



Minutes of a meeting of Planning and Licensing Committee held on Wednesday, 13 September 2023.

Councillors present:

Ray Brassington – Chair
Juliet Layton
Michael Vann
Mark Harris

Patrick Coleman – Vice-Chair
Ian Watson
Gary Selwyn
Julia Judd

David Fowles
Daryl Corps
Andrew Maclean

Officers present:

Helen Blundell, Interim Head of Legal Services
Cameron Berry, Planning Technician
Harrison Bowley, Senior Planning Case Officer
Richard Downham, ERS Senior Officer
David Morren, Interim Development Manager
Caleb Harris, Senior Democratic Services Officer

Kristina Carter, Career Grade Planner
Alison Gardner, Licensing Team Leader
Justin Ayton, Conservation Officer
Jose Santos, Gloucestershire County Council Highways
Ana Prelici, Democratic Services Officer

237 Apologies

Apologies were received from Councillors Dilys Neill and Gary Selwyn.

238 Substitute Members

Councillor Juliet Layton substituted for Councillor Dilys Neill.

239 Declarations of Interest

Councillor Mark Harris stated that the application on Swallow's Nest (22/03206/FUL) had previously been to Committee in 2016, and as a result, had determined a previous application. Councillor Harris stated that Councillors Juliet Layton, David Fowles, and Ray Brassington were also committee members at the time.

The Interim Head of Legal Services advised that this did not count as pre-determination, as the members could still keep an open mind in deciding this new application on its own merits.

Councillor David Fowles had stated that he knew the applicant's husband, Ian Woodward-Court on the Birdlip View application (23/01233/FUL) due to Mr Woodward-Court's ownership of Watermoor Point, where the Cotswold Conservatives had their offices. As Deputy Leader of the Cotswold Conservatives, Councillor Fowles was an Officer of the Conservative party, but this did not constitute a pecuniary interest.

240 Minutes

The Chair reminded Members that only those in attendance at the previous meeting should vote on the minutes.

RESOLVED: To approve the minutes of the meeting held on the 9th August as a true and correct record.

Voting Record- For 9, Against 0, Abstentions 1

For	Against	Abstention/ Did not vote
Ray Brassington		Juliet Layton
Patrick Coleman		
Julia Judd		
Mark Harris		
Daryl Corps		
Andrew Maclean		
David Fowles		
Ian Watson		
Michael Vann		

241 Chair's Announcements (if any)

The Chair announced that the two applications on the Berry Bank site (22/04337/FUL and 22/04303/FUL) would be dealt with as one item, as the second application hinged on the permission of the first.

242 Public questions

There were no public questions.

243 Member questions

There were no member questions

244 Extension to Pavement Licensing Regime Under the Business and Planning Act 2020

The purpose of the item was to review the draft policy document for approval following the extension of the current pavement licensing regime to 30 September 2024.

The Licensing Team Leader introduced the report and provided an overview of the report's contents and recommendations

Councillor Patrick Coleman proposed the recommendations, welcoming the initiative and stating that the areas that have so far had pavement licenses have worked well.

Councillor Julia Judd seconded.

Councillor Juliet Layton, as the accountable Cabinet Member thanked officers for their work.

RESOLVED that:

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That the Planning and Licensing Committee considered the draft Policy at Annex A and resolved to;

1. APPROVE the draft policy; and
2. Consider the fee charged for 2023/24

Voting record: For 10, Against 0, Abstentions 0.

For	Against	Abstention/ Did not vote
Ray Brassington		
Patrick Coleman		
Julia Judd		
Mark Harris		
Daryl Corps		
Andrew Maclean		
David Fowles		
Ian Watson		
Michael Vann		
Juliet Layton		

245 22/04337/FUL- Berry Bank, Main Road, Oddington

The applications 22/04337/FUL and 22/04303/FUL were both dealt with by the committee as one item, due to them being on the same site. At the Chair's discretion, the Public Speakers combined their speaking time and therefore had six minutes instead of three to speak. The Ward Member had a combined speaking time ten minutes instead of five minutes.

The first application (22/04337/FUL) was for the change of use of the land from agricultural to outdoor live performance venue (sui generis), an engineering operation resulting in a sunken amphitheatre, erection of a kitchen pod, installation of a permanent pavilion base, temporary use of part of the site for car parking, laying out of an access track (part retrospective) at Berry Bank, Main Road, Oddington, Moreton-In-Marsh, Gloucestershire, GL56 0XW.

The recommendation by the case officer was to permit.

The second application (22/04303/FUL) was for the erection of a marquee pavilion, installation of outdoor lighting structures and installation of other 'pod' structures for a temporary period each calendar year from 30 April to 1 October to facilitate outdoor leisure events at Berry Bank, Main Road, Oddington, Moreton-In-Marsh, Gloucestershire, GL56 0XW. The recommendation by officers was to permit.

The Senior Case Officer introduced the application. The Senior Case Officer stated that one of the objections had made reference to the land ownership in light of the previous dissolution of the applicant- Berry Bank and Park Events LTD. As Berrybank Park Events Limited had been established in the place of the original applicant, carrying over two of its directors, the Senior Case Officer confirmed that they were satisfied that there was no change in land ownership.

CLlr David Thorpe representing Oddington Parish Council addressed the Committee, objecting to the application.

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Mr Gary Johnson addressed the committee to object to the application, making reference to noise and the impact on his equestrian business.

The Ward Member, Councillor David Cunningham addressed the Committee, highlighting community concerns, including concerns over the live event and noise.

It was noted that the Site Inspection Briefing had occurred ahead of the committee in July and the Chair invited those who had attended it to provide their feedback to the committee.

Members highlighted that the road was busy, with the existing structures visible from the road. Members also stated that they perceived applications for such live events to be increasing, making reference to an application decided by the Licensing Sub-Committee for a premises license at the Badminton Estate.

Member Questions

Members asked for more further details on the noise complaints. The Environmental Health Officer had stated that six complaints had been received between 2022 and September 2023. Environmental Health Officers had been in touch with the complainants and issued them with diary record sheets and a noise recording app. The Environmental Health Officer stated that the next step would be for officers to visit the site to record the noise levels during an event but that Environmental Health officers had not yet visited the site.

A condition had been put in place to require a noise management plan, which would be the Applicant's responsibility to adhere to. The Council would also undertake regular monitoring as part of environmental health processes.

The Interim Development Manager stated that the permission would allow the applicants to hold six amplified events a year, but that there was flexibility to apply for further events.

There had been verbal updates to conditions 10 and 11, which the Senior Case Officer explained;

Condition 10:

The music and film noise level emitted from the site shall not within 1m of the façade of any noise sensitive premises, exceed 55dB LAeq,15min and 73db in the 63 and 125 Hz frequency band.

Condition 11:

From the date of the permission hereby granted the Berrybank Park Noise Management Plan 2023 dated 30/01/2023 shall be reviewed and updated annually, in response to recorded complaints, identified inefficiencies and any learning undertaken during the lifetime of the consent. A revised Noise Management Plan, including a record of all complaints received, shall be submitted to the Local Planning Authority prior to 31st January each year and shall be *reviewed and determined as appropriate* within 28 days of receipt. The revised Noise Management Plan, shall then be implemented in strict accordance with the details approved each year.

The Interim Development Manager reminded members that though the application was a retrospective application, it must be judged on the application's merit (as they would with a

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non-retrospective application), and additional readings from Environmental Health would only be appropriate if members could not otherwise decide the application.

The Interim Development Manager also stated that temporary permission could be granted if members felt it to be appropriate.

The Licensing aspect of the application was discussed, with the interim Head of Legal Services stating that due to the size of the event, it would likely be dealt with under a temporary event notice. As the Senior Case Officer stated that the events were happening approximately every weekend, the Interim Head of Legal stated they would discuss this with licensing, as this may be over the allowed limit without requiring a premises license.

Members discussed the setting of the site, which was confirmed by the officer to be the 7C 'high wold' area, as defined by the national landscape. The Case Officer stated that National Character Assessment described what was typically in the area and was a material planning consideration, as referenced in the report.

Members asked if any parts of the development were considered agricultural works. The Senior Case Officer stated that due to the scale of the work, it would be considered engineering work, and was therefore considered to require planning permission. Members asked if the applicant should have utilised existing buildings in the development. The Senior Case Officer stated that it was regrettable that they did not, but that it may not have been practical due to the scale and nature of development.

Members asked about the cherry orchard, which they highlighted were not fruit bearing nor native. Members also stated that they felt the style the trees had been planted in to be an urban one, which they considered to be inappropriate in a rural area. The Senior Case Officer recognised this as a missed opportunity, but otherwise stated they would need to be removed and replaced, so found them acceptable on balance, though native and fruiting cherry trees would have been preferred. The Senior Case Officer stated that the Committee could place a condition seeking that any replacement be native and fruiting, or to ask the applicant to submit a new landscape plan.

Members asked whether the impact on the objector's equestrian business, was considered an impact on agriculture, therefore contrary to Local Plan Policy EC5. The Interim Development Manager and Interim Head of Legal Services both stated that equestrian use, beyond simply grazing was not considered agricultural use.

Members asked what the speed limit was on the road, and whether the access was safe. The Senior Case Officer confirmed this to be 50 mph. The Highways Officer stated that the access was considered to be safe in terms of visibility.

Member Comments

Members stated that they felt that the proposal was contrary to Local Plan Policy EC5, as the scale and design of the development did not contribute positively to the character and appearance of the area. Members stated the proposal was contrary to EC10 as it did not have a functional relationship and special affinity with the historic and natural heritage of the area.

Members raised concerns about the noise and disruption of the proposals, and did not feel that as a tourist attraction the proposal identified an opportunity that was not met by the existing facilities.

Councillor Mark Harris proposed refusing the change of use.

Councillor Julia Judd seconded the proposal.

RESOLVED: To REFUSE the proposal

Reasons for refusal:

1. The application proposed a form of development which would be of a scale and design that fails to contribute positively to the character and appearance of the area. The scheme would fail to create a functional relationship or special affinity with the historic and natural heritage of the wider area. The development would therefore be contrary to Local Plan Policies EC5 and EC10.

2. The site was located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way (CRWO) Act 2000 stated that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the AONB. The proposed development would result in the introduction of intrusive and incongruous features that would diminish the character and special qualities of the open rural landscape. The development would also result in an intensive use of the site, through additional visitors, vehicle movements and noise, which would harm the tranquillity of the area. The development would therefore fail to conserve or enhance the character and special qualities of the AONB, contrary to Local Plan Policies EN4 and EN5 and Section 15 of the NPPF.

3. The application site lay within close proximity to a number of adjoining residential properties. The proposed development, by virtue of the number and type of events, visitors and traffic movements, would result in an unacceptable risk to public health or safety through the generation of an unacceptable level of noise pollution. The additional noise would be detrimental to the enjoyment of neighbouring properties and would harm the amenity of near by dwellings, and would not be mitigated by the submitted Noise Management Plan. The development would therefore be contrary to Local Plan Policies EN2 and EN15 and paragraphs 174 and 185 of the NPPF.

Voting Record: For 8, Against 1, Abstention/Did not vote 1

For	Against	Abstain/ Did not vote
Ray Brassington	Patrick Coleman	Andrew Maclean*
Julia Judd		
Mark Harris		
Daryl Corps		
Andrew Maclean		
David Fowles		
Ian Watson		
Michael Vann		
Juliet Layton		

*As Councillor Maclean had left the room during the debate, he could not vote

246 22/04303/FUL- Berry Bank, Main Road, Oddington

The application had been discussed with the previous item in relation to the change of use.

RESOLVED: To REFUSE the application.

1. The application proposed a form of development which would be of a scale and design that fails to contribute positively to the character and appearance of the area. The scheme would fail to create a functional relationship or special affinity with the historic and natural heritage of the wider area. The development would therefore be contrary to Local Plan Policies EC5 and EC10.

2. The site was located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way (CRWO) Act 2000 stated that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the AONB. The proposed development would result in the introduction of intrusive and incongruous features that would diminish the character and special qualities of the open rural landscape. The development would also facilitate an intensive use of the site, through additional visitors, vehicle movements and noise, which would harm the tranquillity of the area. The development would therefore fail to conserve or enhance the character and special qualities of the AONB, contrary to Local Plan Policies EN4 and EN5 and Section 15 of the NPPF.

Voting Record: For 8, Against 1, Abstention/Did not vote 1

For	Against	Abstain/ Did not vote
Ray Brassington	Patrick Coleman	Andrew Maclean*
Julia Judd		
Mark Harris		
Daryl Corps		
David Fowles		
Ian Watson		
Michael Vann		
Juliet Layton		

*As Councillor Maclean left the room, he could not vote

247 22/03206/FUL- Swallows Nest, Arlington, Bibury

The application was for the erection of a 1.5 storey extension and other associated works at Swallows Nest Arlington Bibury Cirencester Gloucestershire GL7 5ND

The recommendation was to refuse the application.

The Case Officer introduced the item and highlighted that additional photographs had been provided. The Case Officer explained that the site was within the Area of Outstanding Natural Beauty and the Bibury Conservation Area. The Case Officer also added that the pergola had been omitted from the application.

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The Case Officer highlighted the history of the application:

- 14/05466/FUL - Erection of one dwelling, refused on 9 April 2015
- 15/04341/FUL - Erection of one dwelling, refused on 14 April 2016; appealed and refused on appeal on 26 January 2017
- 16/01744/FUL - Change of use from a garage with studio above to one bedroom dwelling, permitted on 18 July 2016
- 17/03060/FUL - Change of use from a garage with studio above to one bedroom dwelling, permitted on 6 December 2017

The Case Officer explained that the 2016 application entailed minimal external works.

The Interim Development Manager highlighted the reasons that the Case Officer recommended refusal. These were due to the impact on the setting of a listed building, and encroachment onto the open space with the Bibury Conservation Area, as well as impact on the AONB.

The Interim Development Manager advised members that in considering the application, due regard must be given for the development to preserve or enhance the conservation area.

Cllr Craig Chapman, representing Bibury Parish Council addressed the Committee.

Mrs Ann Haigh addressed the Committee to support the application.

Mr and Mrs Wright, the applicants addressed the Committee.

Councillor David Fowles, the Ward Member addressed the Committee, highlighting that if the Committee permitted the application, it would allow the residents to remain in Bibury.

The Chair then invited members who had attended the Sites Inspection Briefing to share their thoughts.

Members discussed the impact of the site, stating that they could see the visual impact it would have from the roadside though it was concealed by the hilly landscape and the hedge. It was stated that there would be large visual impact from the field side.

Members welcomed that the materials would match the existing, being in natural Cotswold stone, and some members commented that the dormer windows were deemed to be attractive.

Members stated that the pergola would have been of detrimental impact and were pleased it had been removed.

Member Questions

Before proceeding on to Member questions, the Interim Development Manager mentioned the personal circumstances referenced by several of the public speakers. The Development Manager reminded members that public benefit should not be conflated with personal considerations. Personal considerations were material planning considerations, but did not hold much weight in planning terms.

The Development Manager stated that the application could only be considered on its own merit.

The Development Manager also stated that optimum viable use was not a material consideration in this case, as the building was not a designated heritage asset. The Development Manager advised that members should be looking at the impact on the Conservation Area and AONB, and whether the application preserved or enhances these.

Member Questions

Members noted that the ancillary building that would be turned into a dwelling was presently a holiday let, and asked officers whether it could be conditioned to not revert to a holiday let if the permission was granted. The Interim Development Manager stated that this could not be conditioned as there was no such policy in the local plan.

The Interim Head of Legal Services added that there would be nothing preventing anyone from using the dwelling as a holiday home in the future.

Members asked whether any design changes could be made to the proposals to make them more in keeping with the Conservation Area. The Interim Development Manager stated that this would be difficult due to the history of the site.

The Conservation Officer made reference to the previous refusals, and particularly noted the application which had been refused at appeal. The Conservation Officer stated that the boundary of the historic development was clear and that the gap that visually maintained this, and would be encroached on by the development was specifically mentioned by the Planning Inspector.

The Conservation Officer also added that the hedge did not reduce the harm of the proposals as it was visually clear that it was intended to screen the site. The Conservation Officer stated that they could not identify any way to extend the building without harming the Conservation Area in direct contradiction to the appeal decision.

Members asked whether the gap delineating the historic settlement boundary of Bibury referenced by the Conservation Officer was a common feature seen in similar developments across the District. The Conservation Officer stated that this varied across the District, as a lot of villages had experienced modern development, but stated that where this gap existed, the Council had tried to preserve it. The Conservation Officer gave the example of a similar gap in Horcott, where the judgement over preserving this had been agreed with at a planning appeal.

Members asked about the weight that Planning Inspectors tend to put on considerations such as Listed Buildings and Conservation Areas. The Conservation Officer stated that legislation put special regard on preserving these, which was also reinforced by case law.

Members asked why the area was considered to be encroaching on open space when the space was a garden. The Conservation Officer stated that this was defined by the planning inspector in the appeal decision, as shown on the diagram on page 2 preliminary view assessment.

Members questioned the wording on paragraph 11.1 of the officer report. The interim Development Manager stated that this should read 'extension' as opposed to 'dwelling'.

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Members asked if permitting the application would be contrary to the appeal decision. Both the Conservation Officer and the Interim Development Manager agreed that this was the case.

Member Comments

Members stated that though they felt sympathy to the applicant's personal circumstances, there were no planning reasons to support the application.

Some members stated that the dormer windows were visually appealing but others felt they were harmful.

While some members felt that the overall dwelling would be of a modest size, it was recognised that the extension was not subservient to the original structure, and members felt that the footprint would be considerable, doubling the size of the building.

Members stated that they did not feel that they could contradict an appeal decision unless there were very strong material planning reasons to do so.

Councillor Coleman proposed refusing the proposal, which Councillor Layton seconded.

RESOLVED: To REFUSE the application

Voting record: For - 7, Against - 2, Abstention/Did not vote 1

For	Against	Abstain/ Did not vote
Ray Brassington	David Fowles	Andrew Maclean
Julia Judd	Ian Watson	
Mark Harris		
Daryl Corps		
Patrick Coleman		
Michael Vann		
Juliet Layton		

248 23/01233/FUL- Birdlip View, Cirencester Road, Birdlip

The application was for the erection of 1 ½ storey detached double garage annex at Birdlip View Cirencester Road Birdlip Gloucestershire GL4 8JL

The Case Officer's recommendation was to permit.

The Case Officer introduced the report, stating that the site was with the AONB but not within the Conservation Area. The site was also not within a development boundary.

The Case Officer stated that concerns had been raised that the garage would be used as dwelling and that conditions had been applied in light of this.

Cllr Eileen Mckay representing Birdlip Parish Council addressed the Committee objecting to the application

Ms Emily Woodward-Court, the applicant addressed the Committee.

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Councillor Julia Judd, the Ward Member addressed the Committee, highlighting the local objections to it, and stating that a site visit would have been beneficial.

Member Questions

Members asked if the site had permitted development rights. The Interim Development Manager stated that the usual permitted development rights applied as the application was not in a Conservation Area. The Interim Development Manager also stated that the impact on the AONB was considered to be small, as the extension was minimally visible from the AONB and is within the built up envelope of the site and its surrounds.

Members stated that the drawings were difficult to interpret and asked if a site visit could be arranged. The Committee had the ability to propose this, but did not, as the Case Officer had advised that the site was difficult to see due to it being overgrown, with construction work taking place.

Members asked if the garden was deemed to be sufficient for a family. The Interim Development Manager stated that the Local Plan did not have many requirements for this, but that in their view it was sufficient garden space, albeit unconventional in layout.

Members asked why there had been so many planning applications on the site. The Interim Development Manager stated that the applications had been comprised of applications for various extensions to the main dwelling, (which had been granted) and applications to build a new dwelling in place of the garage, (which had been refused on principle alone, under Local Plan Policy DS4).

Members asked if the application was refused, whether the applicants would still be able to build the garage, without the extension. The Interim Development Manager, confirmed that this was the case, so long as the use remained incidental to the main dwelling. The Interim Development Manager stated that a condition could be added to prevent sale or let of the building separate to the main house. Although, it was recognised that the local plan states that tourism should be encouraged, so members would need strong planning reasons to add these conditions.

Member Comments

It was discussed whether a condition that the site could not be sold (but allowing letting) separate to the main site. The Interim Development Manager stated that the condition requiring ancillary use would cover this.

Councillor Mark Harris proposed permitting the application.

Councillor Juliet Layton seconded the proposal.

Some members stated that although the site was visible from a dual carriageway, it did not enhance the AONB and did not support the application.

RESOLVED: To PERMIT the application

Voting Record: For 6, Against 3, Abstentions 0.

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For	Against	Abstain/ Did not vote
Ray Brassington	Daryl Corps	Andrew Maclean
Mark Harris	Patrick Coleman	
Michael Vann	Julia Judd	
Juliet Layton		
David Fowles		
Ian Watson		

The Meeting commenced at 2.00 pm and closed at 5.41 pm

Chair

(END)