

**Re-modelling of existing fish raceways to form a new lake with central island at Bibury Trout Farm Arlington Bibury Gloucestershire GL7 5NL**

<b>Full Application 23/03970/FUL</b>	
Applicant:	
Agent:	Andrew P Jones Associates
Case Officer:	Martin Perks
Ward Member(s):	Councillor David Fowles
Committee Date:	8th May 2024
<b>RECOMMENDATION:</b>	<b>PERMIT</b>

**1. Main Issues:**

- (a) Impact on Bibury Trout Farm
- (b) Impact on the Character and Appearance of Bibury Conservation Area
- (c) Impact on the Character and Appearance of the Cotswolds National Landscape
- (d) Drainage and Flood Risk
- (e) Impact on Protected Species

**2. Reasons for Referral:**

- 2.1 This application has been referred to the Planning and Licensing Committee following assessment by the Committee Review Panel and further to the following request by Cllr Fowles:

*'Having reviewed this application and considered the strong objections lodged by the Parish Council I share their concerns that this application will result in the loss of the hatchery and undermine the working function of the Trout Farm resulting in the farm ceasing to exist and change of use to a Leisure theme park.'*

**3. Site Description:**

- 3.1 This application relates to one of a number of water features located within Bibury Trout Farm. The Trout Farm is located on the western edge of the village of Bibury and covers an area of approximately 5 hectares in size. The application site measures approximately 0.12 hectares and consists of 4 vertical channels containing water (raceways) separated by raised banks. Sluice gates are located at the northern of the site.
- 3.2 The site is bordered by a network of footpaths and other ponds/water features. The northern boundary of the site also adjoins the River Coln, which is designated as a Main River by the Environment Agency.
- 3.3 The site is located within Bibury Conservation Area and the Cotswolds National Landscape.

3.4 The site is located within Flood Zone 3.

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

##### **Bibury Trout Farm**

- 4.1 CD.0155 5 trout ponds. Permitted 1949
- 4.2 CD.0155/B Lorry garage and workshop. Permitted 1965
- 4.3 CD.0155/D Erection of single storey farm facility building to include new farm office, fish preparation area, fish sales counter and ticket area, shelter and informative/educational display area. Refused 1984
- 4.4 CD.0155/E Erection of single storey farm facility building to include new farm office, fish preparation area, fish sales counter and ticket area, shelter and informative/educational display area. Permitted 1984
- 4.5 CD.0155/F Formation of a car park for 21 cars, construction of a new vehicular and pedestrian access. Permitted 1985
- 4.6 CD.0155/G Retention and completion of farm facility building. Permitted 1986
- 4.7 CD.0155/H Retention of a farm facility building (amended elevations and roofing materials) Refused 1986 Enforcement and planning appeals dismissed 1986
- 4.8 CD.0155/J Provision of two velux rooflights to north west elevation of existing building. Permitted 1987
- 4.9 CD.0155/K Replacement of existing softwood entrance doors with new hardwood framed glass doors. Permitted 1988
- 4.10 CD.0155/L Construction of 7 earth ponds and 2 settlement ponds and supply and return channels. Permitted 1988
- 4.11 CD.0155/M Construction of a small lake offering use for anglers all year round. Permitted 1989
- 4.12 16/00245/FUL - Erection of single storey extension to form toilets. Permitted 2016
- 4.13 19/00885/FUL Erection of single storey extension to form toilets (re-submission of 16/00245/FUL). Permitted 2019
- 4.14 20/01642/FUL Erection of a new agricultural building, to include a fishing room and store. Permitted 2020
- 4.15 20/01804/FUL Extension to existing visitor car park. Withdrawn 2022
- 4.16 20/03923/FUL Erection of agricultural building with associated landscaping and new access. Permitted 2021

- 4.17 20/04028/FUL Infill of redundant pond. Permitted 2021
- 4.18 21/02486/FUL Creation of overload car park. Permitted 2023
- 4.19 21/04508/FUL Erection of an agricultural building, to include a fishing room and store. Permitted 2022
- 4.20 21/04281/FUL Change of use from Class IA (Sale of ice-creams) to holiday accommodation. Permitted 2022
- 4.21 22/03944/FUL Erection of an agricultural building, to include a fishing room and store. Permitted 2022
- 4.22 23/00886/FUL Erection of an agricultural building, to include a fishing room and store. Permitted 2023
- 4.23 23/01948/FUL Creation of a children's play park. Permitted 2023
- 4.24 23/03980/FUL Erection of a café/gift shop. Permitted 2024
- 4.25 23/04050/FUL Installation of 6no. glamping pods and associated decked paths. Minor landscaping of the site, planting of native species of shrubbery and wildflower. Withdrawn 2024
- 4.26 24/00359/FUL Erection of roof cover to be used as a visitor arts, activities and education area. Pending decision

## **5. Planning Policies:**

- EC3 All types of Employment-generating Uses
- EC10 Tourist Facilities & Visitor Attractions
- 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
- EN10 HE: Designated Heritage Assets
- EN11 HE: DHA - Conservation Areas
- EN14 Managing Flood Risk

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

- 6.1 Drainage Engineer: No objection
- 6.2 Biodiversity Officer: No objection
- 6.3 Environment Agency: No formal response received to date

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

7.1 *'Bibury Parish Council considered this planning application in their meeting held on Tuesday 12th March and agreed to strongly object; as these plans would undermine the functioning of a working Trout Farm. The proposals will do significant ecological damage.*

7.2 *Please also refer to the Councils submission for Planning Applications 23/04050/FUL (Installation of 6no. glamping pods and associated decked paths. Minor landscaping of the site, planting of native species of shrubbery and wildflowers) & 24/00359/FUL (Erection of roof cover to be used as a visitor arts, activities and education area). It is requested that these applications should be considered together by the Planning Control Committee. That these plans will cause significant harm, contrary to Policies EN1, EN2, EN4, EN10, EN11 and EC10 of the Local Plan.'*

## **8. Other Representations:**

8.1 12 objections received.

Main grounds of objection are:

- i) Adverse impact on viability of trout farm.
- ii) Detrimental to wildlife.
- iii) No community benefit to Bibury.
- iv) Trout culture in raceways is practised for hatchery production because environmental and water quality parameters are easier to manage in raceways than in pond systems. Flowing water flushes away wastes and forces the fish to exercise. The shallower water also allows visual observations so that diet or disease can be promptly corrected. Why would the Trout Farm no longer need this?
- v) The Trout Farm site has been subject to tree felling and major loss of habitat.
- vi) This proposal is clearly part of a bigger scheme to run down the trout farm and then redevelop for housing.
- vii) The Bibury Trout Farm raceways were built in order to breed and rear fish. The proposal to destroy the raceways and replace them with a pond is wholly flawed in the context of running a Fish Farm.
- viii) The high volumes of tourists is causing irreversible damage to the character and appearance of this historic Village.
- ix) This proposal along with other applications seem aimed at turning the Trout Farm into a theme park totally out of keeping with the village.
- x) The new owner has not engaged with the parish council or the community.

- xi) The proposal would have a visual impact on one of the most historic Cotswold scenic villages. The impact of a circular pond with an artificial island is not in keeping with the historic surroundings and flood plain.
- xii) Impact on flooding and drainage.
- xiii) Impact on biodiversity.
- xiv) A 5-10 year masterplan for the site should be submitted.
- xv) Implications for long term viability of historic Trout Farm.

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

- Flood Risk Assessment
- Heritage Statement and Heritage Impact Assessment

**10. Officer's Assessment:**

**Proposed Development**

- 10.1 This application seeks to remodel an existing set of raceways in order to create a pond with a central circular island. The proposed island will measure approximately 15m in diameter. The island will be created from spoil arising from the removal of earth banks located between each of the raceways. The overall volume of water in the resultant pond will be similar to existing. Two of the sluice gates located in the northern part of the site will be removed and replaced with earth to tie in with existing banks.
- 10.2 The applicant states that the existing raceways are no longer required for fish farming purposes.

**(a) Impact on Bibury Trout Farm**

- 10.3 This application relates to an existing trout farm which is also open to the public. The site therefore acts as a visitor attraction as well as a trout farm.
- 10.4 Local Plan Policy EC10 Development of Tourist Facilities and Visitor Attractions states:

*'New or extended tourist facilities and visitor attractions (excluding accommodation) will be permitted provided the proposal:*

- a. *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.'*

10.5 The proposed development is located within the grounds of the existing trout farm and adjacent to a network of ponds and associated infrastructure. The proposed works therefore have a functional relationship with the existing trout farm site. The application site forms one of a network of over 30 ponds within the trout farm. The ponds are of a mix of sizes and dimensions. The loss of one water feature is considered not to have a material impact on the character or appearance of the location nor its overall historic character as a trout farm. The raceways are no longer required for fish farming purposes and the applicant is looking to re-configure the water feature so that it can be put to an alternative use.

10.6 The trout farm site is located adjacent to a road in one of the busiest tourist villages in the District and is therefore well related to a main tourist route. In addition, the proposal does not require the erection of new buildings. It is considered that the proposal is in accordance with Local Plan Policy EC10.

10.7 The proposed development will also accord with the aspirations of paragraph 88 of the National Planning Policy Framework (NPPF) which states 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'*

10.8 It is considered that the proposed development will assist the viability of the existing rural business to the benefit of the rural economy and in accordance with the aspirations of paragraph 88.

10.9 In response to the concerns of objectors, the applicant has advised:

10.9.1 *'There are 50/60000 visitors to Bibury a year many of whom come from a very long way after they have done their walk along Arlington Row they come to the Cafe and ask what else is there to do? We at the Trout Farm are trying to improve the offering and the facilities for these visitors both young and old.*

10.9.2 *The Hatchery - over the past few years we have suffered huge losses of fish with diseases at a very early stage within the hatchery, experiencing huge problems with fresh water supply which has made that side of our business very risky and unprofitable, we believe this was the case experienced by our predecessor who had discussions with the Cotswold District Planning dept 6 years ago as to alternative uses for the hatchery under a pre-application 18/04061 where it was discussed to use the area as an extension to the cafe or the shop, at this stage we are keen to use the*

*area as a possible education area for water based activities for children as it is located close to the children's play area and as an area when teaching of hand crafts can be made.*

*10.9.3 As the decision was made to close the hatchery we have purchased 300,000 fingerlings which will have been treated against one of the diseases that the farm so badly suffers from and we hope that our losses will be significantly reduced, and can be cared for in a different location.*

*10.9.4 The Raceways situated in the main part of the visitor area of the farm, haven't been used for a number of years and they are redundant in that position to the main farming activities, the small slivers of land that divide the areas of water are very difficult to maintain and keep tidy in the summer and are completely overgrown with weeds. We therefore wish to amalgamate all strips of water making a new pond with a central island landscaped and planted with ornamental species...*

*10.9.5 The Trout farm is divided into three sections the first is the visitor section which is open to the public where actual farming activities are kept to a minimum other than feeding and monitoring the fish. The next part of the farm is not open to the public and is where we have created new raceways and is the serious part for the mature fish farming activities. The next part is referred as the New Meadow where we have a number of ponds into which the fingerlings when they are large enough are introduced to river water and then grown on.*

*10.9.6 Since acquiring the farm we have invested over 2 million pounds in repairing ponds, banks and walkways, we have built a large new barn and created a state of the art smokery and fish preparation area with shower and changing facilities for our farmers.'*

10.10 It is considered that there is a reasonable justification for the works that are being undertaken and that it will not undermine the overall viability of the trout farm.

**(b) Impact on the Character and Appearance of Bibury Conservation Area**

10.11 The site is located within Bibury Conservation Area (CA).

10.12 With respect to any buildings or other land in a conservation area, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Considerable weight and importance must be given to the aforementioned legislation.

10.13 The following Local Plan policies are considered relevant to the proposal:

10.14 Local Plan Policy EN2 Design of the Built and Natural Environment

*'Development will be permitted which accords with the Cotswold Design Code. Proposals should be of design quality that respects the character and distinctive appearance of the locality.'*

10.15 Local Plan Policy EN10 Designated Heritage Assets states:

- 1 *'In considering proposals that affect a designated heritage asset or its setting, great weight will be given to the asset's conservation. The more important the asset, the greater the weight should be.*
- 2 *Development proposals that sustain and enhance the character, appearance and significance of designated heritage assets (and their settings), and that put them to viable uses, consistent with their conservation, will be permitted.*
- 3 *Proposals that would lead to harm to the significance of a designated heritage asset or its setting will not be permitted, unless a clear and convincing justification of public benefit can be demonstrated to outweigh that harm. Any such assessment will take account, in the balance of material considerations:*
  - *The importance of the asset;*
  - *The scale of harm; and*
  - *The nature and level of the public benefit of the proposal.'*

10.16 Local Plan Policy EN11 Designated Heritage Assets - Conservation Areas states:

*'Development proposals, including demolition, that would affect Conservation Areas and their settings, will be permitted provided they:*

- a. *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;*
- b. *Include hard and soft landscape proposals, where appropriate, that respect the character and appearance of the Conservation Area;*
- c. *Will not result in the 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.*
- d. *Have regard to the relevant Conservation Area appraisal (where available); and*
- e. *do not include internally illuminated advertisement signage unless the signage does not have an adverse impact on the Conservation Area or its setting.'*

10.17 In terms of national guidance, paragraph 205 of the National Planning Policy Framework (NPPF) states that *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'*

10.18 Paragraph 208 states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'*

- 10.19 The application site is located within an established trout farm. The character and appearance of the trout farm is defined by a network of various ponds and watercourses of varying shapes and sizes. The existing raceways are not readily visible from outside the trout farm site. Public views from the road to the north are largely screened by a mix of buildings and vegetation, whilst views from the road to the east are limited by virtue of existing buildings, vegetation and distance. Within the trout farm itself, the site is seen in conjunction with a number of other ponds and water features.
- 10.20 The proposal will replace the existing raceways with a pond and central island. Whilst the loss of the raceways is noted, the trout farm site contains a variety of ponds and water features. The arrangement of ponds is not uniform with the result that changes to a single pond are considered not to undermine the overall character and appearance of the trout farm site. It is of note that the site is not identified in the Bibury Conservation Area Statement (CAS) as possessing any particular architectural or landscape qualities that are of special interest or that make a significant contribution to the character or appearance of the CA. The existing ponds are simply identified as a '*significant area of water*'. The raceways and existing arrangement of ponds has not therefore been identified as being of special historic interest. Moreover, as the proposal will result in the creation of a pond, it is considered that the proposal will not undermine the '*significant area of water*' characteristic identified in the CAS.
- 10.21 It is considered that the proposed development respects the character and appearance of the trout farm and the contribution it makes to the conservation area. It is considered that the scheme will preserve the character and appearance of the CA and is in accordance with Local Plan Policies EN2, EN10 and EN11 and guidance in Section 16 of the NPPF.

**(c) Impact on the Character and Appearance of the Cotswolds National Landscape**

- 10.22 The site is located within the Cotswolds National Landscape (formerly known as the Cotswolds Area of Outstanding Natural Beauty (AONB)) wherein the Council, in performing or exercising any functions in relation to, or so as to affect, the area '*must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*' (S85(A1) of the Countryside and Rights of Way Act 2000).
- 10.23 The following Local Plan policies are considered relevant to the proposal:
- 10.24 Local Plan Policy EN4 The Wider Natural and Historic Landscape states:
1. '*Development will 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.*
  2. '*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.*'

10.25 Local Plan Policy EN5 Cotswolds Area of Outstanding Natural Beauty (AONB) states:

1. *'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. *'Major development will not be permitted within the AONB unless it satisfies the exceptions set out in National Policy and Guidance.'*

10.26 In terms of national policy, Paragraph 180 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by '*protecting and enhancing valued landscapes*' and '*recognising the intrinsic character and beauty of the countryside*'.

10.27 Paragraph 182 of the NPPF states that '*great weight should be given to conserving and enhancing landscape and scenic beauty in ... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.*'

10.28 The application site forms part of a network of ponds and water features which characterise this part of the Cotswolds National Landscape. The site therefore has a character and appearance which appears distinct from the open agricultural landscape to the west of the settlement. The proposed development will have the appearance of a water feature and is considered to be consistent with the character and appearance of the existing trout farm site. The proposal is also considered to be of a size and scale that is proportionate to the site and existing development. The character and appearance of this part of the Cotswolds National Landscape is heavily influenced by the trout farm. The proposed development is of a form that respects the aforementioned use and is therefore considered to respond sympathetically to the character of the designated landscape.

10.29 The proposed development will not result in an encroachment of development into the open countryside. It is also considered not to have an adverse impact on the setting of the village within the designated landscape. It is considered that the proposed development will not have an adverse impact on the character or appearance of the Cotswolds National Landscape and that it accords with Local Plan Policies EN4 and EN5 and guidance in paragraphs 180 and 182 of the NPPF.

**(d) Drainage and Flood Risk**

10.30 The application site lies adjacent to the River Coln which is designated as a Main River by the Environment Agency. The application site is located within Flood Zone 3, which is the highest designation of flood zone. Notwithstanding this, the proposal is for water compatible development which can be acceptable in principle within Flood Zone 3.

10.31 The applicant has submitted a Flood Risk Assessment (FRA) with this application. The FRA indicates that volume of water in the completed development will be similar to existing and that there will be no additional discharge into the River Coln. The Council's Drainage Engineer has assessed the application and raises no objection to the proposed scheme.

10.32 The Environment Agency has not responded to the current application. However, the applicant will need to obtain a separate Environmental Permit from the Environment Agency to discharge any water into the River Coln. This will be a separate matter between the applicant and the Environment Agency.

10.33 It is considered that the proposed development can be undertaken without having an adverse impact on flooding or drainage in accordance with Local Plan Policy EN14.

**(e) Impact on Protected Species**

10.34 The existing site has historically been used for the rearing of trout which has limited its potential for other species, such as great crested newts. The steep sided nature of the raceways also limited their ecological value. In contrast, the creation of an island with still water around it has the potential to create a more diverse range of habitats. The removal of 2 sluice gates and the replacement with new earth banks is also considered to represent a betterment in biodiversity terms.

10.35 The Council's Biodiversity Officer raises no objection and states that *'the site itself is highly unlikely to support protected and notable species. The main biodiversity constraint is the construction phase and the potential for pollution to enter the River Coln.'* A condition requiring the submission of a watercourse protection plan is therefore recommended in order to ensure that construction works do not have an adverse impact on biodiversity.

10.36 It is considered that the proposed development can be undertaken without having an adverse impact on protected species or their habitat in accordance with Local Plan Policy EN8.

**Community Infrastructure Levy**

10.37 The proposed development does not result in the creation of new floorspace and is not therefore liable for CIL.

**11. Conclusion:**

Overall, it is considered that the proposed development is in accordance with established policy and guidance. It is therefore recommended that the application is granted permission.

**12. Proposed Conditions:**

1. The development shall be started by 3 years from the date of this decision notice.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following drawing number(s): 1621/351

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

3. No development shall take place until a Watercourse Protection Plan for the River Coln has been submitted to and approved in writing by the Local Planning Authority. The Watercourse Protection Plan shall include, but not necessarily be limited to, the following:

- i) A risk assessment of potentially damaging construction activities;
- ii) Identification of 'biodiversity protection zones';
- iii) Construction storage details, including waste, materials and equipment, ensuring there is a suitable buffer (ideally 10m) between storage facilities and the river;
- iv) Details of any construction lighting, ensuring light spill is not permitted towards the river; and
- v) Preventative measures to prevent pollution from entering the river.

The approved plan shall be implemented in full according to the timescales laid out in the plan, unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that the biodiversity of the watercourse is protected in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), Policy EN8 of the Cotswold District Local Plan 2011-2031 and paragraphs 180, 185 and 186 of the National Planning Policy Framework (Chapter 15). It is important that these details are agreed prior to the commencement of development as any on-site works could have an adverse impact on biodiversity.