

**Siting of 6no. shepherd huts for mixed retail and community use (Class E(a)/(b) and/or Class F2(a)) at Land South East Of Elkstone Studios Elkstone Gloucestershire GL53 9PQ**

<b>Full Application 24/00186/FUL</b>	
Applicant:	Coombe End Estate
Agent:	Brodie Planning Associates Ltd
Case Officer:	Andrew Moody
Ward Member(s):	Councillor Julia Judd
Committee Date:	10th July 2024
<b>RECOMMENDATION:</b>	<b>REFUSE</b>

**1. Main Issues:**

- (a) Background and Proposed Development
- (b) Principle of Development
- (c) Landscape impact
- (d) Highways
- (e) CIL

**2. Reasons for Referral:**

2.1 The application is referred at the request of the Ward Member, Cllr Judd, for the following reasons:

2.1.1. *In this instance I request that this application be referred to the Planning Review Panel for consideration by the Planning Committee, for the following material planning reasons:*

2.1.2 *The NPPF states that decisions should recognise that sites to meet business needs in rural areas may have to be found beyond existing settlements and in locations that are not well-served by public transport. Commercial development is established involving the sustainable re-use and conversion of existing buildings.*

2.1.3 *The proposed application is for small, mobile Shepherds Huts, not significant structures, and the commercial enterprise aligns with the existing development and commercial offerings. Elkstone Studios is already established as a popular shopping destination, by locals and passing traffic (the A417 dual carriageway is only a matter of yards away). It cannot be said that visitor numbers will increase incrementally, as people already visit Elkstone Studios for other existing benefits, the proposal just expands upon the choice. Furthermore, the argument that the proposal is in an 'unsustainable location in the countryside' does not make sense, Elkstone Studios as a special food outlet already exists!*

2.1.4 Section 6 of the NPPF refers to supporting a prosperous rural economy, and paragraph 84 specifically identifies that, 'Planning policies and decisions should enable:

- (a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- (b) the development and diversification of agricultural and other land-based rural businesses;
- (c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- (d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

2.1.5 Local Plan Policy EC1 refers to employment development maintaining and enhancing the vitality of the rural economy, whilst Policy EC5 allows for Rural Diversification where: -

'Development that relates to the diversification of an existing farm, agricultural estate, or other land-based rural business will be permitted provided that:

- a. the proposal will not cause conflict with the existing farming operation including severance or disruption to the agricultural holding that would prejudice its continued viable operation;
- b. existing buildings are reused wherever possible; and
- c. the scale and design of the development contributes positively to the character and appearance of the area.'

2.1.6 Section 15 of the NPPF encourages the conservation and enhancement of the natural environment. Paragraph 174 states that the planning system should protect and enhance valued landscapes. Paragraph 176 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

2.1.7 Policy EN2 states that development will be permitted which accords with the Cotswold Design Code (Appendix D). Proposals should be of design quality that respects the character and distinctive appearance of the locality.

2.1.8 Policy EN5 of the Local Plan states that in determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight.

2.1.9 The landscape officer clearly feels that the proposal aligns with the above policies, especially Paragraph 174 of the NPPF, and goes into detail stating: 'The proposal is not considered to give rise to significant landscape or visual change. The proposal is located within an existing diversified business area that includes structures and vegetative boundary features. The proposal is for Shepherds Huts that would not give rise to irreversible harm, given the mobile nature of the structures. Once the structures are no longer required, it would be easy to revert the space to its baseline condition.'

- 2.1.10 *There is no objection from Highways, presumably they have not been consulted because it is already established that Highways have no objection.*
- 2.1.11 *The small scale, removable nature of the proposal will not affect the overall character of the setting. Shepherds Huts would not materially alter the setting out, scale or style of the existing buildings. If anything they will add to the well-balanced array of existing buildings and uses currently onsite and reinforce the unique and positive story the farm represents.*
- 2.1.12 *Parking already exists at the site, so provision for such will have no impact on the character of the setting.*
- 2.1.13 *In my opinion the proposal not only accords with the policies in the Development Plan and the NPPF. It is my opinion that the Policies in Section 6 of the NPPF supporting a prosperous rural economy outweigh other material planning considerations, especially as the character and special qualities of Cotswold National Landscape policies have been addressed and the proposal is supported.*

### **3. Site Description:**

- 3.1 The application site is located at Elkstone Studios which forms part of the Coombe End Farm Estate set within the parish of Elkstone, Gloucestershire.
- 3.2 The farm is located to the north east of the A417 which is a main route linking Gloucester and Cheltenham to Cirencester and Swindon. The farm comprises some 2,500 acres of farmland, a number of traditional farm buildings along with two larger modern agricultural structures. Over recent years the farming operations have diversified, which has resulted in a number of different rural and other enterprises taking place within the Estate.
- 3.3 The site is outside any development boundary designated in the adopted Local Plan but is within the Cotswolds National Landscape (AONB).

### **4. Relevant Planning History:**

- 4.1 18/04266/FUL: The conversion of 2 rural buildings and replacement of 1 rural building to provide BI(a) Office Space and associated works. Granted 17.09.2019
- 4.2 20/04444/OPANOT: Notification under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class R for change of use of an agricultural building (Barn D) to a flexible commercial use. Prior Approval not required 16.02.2021
- 4.3 21/00543/FUL: Change of use of an agricultural worker's dwelling to a cafe and farm shop (Class E). Granted 09.07.2021
- 4.4 21/00803/FUL: Application for operational development to facilitate the use of a building (Barn D) to a flexible commercial use (Class E) following the grant of prior approval under application reference: 20/04444/OPANOT. Granted 13.08.2021

- 4.5 21/03555/OPANOT: Notification under Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 3, Class R for change of use of an agricultural building to a flexible commercial use. Granted 29.10.2021
- 4.6 21/04442/OPANOT: Notification under Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 3, Class R for change of use of an agricultural building to a flexible commercial use (amended scheme to application 21/03555/OPANOT). Prior Approval not required 10.01.2022
- 4.7 21/04694/FUL: Application for operational development to facilitate the use of a building (Barn E) to a flexible commercial use (Class E) following confirmation prior approval is not required under application 21/04442/OPANOT. Granted 15.02.2022
- 4.8 22/01665/FUL: Change of use of an agricultural building (Barn F) to a flexible commercial use (Class E) and associated works. Granted 20.06.2022
- 4.9 22/03916/FUL: Construction of 2 no. padel courts and associated works. Granted 21.02.2023
- 4.10 22/03917/FUL: Variation of condition 2 (approved plans) of permission ref 22/01665/FUL (Change of use of an agricultural building (Barn F) to a flexible commercial use (Class E) and associated works) to alter the site layout for Barn F. Granted 20.12.2022
- 4.11 23/02495/FUL: Erection of curved Dutch roof padel court cover. Granted 18.10.2023

## **5. Planning Policies:**

TNPPF The National Planning Policy Framework

EC1 Employment Development

EC3 All types of Employment-generating Uses

EC5 Rural Diversification

EC7 Retail

EC8 Main Town Centre Uses

EN1 Built, Natural & Historic Environment

EN2 Design of Built & Natural Environment

EN4 The Wider Natural & Historic Landscape

EN5 Cotswolds AONB

EN8 Bio & Geo: Features Habitats & Species

EN14 Managing Flood Risk

EN15 Pollution & Contaminated Land

INF3 Sustainable Transport

INF4 Highway Safety

INF5 Parking Provision

INF7 Green Infrastructure

## **6. Observations of Consultees:**

- 6.1 Landscape Officer: No objection, comments incorporated into the report

6.2 Highway Authority: No response received

**7. View of Town/Parish Council:**

7.1 No response received

**8. Other Representations:**

8.1 One general comment has been received, making the following comments:

- no assessment of traffic impact undertaken at the site since 2018
- dramatic increase in traffic since then
- shepherd huts locally are used as AirBNB, this needs to be restricted

**9. Applicant's Supporting Information:**

- Covering letter
- Biodiversity Self-Assessment form
- Proposed plans

**10. Officer's Assessment:**

**(a) Background and Proposed Development**

10.1 From the planning history, it can be seen that since 2018 the buildings at Elkstone Studios have been converted into alternative uses through either the use of the prior notification procedure, or the granting of planning permission. The uses at the site include a mix of commercial and office uses, including retail sales to the public, whilst more recently padel courts have been constructed on the eastern side of the car park.

10.2 The commercial uses at the site include a bakery without outdoor seating area; a butchers; a plant and gift shop; a jewellery boutique; furniture; interior design; health, wellness and beauty.

10.3 The current proposal is for the siting of 6 shepherds huts on an area of grass adjacent to the seating area outside the farm shop and cafe, a short distance from the car park. The covering letter submitted in support of the application states that these would be:

'...let to six local independent artisan businesses, offering a mixture of services and essential goods (e.g pet shop, dry cleaners, sweet shop, key cutters etc.) Thus, the proposals fall under use classes E(a)/(b) and F2(a) of the 'Town and Country Planning (Use Classes) Order 1987 (as amended).'

10.4 Each of the huts would have dimensions of 6m width x 2.4m depth, and a total height (including wheels) of 3.6m. They would be laid out in a rectangular form around a central courtyard area, which would include raised beds and a fountain. The occupants of the huts would be independent from any other business activity currently operated from the site.

**(b) Principle of Development**

10.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.' The starting point for the determination of this application is therefore the current development plan for the District which is the adopted Cotswold District Local Plan 2011- 2031.

10.6 The Council must also have regard to other material considerations when reaching its decision. In particular, it is necessary to have regard to guidance and policies in the National Planning Policy Framework (NPPF).

10.7 Policy ECI (Employment Development) of the Local Plan states that:

Employment Development will be permitted where it:

- a. supports the creation of high quality jobs in professional, technical and knowledge-based sectors and seeks to support economic opportunities which capitalise on the strength of existing academic and training institutions and research organisations;
- b. maintains and enhances the vitality of the rural economy;
- c. enables opportunities for more sustainable working practices, including home-working;
- d. supports and improves the vitality and viability of Primary, Key, District and Local Centres; or
- e. supports sustainable tourism in ways that enables the District to attract higher numbers of longer-stay visitors.'

10.8 Part 2 of Policy EC3 (Proposals for All Types of Employment-Generating Uses) states:

'Outside Development Boundaries, and outside established employment sites, proposals for small-scale employment development appropriate to the rural area will be permitted where they:

- a. do not entail residential use as anything other than ancillary to the business; and
- b. are justified by a business case, demonstrating that the business is viable; or
- c. facilitate the retention or growth of a local employment opportunity.'

10.9 Policy EC5 (Rural Diversification) states that:

'Development that relates to the diversification of an existing farm, agricultural estate, or other land-based rural business will be permitted provided that:

- a. the proposal will not cause conflict with the existing farming operation including severance or disruption to the agricultural holding that would prejudice its continued viable operation;
- b. existing buildings are reused wherever possible; and
- c. the scale and design of the development contributes positively to the character and appearance of the area.

10.10 Policy EC7 (Retail) states that:

'1. The retail hierarchy in Cotswold District is set out below and will be the focus for the provision of main town centre uses:

Town Centre: Cirencester;

Key Centres: Bourton-on-the-Water, Chipping Campden, Moreton-in-Marsh, Stow-on-the-Wold and Tetbury;

District Centres: Fairford and Lechlade;

Local Centres: Northleach and South Cerney.

2. In settlements that are not listed in clause 1, proposals for small local shops and services will be permitted if they would enhance a settlement's viability and help to meet the needs of, and are conveniently accessible to, the local community.

3. Provision will be made for 400sqm (net) of convenience goods and 2,100sqm (net) of comparison goods retail floorspace within Cirencester over the Plan period (in accordance with policies S1, S2 & S3). Within the other nine settlements identified in the retail hierarchy, the retail strategy supports proposals in their defined centres which maintain and enhance retail provision and the wider health of the centre.'

10.11 Policy EC8 (Main Town Centre Uses) states:

'1. The preferred sequence of locations for Main Town Centre Uses in Cirencester are the:

- a. Primary Shopping Area
- b. Town Centre
- c. Edge of Centre
- d. Out of Centre

2. The preferred sequence of locations for Main Town Centre Uses in the other Principal Settlements listed in the Retail Hierarchy (Policy EC7) are the:

- a. Centre (Key/District/Local)
- b. Edge of Centre
- c. Out of Centre

3. Only if there are no suitable sites available within the Primary Shopping Area and Centre (Town/Key/District/Local) boundaries identified on the Policies Maps, or on the Edge of Centre, will Out of Centre sites be considered.....

7. When considering proposals for main town centre uses beyond the identified Centre boundaries, (in edge of centre or out of centre locations), proposals will be permitted that are:

- a. accessible and well connected to the Centre by public transport, walking and cycling;

- b. contribute to the quality, attractiveness and character of the settlement and the street frontage within which the site is located;
- c. maintain or improve, where possible, the health and wellbeing of the District's residents through increased choice and quality of shopping, leisure, recreation, arts, cultural and community facilities; and
- d. except where the proposal is in conformity with an allocation for main town centre uses elsewhere in the Plan, comply with the sequential test, by demonstrating that there are no sequentially preferable sites or premises to accommodate the proposed development, taking into account the need for flexibility in the scale and format of proposals.'

- 10.12 Paragraph 88 of the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas both through the conversion of existing buildings and well-designed new buildings. Decisions should also enable the development and diversification of agricultural and other land-based rural businesses and enable sustainable rural tourism and leisure developments which respect the character of the countryside.
- 10.13 Paragraph 89 of the NPPF states that decisions should recognise that sites to meet business needs in rural areas may have to be found beyond existing settlements and in locations that are not well-served by public transport. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 10.14 As stated above, when reviewing the site history, the development at Elkstone Studios has been provided through the re-use and conversion of existing buildings. This has been facilitated either by utilising permitted development rights, or through the submission of planning applications where either the proposals related to operational development, and where the cumulative floorspace permitted under the Class R Notification process of the GPDO had been exceeded for the site.
- 10.15 The proposal would seek to extend the activities at the site through the provision of new structures in a location that is some distance from the nearest development boundary designated within the Cotswold District Local Plan. It is considered that a distinction should be drawn between converting existing building into alternative commercial uses, and siting new structures in such a location that would only be accessible by the private car for the majority of potential users. Whilst commercial development has been established on land adjacent to the current proposal, it has primarily involved the conversion of existing buildings and/or has not required the benefit of planning permission. The development that has taken place has involved the sustainable conversion of existing buildings rather than the erection new buildings.
- 10.16 As a consequence, the benefits arising from the re-use of the existing buildings has outweighed the impact of introducing new commercial development into an isolated location in the countryside. The current proposal would not bring about such benefits. In addition, it would attract further visitors to a location that cannot be readily accessed without the use of a private motor vehicle.
- 10.17 There are bus stops outside the site, which the 882 bus service running from Gloucester to Tetbury stops once a day on weekdays only, in each direction.



Therefore, the opportunity for members of the public to use public transport to visit the site is very limited, and considering that the road outside the site is not lit, subject to the national speed limit, and has no pavement, the site is not considered to be readily accessible on foot from the nearest villages, i.e. Elkstone / Winstone / Syde.

- 10.18 Paragraph 9.3.4 of the Local Plan, which is the supporting text to Policy EC3, comments that whilst the Local Planning Authority recognises the importance of the rural economy, 'Sensitive, small-scale employment development helps to sustain the rural economy and create local employment opportunities. Proposals, however, must be in keeping in terms of scale, size and function with the location.'
- 10.19 Officers therefore have significant concerns about the introduction of new development onto the proposed site and the intensification of development in an unsustainable location in the countryside. The type of uses indicated to be provided within the shepherds huts would be considered appropriate for a town centre, not an otherwise isolated rural location where, realistically, all potential users/staff of the proposed development would only access the site by private car. The occupants of the huts would be businesses that would appear to be totally separate from the existing commercial operations at the site, such that the site may be at risk of becoming a self-contained visitor attraction, with the uses largely unrelated to the agricultural holding that was operated from the site.

### **(c) Landscape Impact**

- 10.20 The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85(1A) of the Countryside and Rights of Way (CROW) Act 2000 states that relevant authorities have a statutory duty to conserve and enhance the natural beauty of the AONB. Paragraph 180 of the NPPF reinforces this requirement.
- 10.21 Paragraph 182 of the NPPF requires that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues."
- 10.22 Policy EN5 (Cotswolds AONB) states that, in determining development proposals within the AONB or its setting, the conservation and enhancement of the natural beauty of the landscape, its character and special qualities will be given great weight, and that major development will not be permitted within the AONB unless it satisfies the exceptions set out in national Policy and Guidance.
- The site is situated within Landscape Character Type (LCT) '7C High Wold: Cotswolds High Wold Plateau' as defined in CCB's 'Landscape Character Assessment' and 'Landscape and Strategy Guidelines'.
  - One of the key characteristics and special qualities of the Cotswolds AONB is that of intrinsically dark skies and as such any new development is required to respond sympathetically to this. CPRE has published 'tranquillity maps' which includes 'England's Light Pollution and Dark Skies Map', this indicates that the site is situated in the second darkest category.

- Views of the site can be obtained locally from rural carriageway which wraps around the site.
- 10.23 There are no public footpaths in close proximity of the site and as such it is unlikely that any changes to the site would be seen from these routes. The introduction of lighting may also be perceived from the wider context.
- 10.24 The Landscape Officer has commented that proposal is not considered to give rise to significant landscape or visual change. The proposal is located within an existing diversified business area that includes structures and vegetative boundary features. The shepherd huts would not give rise to irreversible harm given the mobile nature of the structures. Once the structures are no longer required, it would be easy to revert the space to its baseline condition.
- 10.25 Any external lighting should be carefully considered and could be the subject of condition if minded to permit. There should not be an excess of light fittings, they should give off a warm white colour and not project into the sky. This is to safeguard the valued dark skies of the Cotswolds National Landscape.
- 10.26 The proposal would, therefore, not be considered harmful to the landscape and natural beauty of the AONB, having regard to Policy EN5 of the Local Plan, in addition to paragraphs 180 and 182 of the NPPF.

**(d) Highways**

- 10.27 Local Plan Policy INF3 (Sustainable Transport) supports development that actively supports travel choices with priority to walking and cycling and access provided to public transport. Links with green infrastructure, PROWs and wider cycle networks should be provided. Development that would have a detrimental effect on the amenity of existing infrastructure will not be permitted.
- 10.28 Local Plan Policy INF4 (Highway Safety) supports development that is well integrated with the existing transport network and beyond the application site, avoiding severance resulting from mitigation and severe impact upon the highway network. Developments that create safe and secure layouts and access will be permitted.
- 10.29 Local Plan Policy INF5 (Parking Provision) seeks to ensure sufficient parking provision to manage the local road network.
- 10.30 Section 9 of the NPPF advocates sustainable transport, including safe and suitable accesses to all sites for all people. However, it also makes it clear that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network are severe.
- 10.31 No formal response has been received from the Highway Authority, although the additional traffic generated by the proposal is not considered to be harmful to highway safety considering the one-way system in operation for motorists visiting the site, the availability of parking within a short walk of the proposed shepherd huts, and the visibility at the exit onto the public highway in both directions.

10.32 Notwithstanding this, the reason for refusal recommended includes Policy INF3, owing to the relative inaccessibility of the site those not travelling by car. It should be noted that criterion a. and b. of the policy state:

'Development will be permitted that assists in delivery of the objectives of the Local Transport Plan and in particular:

a. actively supports travel choice through provision, enhancement and promotion of safe and recognisable connections to existing walking, cycling and public transport networks (including, where appropriate, the rail network);

b. gives priority to pedestrians and cyclists and provides access to public transport facilities taking account of the travel and transport needs of all people;...'

10.33 It is considered that the proposal would be in conflict with the requirements of this policy.

#### **(e) CIL**

10.34 This development is not liable for CIL because it is less than 100sqm of new build that does not result in the creation of a dwelling, and therefore benefits from Minor Development Exemption under CIL Regulation 42.

#### **11. Conclusion:**

11.1 The proposal is considered to be contrary to the policies in the Development Plan, in addition to the NPPF, which are not outweighed by other material planning considerations.

11.2 The recommendation is for planning permission to be refused.

#### **12. Reasons for Refusal:**

The application site is located in a rural area, outside any designated development boundary in the Cotswold District Local Plan. The existing commercial uses of the buildings at Elkstone Studios have been provided through either the prior notification procedure or the granting of planning permission as the beneficial re-use of existing rural buildings.

In contrast, the proposed siting of 6 shepherd huts to provide uses more appropriate to a retail centre, in a location that has very limited access by public transport, and not readily accessible by either pedestrians or cyclists, would be contrary to Policies EC7 and EC8 of the Cotswold District Local Plan, in addition to the NPPF, through the introduction of new development onto the site and the provision of further retail development in an unsustainable location in the countryside.

#### **Informatives:**

Please note that the proposed development is not liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) because it is less than 100m<sup>2</sup> of new

build that does not result in the creation of a dwelling, and therefore benefits from Minor Development Exemption under CIL Regulation 42.