Philips, NFU Members at Tournurbury Farm. The owners of Tournurbury Farm do not consent to the intensified use of the access track. They consider the use is materially different to the implied use when they purchased the farm, given that it was simply a dirt track servicing the woodland. The proposal relies on a legally disputed situation and an incorrect declaration that we feel could invalidate the application.

Unmitigated Risk

The access used by the wedding facility runs directly through the farmyard which is essential to the ongoing operation of Tournurbury Farm. The yard contains agricultural buildings used for the storage of hay, straw and agricultural machinery. The farmyard also has an equestrian facility and behind the sheds there are a series of large ponds on either side of the disputed access track.

Mr and Mrs Phillips have suffered continuing risk and disturbance associated with the use of the adjacent site as a wedding venue. They cite how commercial vehicles gain access to and from the woodland throughout the day and night and taxis use the farm yard to collect wedding goers, who whilst under the influence of alcohol cause frequent excessive noise disturbance as they wait for collection. On several occasions Mr Phillips has caught wedding goers smoking in the hay barns, which clearly creates a significant fire hazard. There have also been incidences of wedding goers using the barns and stables to go to the toilet, which is not only unhygienic but presents a public health and safety

liability, particularly if any machinery or materials were to fall onto the uninvited guests. This is also the case for the open water surrounding the property, where Mr and Mrs Phillips are forced into a situation where somehow they need to manage the health and safety of these additional visitors, but have no say in how the visitors are managed.

In terms of the livestock on the farm, animals have been frequently disturbed by the behaviour of party goers, which risks causing injury to the valuable, award winning horses in their stables. This kind of visitor pressure is not only bad for the horses and livestock, but constrains Tournerbury Farm from expanding or diversifying these parts of their business in the future.

For clarity it is worth noting that in addition to health and safety legislation and occupiers liability legislation concerning members of the public and workers on the farm, the Animal Welfare Act (2006) contains a legal duty of care to take reasonable steps to ensure that an animal's needs are met. In practice this relies upon The Welfare of Farmed Animals Regulations (2007) which sets minimum standards for all farm animals, relying on the 'Five Freedoms', including freedom from discomfort, pain, injury or disease and freedom from fear or distress. Unfortunately the way in which the public gain access to the farmyard means that the farm has no means of mitigating these risks. As such the proposed development exposes the neighbours to an offence under the occupiers liability acts and the animal welfare act as they have no means by which to prevent the access.

We understand that Mr and Mrs Phillips have attempted to negotiate an alternative access route with the applicant, however these attempts have not been successful. Our members have gone to great expense in employing legal professional services to oversee the process however they report the applicant has made unreasonable requests for the freehold title to land as an inducement to change the access. We feel this is unreasonable in the context of the high level of risk, disturbance and nuisance that our members are already experiencing.

It is also our understanding that attempts have been made to agree to install security gates on the farm entrance so that some of the traffic and people movements can be managed. It has been reported to us that these attempts have been resisted by the applicant who has an interest in retaining open access to the woodland. In the process the farm has consequently suffered two minor incidences of theft in the past few years for which they have claimed against their insurance. They would like to install security gates but they fear reprisals from their neighbour if they take this course of action.

Environmental Health

Given the extreme and frequent noise disturbance along with the hygiene, fire risk, animal welfare and public liability risks experienced by our members at Tournerbury Farm, we feel this is an unsupportable, unsustainable level of impact. In conversation with our members it is clear that they are experiencing genuine distress as a result of these issues and as a consequence we are concerned for their personal health and welfare.

In such circumstances we feel there is a potential case of statutory nuisance, where in accordance with Section 79(1) of the Environmental Protection Act 1990 (the EPA 1990) matters that are either prejudicial to health (i.e. injurious or likely to cause injury) or a nuisance (i.e. they interfere with the personal comfort or enjoyment of other local residents) are likely to be considered a statutory nuisance. From this perspective we strongly dispute the comments made by the Environmental Health Officer on the 19th December 2018. The consultee has not considered the wider effects of the proposed development during access and egress from the site when the impacts are greatest.

Policy

In terms of the emerging local plan, Policy E20 'Amenity and Pollution' has been included to "*to control the adverse effects which could occur as a result of new development on existing occupiers*"

Policy E20 states *"Development proposals will be permitted where:*

- a. Projected levels of air, noise, odour, vibration, light, water or other pollution do not have an actual or likely significant negative effect on the amenity of existing and future users of the site, nearby occupiers and residents or the wider environment; and*
- b. Where any significant negative effects are identified, applicants will be required to provide appropriate mitigation measures which can be demonstrated to be suitable for the purposes intended, and will ensure that any likely or actual negative effect on receptor(s) identified by criteria a. are limited to an acceptable level".*

Whilst we note that a noise assessment has been submitted for the marquee and associated sound system, the submission contains no information concerning the effects of the site operation in the local area in terms of the noise and disturbance from access and egress of the site. No mitigation measures have been proposed in relation to the very real negative effects that the neighbouring occupants have already experienced.

In terms of NPPF (2018) Paragraph 91 states *"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion"

The risks and impacts as described above, particularly those concerning the anti-social behaviour and increased fire risk associated with the way in which the public have been drawn to use this site clearly is not consistent with this national policy guidance.

Paragraph 95 *"Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:*

a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate"

Again we are concerned that no such consideration has really been made in terms of the health and safety of site visitors both within the marquee installation and the access routes into and out of the site relating to the exposure to open water, alcohol, insufficient lighting, fire hazards and contact with dangerous animals. Indeed the response from Hampshire Fire and Rescue identifies a considerable number of additional measures that the applicant will need to consider as part of a Buildings Regulations application. However as many of the risks are likely to be associated with third party land, we feel that it will not be possible for the applicant to satisfactorily mitigate these off-site risks unless they agree to a different route into the site.

Finally we would like to highlight that the NFU offers a Legal Assistance Scheme where our members are eligible for financial support towards the costs of legal disputes. Given the significant impacts concerning this situation we cannot rule out the possibility that further action may be necessary if these impacts are allowed to continue.

With kind regards



NFU SE Environment and Land Use Adviser