



**COTSWOLD DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990**

REFUSAL OF PLANNING PERMISSION

Agent
Pegasus Planning Group Ltd
First Floor
South Wing
Equinox North
Great Park Road
Almondsbury
Bristol
BS32 4QL

Applicant
Berrybank Park Limited
Berry Bank
Main Road
Oddington
Moreton-In-Marsh
Gloucestershire
GL56 0XW

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

**APPLICATION REF: 22/04337/FUL
FILE REF:**

DATE 14th September 2023

DECISION NOTICE

In pursuance of their powers under the above Act, the Council **REFUSES** permission for the above development for the following reason(s).

1 The application proposes 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 is 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 lies 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.

Note: Statement in respect of the positive and proactive approach undertaken by the Local Planning Authority

In accordance with the requirements of paragraph 38 of the NPPF, the Local Planning Authority has worked with the applicant(s) in a positive and creative manner that improve the economic, social and environmental conditions of the area and in order to seek solutions to overcome the planning objections and the conflict with Development Plan Policy. Negotiations have, however, been unsuccessful in this case to achieve sustainable development.

Your attention is drawn to the NOTES overleaf.

Phil Shaw

Phil Shaw
Business Manager - Development & Sustainability

INFORMATION ABOUT THIS DECISION

This is the Council's formal decision on your application. As your application has been refused, the refusal reasons are set out. If there is anything about the refusal reasons that you do not understand, then please contact Customer Services, Cotswold District Council, Trinity Road, Cirencester, Gloucestershire, GL7 1PX Tel 01285 623000.

ENFORCEMENT

As your application has been refused, then you cannot carry out the work or use that you applied for.

If you fail to comply with this Decision Notice, then you could be in contravention of the Town and Country Planning Act 1990 or other legislation. In such circumstances, the Council may well initiate enforcement action.

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.*
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision for neither of the above and you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

* **householder application means** (a) an application for planning permission for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development, but does not include (i) an application for change of use; (ii) an application to change the number of dwellings in a building.

Cotswold District Council, Trinity Road, Cirencester, Gloucestershire, GL7 1PX Tel 01285 623000 www.cotswold.gov.uk

AUGUST 2019