

Application No: 22/04303/FUL

**Berry Bank
Main Road
Oddington
Moreton-In-Marsh
Gloucestershire
GL56 0XW**

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

Full Application 22/04303/FUL	
Applicant:	Berrybank Park Events Limited
Agent:	Pegasus Planning Group Ltd
Case Officer:	Harrison Bowley
Ward Member(s):	Councillor David Cunningham
Committee Date:	12th July 2023
RECOMMENDATION:	PERMIT

1. Main Issues:

- (a) Principle of Development
- (b) Design and Impact on the setting of Oddington Conservation Area
- (c) Impact on the Cotswolds Area of Outstanding Natural Beauty
- (d) Impact on Residential Amenity
- (e) Highways Safety
- (f) Biodiversity and Geodiversity

2. Reason for Referral:

2.1 The application has received thirteen third party representations objecting to the application.

3. Site Description:

3.1 The application site consists of a large open field, located to the north of the village of Oddington, and north of the A436. The site contains a large modern agricultural building to the west, adjoining the highway, with a modern dwelling to the north of the barn. Access is obtained from the highway to the south, accessing both the field to the north and east, and the buildings to the immediate west. The wider site is characterised by open agricultural fields.

3.2 The site lies within the Cotswolds Area of Outstanding Natural Beauty.

3.3 The Oddington Conservation Area lies around 40m to the south of the site, terminating on the southern side of the A436. The site lies within the setting of the Conservation Area.

4. Relevant Planning History:

4.1 17/00611/CLEUD - Certificate of Lawful Existing Use or Development under Section 191 of the Town and Country Planning Act 1990 for the occupation of a dwelling in

breach of condition h) - agricultural occupancy restriction of permission CD.5849 - Permitted 09/03/2017;

- 4.2 17/02258/FUL - Removal of Condition h) (agricultural occupancy restriction) of permission CD.5849 - Permitted 11/07/2017;
- 4.3 22/01634/CLEUD - Certificate of Lawful Existing Use or Development under Section 191 of the Town and Country Planning Act 1990 for the use of the site as B2 Use (General Industrial) and associated ancillary uses - Permitted 10/08/2022.

5. Planning Policies:

TNPPF The National Planning Policy Framework
EC5 Rural Diversification
EN10 HE: Designated Heritage Assets
EN1 Built, Natural & Historic Environment
EN2 Design of Built & Natural Environment
EN4 The Wider Natural & Historic Landscape
EN5 Cotswolds AONB
EN7 Trees, Hedgerows & Woodlands
EN8 Bio & Geo: Features Habitats & Species
EN10 HE: Designated Heritage Assets
EN11 HE: DHA - Conservation Areas
EN15 Pollution & Contaminated Land

6. Observations of Consultees:

- 6.1 Lead Local Flood Authority - No objection.
- 6.2 ERS Pollution Officer - No objection subject to the recommendations and actions within the plan being implemented.
- 6.3 CDC Landscape Officer - No objection subject to the removal of festoon lighting.
- 6.4 Local Highways Authority - No objection subject to conditions.

7. View of Town/Parish Council:

7.1 *"The Parish Council notes that this application is retrospective which is disappointing for such a substantial and unusual change of use and commercial use. We note that there has been a creeping of the size and nature of the facility from its original conception and if that were to continue it would give rise to more substantial concerns.*

7.2 *On balance the facility in its current form, scale and nature of operation is welcomed. However, that position relies heavily on the limits set out in the application of a maximum number of cars of 190 and a maximum of 50 events. It is not accurate to say at para 5.10 that there have been no complaints. The Council is aware that there have been some about noise and fireworks in an agricultural area with bloodstock. In addition to conditions concerning size and scale, conditions need to be established around lighting and noise.*

7.3 The access and exit are on a busy "fast" main A road. The council notes that the owner has endeavoured to manage traffic safety but feels more needs to be done in terms of signage and warnings to avoid potential traffic issues. In addition, we note that the owner put up extensive and substantial marketing signage over a wide area. We would expect this to be with the agreement of the Highways Authority to avoid a precedent or dangerous distractions to drivers.

7.4 The site also comprises a series of former agricultural buildings which appear to have been augmented by a number of containers and conversion to Artisan style workshops"

8. Other Representations:

8.1 Thirteen third party representations objecting to the application have been received, raising concerns of:

- i. Lack of information;
- ii. Highways safety concerns;
- iii. Future development of the site;
- iv. Additional traffic movements;
- v. Impact on the character of the AONB;
- vi. Impact from light, air and noise pollution;
- vii. Impact on residential amenity;
- viii. Retrospective nature of the application;
- ix. Impact on livestock and horses;
- x. Surface water run off onto the highway;
- xi. Impact on wildlife;
- xii. Increased carbon footprint;
- xiii. Inaccuracies and flaws within transport statement.

8.2 Ten third part representations supporting the application have been received, stating:

- i. Development proposed businesses within the local area;
- ii. Development is a benefit to the local area and people;
- iii. Designed so as to preserve views;
- iv. Development has not caused noise or traffic disruption;
- v. High quality of design and finish;
- vi. Development is a local cultural asset;
- vii. Benefit to local employment, artists and suppliers;
- viii. Reduced need to commute to attend events outside of the area;

8.3 Comments have also been received from Stow-on-the-Wold Town Council, stating:

"Council wishes to comment that it is concerned about vehicle access on that section of road. Council is also concerned about the impact of the lighting and noise, and the lack of an environmental report. Council is disappointed that the activity has been under way for some time without the applicant seeking planning permission."

9. Applicant's Supporting Information:

- Proposed and Existing Plans
- Planning Statement

- Noise Management Plan
- Landscape Statement

10. Officer's Assessment:

10.1 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.'

10.2 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.

10.3 The policies and guidance within the revised National Planning Policy Framework (NPPF) are also a material planning consideration.

Background and Proposed Development

10.4 This application relates to the erection of a marquee pavilion, installation of outdoor lighting structures and the installation of other 'pod' structures for a temporary period each calendar year between 30 April to 1 October, to facilitate outdoor leisure events. The application links to application 22/04337/FUL for the creation of an amphitheatre and events space at the site.

10.5 The works are retrospective in their nature, with events ongoing and having taken place at the site throughout the summer of 2022.

(a) Principle of Development

10.6 Local Plan Policy EC5 relates to rural diversification and stated that development that relates to the diversification of an existing farm, agricultural estate, or other land-based rural business will be permitted provided that:

- 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;
- existing buildings are reused wherever possible; and
- the scale and design of the development contributes positively to the character and appearance of the area.

10.7 Local Plan Policy EC10 relates to the development of tourist facilities and visitor attractions. The policy states that new or extended tourist facilities and visitor attractions (excluding accommodation) will be permitted provided the proposal:

- has a functional relationship and special affinity with the historic and natural heritage of the area;

- (b) is well related to the main tourist routes;
- (c) is an identified opportunity that is not met by existing facilities; and
- (d) as far as possible, use is made of existing buildings, particularly agricultural buildings in the countryside, with the number and scale of new buildings kept to a minimum.

10.8 The development relates to a proposed sui generis use, resulting in the creation of an outdoor live performance and events venue. The principle of the use is considered within the linked application. Whilst this application related solely to the proposed temporary structures, the proposed temporary structures relate directly to their use. The principle of the structures is therefore considered below.

10.9 The principle of the proposed structures is not considered unreasonable, and would occupy the site on a temporary basis. The field is not currently used for agricultural purposes and as such, there would be no conflict with any existing farming operations. Whilst an existing building is present on site, it will not be re-used as part of the development. Notwithstanding this, it is acknowledged that this existing building is within an impractical location in relation to the amphitheatre and this current application relates solely to temporary buildings/structures. As such, the development would not be in conflict with criterion b of Policy EC5. With regard to criterion (c), the impact of the development on the wider landscape will be considered in a later section of this report. It is nevertheless considered that the proposed use, buildings and amphitheatre would be proportionate to the character of the site and wider area.

10.10 Whilst the principle of the use is not subject to this application, it is nevertheless acknowledged that the scheme would have a functional relationship with the area, is well related to the main tourist routes and would provide a range of visitor and tourist attractions, not accommodated through any similar facilities within the immediate or wider area. The scheme is therefore in accordance with policy EC10.

10.11 Overall, it is considered that the proposed development would be in accordance with Local Plan Policies EC5 and EC10 and the principle of development is therefore acceptable.

(b) Design and Impact on the setting of the Oddington Conservation Area

10.12 The site lies within the setting of the Oddington Conservation Area, wherein the Local Planning Authority is statutorily obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of the area, in accordance with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

10.13 Local Plan Policy EN2 supports development which accords with the Cotswold Design Code and respects the character and distinctive appearance of the locality.

10.14 Local Plan Policy EN11 states that development proposals, including demolition, that would affect Conservation Areas and their settings, will be permitted provided they preserve and where appropriate enhance the special character and appearance of the Conservation Area in terms of siting, scale, form, proportion, design, materials and the retention of positive features. Development in conservation areas will not result in loss of open spaces, including

garden areas and village greens, which make a valuable contribution to the character and/or appearance, and/or allow important views into or out of the conservation area.

10.15 Section 12 of the NPPF requires good design, providing sustainable development and creating better place to live and work in. Paragraph 130 states decisions should ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, which are sympathetic to local character and history maintaining a strong sense of place.

10.16 Section 16 of the NPPF (2018) seeks to conserve and enhance the historic environment and is consistent with Policies EN10 and EN11.

10.17 The Oddington Conservation Area lies around 40m to the south of the site, terminating on the southern side of the A436. The site would be visible from the conservation area, at the junction of the A436 and the unnamed road through Oddington. The site would also be viewed within the context of the Conservation Area in some views along the A436.

10.18 It is of note that the A road currently forms a firm boundary between the conservation area and the application site. Existing mature vegetation along the northern part of the A road on the west side of the site access largely obscures any views on the approach from the west. The land level declines as the A436 continues east, with views from this direction obscured by the elevation of the land and some boundary vegetation.

10.19 The application relates to the erection of temporary structures including a marquee pavilion, outdoor lighting structures and other 'pod' structures. The structures would sit more prominently within the landscape, notably the marquee. The structure is prominent from the highway and is relatively distinct in appearance owing to external colour and shape. That being said, much of the harm would be mitigated by the temporary nature of the structure. Moreover, works to 'gap up' the hedgerow and plant an orchard would restrict views of the structure and soften the appearance, further mitigating the harm. On balance, it is considered that owing to the temporary nature and softened appearance, the proposed marquee is not objectionable.

10.20 With regard to the proposed pods, these would be lower in height and thus, less prominent within views of the site. The structures would also be of a temporary nature, further mitigating any potential harm. In terms of their design, the buildings would be of a simple design with a curved roof and timber finish. This will contribute towards the lightweight appearance and modest scale of the buildings.

10.21 Overall, it is considered that the proposed structures are not objectionable, subject to a condition ensuring they are removed from the site during the winter months. The development would be in accordance with Local Plan Policies EN10 and EN11.

(c) Impact on the Cotswolds Area of Outstanding Natural Beauty

10.22 The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Section 85 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.

10.23 Local Plan Policy EN4 relates to the wider natural and historic landscape and outlines that development should be permitted where it does not have a significant detrimental impact on the natural and historic landscape (including the tranquillity of the countryside) of Cotswold District or neighbouring areas. It outlines that proposals will take account of landscape and historic landscape character, visual quality and local distinctiveness. They will be expected to enhance, restore and better manage the natural and historic landscape, and any significant landscape features and elements, including key views, the setting of settlements, settlement patterns and heritage assets.

10.24 Local Plan Policy EN5 relates specifically to the Cotswolds AONB, and 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.

10.25 Section 15 of the NPPF seeks to conserve and enhance the natural environment. More specifically Paragraph 176 states Great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (amongst other sensitive areas), which have the highest status of protection in relation to these issues.

10.26 The application site formerly comprised of an area of open pastoral field with agricultural structures also present, notably within the south-western corner. The area is bound by hedgerows and fencing to varying extents. The land slopes down towards the north east and is experienced from public footpaths (Oddington Footpaths 3 and 5) to the west. In terms of sensitivity, the majority of the application site and its surroundings fall within Landscape Character Type (LCT) 17: Pastoral Lowland Vale and Landscape Character Area (LCA) 17B: Vale of Moreton as defined in the Landscape Strategy and Guidelines for the Cotswolds AONB. The south west of the site is within LCT 15: Farmed Slopes. The site shares a number of the published key features of the LCT 17 character assessment.

10.27 The proposed structures would be of a temporary nature, removed during the winter months when the worst-case visual baseline is present. The development would not result in the overdevelopment of the site, and whilst the pods would result in encroachment of urban built form into the open countryside, the temporary nature and lightweight appearance of the buildings would moderate the level of resultant harm. With regard to external lighting, the use of limited lighting is appropriate. The Festoon lighting is inappropriate due to the uncontrolled spread of light from each luminaire. The lighting is not focused upon its task and sends light in every direction including up into the sky. This is not usable light and causes light pollution, harm to the character of the Cotswolds AONB and its special qualities and harm to nocturnal species. With this in mind, the festoon lighting should be removed and a condition to this effect will be included within any recommendation of permission. The proposed additional planting, including along the boundaries, is considered appropriate and will soften the overall appearance of the site.

10.28 Overall, it is considered that the proposed development conserves the special qualities of the AONB, in accordance with Local Plan Policies EN4 and EN5.

(d) Impact on Residential Amenity

10.29 Local Plan Policy EN2 refers to The Design Code (Appendix D) which sets out policy with regard to residential amenity. This expects proposals to respect amenity in regards to

garden space, privacy, daylight and overbearing effect. Section 12 of the NPPF requires good design with a high standard of amenity for existing and future users.

10.30 Local Plan Policy EN15 stated that development will be permitted where there will be no unacceptable risk to public health or safety, the natural environment or the amenity of existing land uses. This includes impacts from pollution, noise and light as well as other disturbances such as spillage and smell.

10.31 This application solely considers the erection of the temporary structures on the site and not the overall use of the site for events. The structures would benefit from significant separation from adjoining neighbours and as such, would not result in any overbearing impact, overshadowing or loss of light. The level of separation and existing screening from boundary vegetation would also mitigate any potential overlooking, and the privacy of neighbouring dwellings would be preserved. There is a single dwelling on site, shown to be with the same ownership of the application site. Whilst the amenity of this property would be impacted by the development, as the site lies within the same ownership and is associated with the adjoining use, any occupant would reasonably be prepared to accept any potential amenity impacts.

10.32 Overall, it is considered that the proposed temporary structures would preserve the amenity of neighbouring residents, in accordance with Local Plan Policies EN2 and EN15.

Other Matters

10.33 The proposed development is not liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). This is because it is less than 100m² 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 comply with Local Plan Policies and as such is recommended for permission.

12. Proposed conditions:

1. The development hereby permitted shall be implemented in strict accordance with the following approved plans: Site Layout (Drawing No. L2- REV C); As Built External Event Lighting (Drawing No. L3); Cloakroom Pods dated Dec 2022; Green Room Pod dated Dec 2022; Pavilion and Field Kitchen dated Dec 2022.

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with the National Planning Policy Framework.

2. The entire landscaping scheme shall be completed by the end of the planting season immediately following the date of this decision notice, and shall be maintained as such thereafter.

Reason: To ensure that the landscaping is carried out and to enable the planting to begin to become established at the earliest stage practical and thereby achieving the objective of Cotswold District Local Plan Policy EN4.

3. Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

Reason: To ensure that the planting becomes established and thereby achieves the objective of Cotswold District Local Plan Policy EN2.

4 Notwithstanding approved plans L2- REV C and L3, the temporary stage lighting: mains-powered colour LED spot lights mounted on 3m timber posts shall be removed and shall not be erected/installed. Prior to the installation of any replacement external lighting, a scheme shall be submitted to and agreed in writing by the local planning authority which specifies the lighting proposed, including the type of lighting, location, height above ground, and direction of light. The approved lighting shall then be maintained as such thereafter.

Reason: To prevent light pollution in accordance in accordance with Cotswold District Local Plan Policy EN15.

5. Between 2nd October and 29th April each calendar year, the permitted buildings/structures shall be removed from the site, and the site shall be reinstated to its former condition.

Reason: Permanent development of this type might cause a nuisance or would detract from the amenity of the area and permission is given only to meet the special, temporary needs of the applicant or to enable the Local Planning Authority to give further consideration to the use after the temporary period has expired. This condition is attached in the light of Annex A to Circular 11/95.