



Report to the Secretary of State for Communities and Local Government

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an Inspector appointed by the Secretary of State
for Communities and Local Government

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Town and Country Planning Act 1990

Appeal by Cygnet Investments

Against the decision of Cotswold District Council

to refuse outline planning permission for

Tourism and recreational development comprising the erection of hotel/leisure complex, 57 apartments and 143 pavilions, access, car parking, landscaping and ecological management

at

Land including lakes 103, 103a and 104, near Fairford, Gloucestershire

Inquiry held on 4-7, 11 and 12 December 2007

Land including lakes 103, 103a and 104, Fairford, Gloucestershire

File Ref: APP/F1610/A/07/2043652/NWF

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Land including lakes 103, 103a and 104 in the Cotswold Water Park, near Fairford, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Cygnet Investments against the decision of Cotswold District Council.
- The appeal was recovered for determination by the Secretary of State by a direction dated 1 June 2007 under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990.
- The application Ref 05/02098/OUT, dated 30 August 2005, was refused by notice dated 23 February 2007.
- The development proposed is proposed tourism and recreational development comprising the erection of hotel/leisure complex (including 38 no. bedroom suites; leisure centre including 25m indoor pool, treatment rooms, sauna, squash court, gymnasium and changing facilities; restaurant/function room; juice bar; and ancillary office accommodation (management suite), storage and plant room), 57 apartments and 143 pavilions, access, car parking, landscaping and ecological management.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. The Inquiry was held on six days in total, with the last evidence being heard on 12 December 2007. However, the Inquiry did not formally close on that date, but was held open in order to enable outstanding matters relating to flood risk to be dealt with by way of further written submissions (Docs 18-21). Following the completion of this exercise, the Inquiry was closed by letter on 4 January 2008.
2. I carried out an inspection of the site and its immediate surroundings, accompanied by representatives of the main parties, on 13 December 2007. On the same date I also visited other locations referred to in the evidence. I also undertook unaccompanied visits to the locality, including Fairford and Lechlade in order to observe traffic conditions at relevant times, on other occasions.
3. The description of the development proposed is as set out above. A change to the balance of apartments and pavilions proposed within the total number of units of holiday accommodation was made whilst the application was being considered by the Council. During the Inquiry the appellant also agreed that fuller details of the proposed hotel/leisure complex should be provided in the proposal description, and that the site location is properly identified as cited above (Doc 9).
4. The application to the Council was for outline planning permission. However, the details of the siting of buildings and of means of access were indicated as being for consideration at this stage. Details of design and external appearance and of landscaping were reserved for future consideration.
5. The application drawings were amended prior to the Council's eventual decision. In addition, a further modification to the proposed site access was proposed during the course of the Inquiry. The proposal drawings are:
 - Location plan Drg 1615/100

- Application boundary Drg 1615/101
- Site Layout Plan Drg FS04 Rev V
- Proposed Site Entrance Drg S202/2 Rev D (as modified by revised site access detail on Davies Landscape Architects Drawing "Appendix 7")
- Plan Indicating Extent of Remodelling of Lakes Drg 1615/115C.

The other submitted drawings (Landscape Proposals Plan "Illustrative Proposals" Rev B and building details as shown on Drgs 1615/103-114 inclusive) are for illustrative purposes only. Whilst I have had regard to these drawings as an indication of the contemplated scheme details, I have kept in mind the extent of matters not put forward for determination at this stage.

6. Details of the documentation submitted with the application submission and subsequent additions and amendments are summarised in the Statement of Common Ground agreed between the appellant and the Council and provided in the appellant's documentation (Doc 5 & Doc CD35). An Environmental Statement was prepared and submitted with the application (Docs CD 34/1-34/10). The Environmental Statement was subsequently supplemented by additional information (Doc CD 35/2). I have taken the contents of the Environmental Statement and supplementary information into account in arriving at my conclusions and recommendation.
7. At the Inquiry the appellant submitted a planning obligation by agreement with the Council (Doc 14) and a unilateral undertaking to the highway authority (Doc 13), both executed on 12 December 2007. I have taken the contents of both obligations into account in my assessment of the merits of the proposed development.
8. The appeal was recovered for determination by the Secretary of State under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 by a letter dated 1 June 2007. The matters about which the Secretary of State particularly wishes to be informed are:
 - The extent to which the proposed development would be in accordance with the development plan for the area;
 - The extent to which the proposed development accords with Government planning policy advice in PPS6 *Planning for Town Centres*, in particular the degree to which the proposed hotel use would have an impact on nearby town centres;
 - The extent to which the proposed development is consistent with the Key Principles in paragraph 1 of PPS7 *Sustainable Development in Rural Areas*, and to which it complies with the policies in PPS7 to support strong, diverse economic activity in rural areas, in accordance with paragraph 5; to support tourism and leisure enterprises and facilities that bring economic, community and social benefits and that utilise and enrich, but do not harm, the countryside, in accordance with paragraphs 34-40; and to ensure the quality and character of the countryside is protected and, where possible, enhanced, whilst facilitating sustainable development that makes the most of leisure and recreational opportunities that require a countryside location, in accordance with paragraphs 15 & 16;
 - The extent to which the proposed development is consistent with the advice in PPG13 *Transport*, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car;
 - The matters raised by the local planning authority in their decision notice;
 - Whether any permission granted should be subject to any conditions and, if so, the form these should take;

- Whether any permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable;
- Any other matters that the Inspector considers relevant.

In relation to the last matter I informed the parties that I wished in particular to be informed about the implications of the proposed development in relation to flood risk matters, having regard to the advice in PPS25.

The Site and Surroundings

9. The site lies to the east of the small town of Fairford and on the south side of the A417 linking Fairford and Lechlade (Plan 1615/100). It covers an area of some 40 hectares and encompasses lakes 103, 103a and 104, which are flooded former gravel workings in the vicinity of the River Coln. The lakes lie at the north-western end of a complex of workings and former workings which form part of the eastern section of the Cotswold Water Park (Doc CD 28 Plans 1 & 4). In summary, the site comprises the three lakes and their respective lake margins, together with grassland areas on the north side of lake 104. The north-eastern part of the site has a frontage with the A417. The whole of the site is covered by Area A1 of Tree Preservation Order TPO 216, dated 25 May 1993. However, although the area A1 identified by the Order covers the whole of the site, the trees present on the site are primarily confined to the lake margins and site boundaries.
10. Lake 104 is much the largest of the three bodies of water on the site, measuring some 7-800 metres across its east-west axis at its widest point and a maximum width approaching 500m across a north-south axis towards its eastern end. Its shoreline includes bays and promontories and it has two islands. Lake 103 is approximately 400m long and some 50-75m wide; lake 103a lies at its southern end and is a broadly triangular pool up to 100m long and 50m wide. Lakes 103 and 103a lie to the east of lake 104 and together occupy the extreme eastern portion of the site. The lakes are separated by strips of land, variously colonised by a mixture of mature trees, bushes and scrub, portions of hedgerow and some open areas. To the south and east of the site are other lakes, again separated from those on the site by strips of land occupied to varying degrees by trees and other vegetation. Between the site and the lakes to the south also runs the Court Brook watercourse.
11. The built confines of Fairford lie a short way to the west of the site, separated from it by agricultural land and other open land uses. A network of public footpaths within the Coln river valley corridor runs from the eastern end of Fairford towards and through the site. The footpath network includes a circular route around lake 104, which includes a short length of permissive path at the north-eastern extremity of the lake. The section of permissive path provides a substitute route for the designated right of way route at this point, which actually passes through the corner of the lake. A public rights of way position statement forms part of the statement of common ground produced by the appellant and the Council (Doc 6 Appx 2).
12. The site environs essentially comprise open countryside permeated by a sporadic pattern of built development primarily located on the south side of the A417. To the north west of the site, adjoining the A417 and occupying former railway land, lies a small area of industrial development. To the east of the appeal site lake 105 has been developed for water sport purposes and also possesses elements of

holiday chalet and caravan accommodation. At the north-eastern corner of the site, surrounded by parts of it on three sides and with frontage to the A417, is a broadly rectangular area of land about 1.5ha in area, primarily comprising open former sand and gravel working land and a building named on some maps as Milestone Cottage. At the time of the application to the Council, and of lodging the appeal, this land was in separate ownership; however, it subsequently has been acquired by the appellant, and an amended plan identifying it as within the same ownership or control as the appeal site was submitted at the inquiry (Plan 1615/101 Amended).

13. Further east, to the east of lake 105 and the A417 junction with Whelford Road, lies a small complex of industrial development and a petrol filling station. Still further in the direction of Lechlade a leisure/tourism-related development is in the early stages of construction at Coln Park, including 160 holiday lodges, a hotel, a country park and the use of lakes for leisure purposes.
14. The wider areas to the south of the site and on the north side of the A417 are open countryside. Further to the south again, but generally not discernible from the site due to distance, topography and landscape features, lies the airfield of RAF Fairford and associated housing and infrastructure.

Planning Policy

15. The development plan for the area comprises the Gloucestershire Structure Plan Second Review, adopted in 1999 with a Plan period until 2011, and the Cotswold District Local Plan 2001-2011, adopted in 2006, together with Regional Planning Guidance 10 – South West (September 2001) (RPG10). The RPG will be replaced in due course by the South West Regional Spatial Strategy (RSS), which is at submission draft stage and is expected to be adopted in summer 2008. As part of the process of transition to the incoming Local Development Framework system, the policies of the current structure plan which are of relevance to the proposal have been saved, pending the adoption of the RSS. The policies of the local plan are presently saved until April 2009.
16. Elements of RPG10 of particular relevance to the appeal proposals are contained within policies EN1 and TS1 (Doc CD 21), which seek to ensure that the protection and, where possible, enhancement of the landscape and biodiversity is planned into new development and that the character of the countryside and its contributory environmental features are protected; and support the development of sustainable tourism in the South West. The emerging RSS carries forward these themes (Doc CD 22).
17. Policies in the Structure Plan (Doc CD 23) relevant to the consideration of the proposals are as follows:
 - Policy S.1 directs the bulk of new development to locations within and adjacent to the County's larger towns.
 - Policy S.4 seeks to ensure that development in rural settlements is limited in scale, and sustains and enhances character and appearance and the economic and social well-being of local communities; and states that development in the open countryside will be strictly controlled.
 - Policy S.5 refers to the need to have regard to local community requirements for facilities and services in providing for development.

- Policy S.6 emphasises the need, in providing for development, to safeguard, and wherever possible enhance, aspects of the environment which contribute to local character and distinctiveness, including the quality of the landscape; the distinctive wildlife and habitats; and the special qualities of rivers, canals and other water courses and features.
- Policy S.7 refers to the maintenance of environmental quality through high standards of design, traffic management and the retention and provision of open space.
- Policy T.1 refers to the location of new development so as to minimise the length and number of motorised journeys, and enable the use of public transport, cycling and walking as genuine alternatives.
- Policies T.2, T.3 and T.4 seek the development of walking, cycle route and bus service networks.
- Policy T.8 sets out the overall approach to parking provision in conjunction with new development.
- Policy NHE.1 seeks to protect the countryside's character, appearance and resources from harmful development, except where the harm is outweighed by the social and economic needs of the area or wider environmental objectives.
- Policy NHE.2 seeks the protection and, where possible, enhancement of biodiversity and provides protection for, amongst other things, the nature conservation interest of SSSIs.
- Policy NHE.8 states that proposals for development in the Cotswold Water Park should be considered in the context of all the Water Park objectives, including: nature conservation interests; the beneficial after-use of worked mineral extraction sites; facilitation of a wide range of recreation and tourism opportunities which reflect the special character of the area; facilitation of access to and within the Park using sustainable modes of transport; and protection of the integrity of existing villages and rural communities.
- Policy RE.3 encourages improved public access to the countryside, subject to environmental and agricultural interests being respected.
- Policy RE.4 permits the use of water for sport, recreation and tourism, subject to avoidance of various adverse impacts.
- Policies TSM.1 and TSM.2 establish that all tourism development proposals and proposals for self-catering holiday accommodation will be judged against sustainability principles.
- Policy TSM.3 sets criteria against which proposals for groups of self-catering holiday accommodation units will be judged, including that their scale, quality of design and landscaping should be consistent with the character of the area; there should be no adverse impact upon sites of nature conservation interest, the landscape, nearby settlements, and the local highway network.
- Policy TSM.4 encourages the development of tourist attractions which have an affinity with the physical and historic heritage of an area and which do not adversely affect the local environment.

- Policy W.1 seeks to ensure that development does not compromise the hydrological environment and local water supply regime.
- Policy F.1 seeks to prevent development where it would be at direct risk from flooding or would increase the risk of flooding elsewhere.

18. The relevant policies in the Local Plan (Doc CD 25) are as follows:

- Policy 1: Natural Resources requires that development proposals reflect a sustainable approach to the use of resources.
- Policy 4: Environmental Impact permits development likely to significantly harm the natural or built environment only where the benefits outweigh the environmental impact.
- Policy 5: Pollution and Safety Hazards seeks to ensure that development does not give rise to unacceptable pollution, public health or safety impacts.
- Policy 6: The Water Environment resists development that would adversely affect the water environment.
- Policy 9: Biodiversity, Geology and Geomorphology seeks, amongst other things, to safeguard the special interest of SSSIs and to protect, and where possible enhance, biodiversity and habitats.
- Policy 10: Trees, Woodlands and Hedgerows resists development that would harm trees or woodlands protected by a tree preservation order, and seeks the retention of hedgerows which are visually, ecologically or biologically important.
- Policy 19: Development Outside Development Boundaries restricts development outside settlements to development appropriate to a rural area, as indicated by other policies of the Plan.
- Policy 25: Vitality and Viability of Settlements resists development that would harm the vitality and viability of commercial centres.
- Policy 26: Tourism sets criteria for the consideration of proposals for hotels and self-catering accommodation. Amongst other things, it permits new hotels and proposals for holiday lodges within the eastern section of the Cotswold Water Park in accordance with the criteria set out in policy UT1.
- Policy 32: Community Facilities permits proposals for community facilities on sites which are well related and accessible, particularly by foot, bicycle and public transport, to the local community.
- Policy 36: Sustainable Transport Network encourages proposals that would improve facilities for transport modes other than the car. It also highlights the development of the Eastern Spine Road as a means of relieving other parts of the road network of lorry traffic associated with the aggregates industry and providing access to the eastern section of the water park.
- Policy 37: Travel Plans requires development having significant transport implications to be accompanied by a Travel Plan, which if approved will be secured through a planning obligation.

- Policy 38: Accessibility To and Within New Development sets travel and transport criteria to be met by new development, and specifies the need for a Transport Assessment where significant traffic movements will be generated.
 - Policy 39: Parking Provision outlines requirements for vehicle parking provision associated with new development.
 - Policy 42: Cotswold District Design Code draws attention to considerations relevant to the design of new development, particularly in relation to environmental sustainability and respecting character, appearance and local distinctiveness.
 - Policy 45: Landscaping in New Development deals with landscaping principles, including the retention of any existing attractive landscape features.
 - Policy 49: Planning Obligations and Conditions sets out the Council's position in respect of these matters.
 - Policy UT.1: Cotswold Water Park sets out the framework for consideration of development proposals within the Park. It permits proposals for nature conservation, water-based sport, recreation, tourism, and other development which accords with other local plan policies, provided various criteria are satisfied. These criteria include: the maintenance or enhancement of the nature conservation importance of the Water Park; where appropriate, habitat enhancement and the creation of new habitats; the retention and, where appropriate, enhancement of existing landscape features that contribute to the character and/or appearance of the site; the design and siting of new buildings being sympathetic to the character of the area and avoiding harm to the landscape; and the development being directly related to the use of the Water Park for nature conservation, water-based sport, tourism and recreation.
 - Policy UT.2: Settlement Protection Boundaries defines settlement protection boundaries, including for Fairford, within which recreation and tourism will not be permitted if it would harm residential amenities and settlement setting.
19. The development plan policies of greatest significance in relation to the determination of this appeal are those dealing with issues of the sustainability of the development in terms of its location and resulting patterns of travel and transport; tourism/recreation and the rural economy; protection of the countryside, the natural environment and associated public amenity; and traffic implications for the highway network in the area and the local environment. The proposal must be considered not only in the light of district-wide environmental protection policies, but also in the context of the policies directed at tourism and recreation development proposals within the Cotswold Water Park.
20. The Cotswold Water Park covers a part of the Upper Thames Valley which has been subject to extensive sand and gravel operations since the 1920s. The area, around 70% of which lies within Cotswold District but which also spreads over the County boundary into Wiltshire, comprises large tracts of deposits which are likely to continue to be exploited as a mineral resource for many years to come. The Park was created in the 1960s and now extends to some 10,500 ha (40.5 square miles), comprising 132 man-made lakes totalling 1,000 ha. It is internationally significant for its nature conservation interest. It is also of regional significance for water-based sport, recreation and tourism. The area attracts many long-stay and day visitors.

21. The designated area of the Water Park extends from the South Cerney, Somerford Keynes and Ashton Keynes area in the west, through Down Ampney, Cricklade and Marston Meysey eastwards to Fairford and Lechlade. A Joint Committee including the relevant county and district councils was first formed in 1967, in order to promote the development of the creational opportunities of the disused gravel pits. Day-to-day practical management of the Water Park is carried out by the Cotswold Water Park Society Limited, a not-for profit company with charitable status, which was set up in 1997.
22. In 1999 the Council produced Supplementary Planning Guidance (SPG) for the sections of the Cotswold Water Park falling within its administrative area (Doc CD 28). The SPG originated as a draft local plan zoning policy, but was converted to supplementary guidance to be read in conjunction with policies contained in the Cotswold District Local Plan 1999 and the Upper Thames Plan. The main feature of the SPG is the identification of different zones, A, B, C and D, with a corresponding differentiation of types of recreational development and intensity of use considered suitable within each zone. The zones aim to provide a flexible framework to assist with the control of development, allowing freedom for enterprise and initiative, while protecting the quality of the area. In relation to the appeal site, the SPG places the western part of lake 104 within zone A; the eastern part of lake 104 and lake 103a within zone B; and lake 103 within zone C (Doc CD 28 Plan 4).
23. Zone A areas are identified as quiet zones, intended for low intensity uses which protect the residential amenities of settlements and enhance the quiet enjoyment of the countryside. New buildings are indicated as not normally acceptable. Zone B areas are low intensity recreation zones, where the recreational use of land and/or water is acceptable in principle, but where control over the type and intensity of use needs to be exercised in order to protect the residents of nearby settlements and/or the character of the landscape. Zone C areas are considered generally suitable for medium to high intensity sport, recreation and tourism uses which generate larger volumes of traffic and visitors, and which involves noisier activities. Zone D areas are intended for restoration to agriculture, forestry and habitat creation. The current Cotswold District Local Plan continues to use the SPG zoning parameters to guide the assessment of development proposals within the Park. The approach set out in the Local Plan requires all development to comply fully with policies which consider various, but equally important, aspects of the potential impact of proposals. It identifies as particularly important the need for development to meet the broad principles set out for the development of the Water Park resource; and to be broadly compatible with the SPG Water Park zones (Doc CD 25 para 11.1.21).
24. The Council is currently in the process of preparing the Local Development Framework. The Second Local Development Scheme (March 2007 – March 2010) was adopted in March 2007. The Core Strategy Issues and Options Development Plan Document was published for consultation in November 2007 (Doc 5 para 5.10).
25. There is a wide range of national planning policy guidance relevant to different aspects of the appeal proposals. However, the elements of government planning policy guidance of most relevance, having regard to the main issues raised by this appeal, is contained in PPS 7 *Sustainable Development in Rural Areas*; Planning Policy Guidance Note (PPG) 13 *Transport*; *Good Practice Guidance for*

Tourism (2006); PPS 6 Planning and Town Centres; PPS 9 Biodiversity and Geological Conservation; and PPS 25 Development and Flood Risk.

Planning History

26. The planning history of the appeal site commenced in 1966 with the grant of planning permission for the winning of sand and gravel. Various detailed permissions were subsequently granted in respect of associated developments, the last of these being in 1981. The cessation of sand and gravel working was accompanied by a scheme of site restoration and landscaping; in addition, the site has experienced a natural process of re-colonisation by vegetation through to the present day.
27. In October 1994 planning appeals were dismissed by the Secretary of State, in accordance with the Inspector's recommendations (Doc DN 2 Appx 8) in respect of an outline proposal for the development of a water-ski and country club facility, including a clubhouse, social building, manager's accommodation and lodges (69 units) and landscaping, and for the change of use of land and water to accommodate water-skiing and other leisure activities. The appeals were dismissed on the grounds of the harmful effect of the proposals on the character and appearance of the site, its landscape qualities and the public's enjoyment of the local landscape from the footpath system. There was also a failure to reconcile conflicting issues of safeguarding wildlife from disturbance whilst maintaining public views across the lake.
28. In 1995 planning permission was granted for change of use of lakes 103 and 103a to fishing, retention of temporary office, toilets and container storage, retention of car parking, internal access road and associated works.
29. The former sand and gravel extraction operations on the site resulted in the modification of the routes of public footpaths crossing the site. The appellant and the Rights of Way Officer of Gloucestershire County Council have produced a position statement concerning the public rights of way on the site, which is included as an appendix to the Statement of Common Ground (Doc 6 Appx 2). In 1984 the Public Paths Diversion Order 1983 was confirmed, which resulted in former routes made impassable by the creation of lake 104 being extinguished and replaced by new public footpaths.
30. The Public Paths Diversion Order confirmed in 1984 included as part of new footpath BFA 30 a short section of path in the vicinity of point "K" which actually passes through the extreme north-eastern corner of lake 104 (Appendix 2 to Doc 6 Appx 2). How this has occurred is uncertain. On the ground this is compensated for by a section of permissive path which bypasses the impassable section of BFA 30 at "K" and thus maintains a continuous route for footpath users.
31. In March 2007 the appellant submitted, under Section 31(6) of the Highways Act 1980, a map, statement and statutory declaration showing the ways that are dedicated as footpaths. The County Council has confirmed that the deposition corresponds to the routes shown on the Definitive Map of Public Rights of Way, and is effective until 21 March 2017 (Appendix 3 to the rights of way position statement). The deposition does not show a public right of way at "K".

The Proposal

32. The proposal is a leisure and tourism development comprising the erection of a hotel with leisure facilities and holiday home accommodation consisting of 57 apartments and 143 pavilions. The hotel/leisure complex would contain 38 bedroom suites; a restaurant/function room and a juice bar; and leisure facilities including 25m indoor pool, treatment rooms, sauna, squash court, gymnasium and changing facilities. The hotel/leisure complex would be built at the north-eastern corner of lake 104, projecting over the water with a south-westerly aspect across the lake. It is proposed that the swimming pool and other leisure facilities would be made available for use by the local community as well as by those staying at the hotel or occupying the holiday accommodation units.
33. The details of the 57 apartments and 143 pavilions are not for consideration at this time. However, illustrative drawings submitted with the application show the apartments in three 3 storey blocks of 9 units and five 2 storey blocks of 6 units. The 143 pavilions are indicated as 2 and 3 storey buildings, comprising 20 two bedroom properties arranged in semi-detached pairs and 123 detached buildings indicated as providing a range of three, four, five and six bedroom units. This is consistent with the siting arrangement for which permission is sought. The apartments and pavilions would be available for purchase on a fractional ownership basis. They would be located around the eastern end of the north shore of lake 104, to the west of the hotel/leisure complex; down the eastern side of lake 104, to the south of the hotel/leisure complex; encircling lake 103; and around the eastern and length and northernmost point of lake 103a. The majority of the holiday units would occupy lakeside positions. Some would be constructed on the shoreline, or on land promontories jutting out into the lakes; others would be built projecting to varying degrees over the water, whilst remaining directly connected to solid land; and others would be constructed entirely surrounded by water, accessed by jetties projecting out into lakes 104 and 103. The existing shoreline around the eastern and north-eastern side of lake 104 would be re-modelled in order to accommodate the proposed layout of holiday units and the hotel/leisure building.
34. The hotel and leisure building would be situated about 100m south of the A417, with a newly constructed direct access road from the classified highway. The hotel parking area would be between the hotel and the A417, on the east side of the site access road. From the hotel access roads would continue around the north side of lake 104, down the east side of lake 104 and the west side of lake 103a and around lake 103, providing access to the holiday accommodation pavilions and apartments. Parking areas of varying sizes would be constructed alongside and just off the access roads, providing between 2 and 12 spaces per area.
35. A single point of vehicular access would be constructed onto the A417, creating a break of about 14m in the existing tree/hedgeline, together with a reduction in width of the tree/hedgeline for a further 10-15m either side of the access in order to create clear visibility in both directions. Five ash trees would be removed as a result of the proposed access works (Doc MD 2.7). The A417 carriageway would be widened and a right-turn lane into the site formed from the Fairford direction. A combined footway and cycleway would be formed alongside the A417 in an easterly direction to the Whelford Road junction and in a westerly direction towards Fairford. New bus stops would be provided on either side of the A417, together with an illuminated island crossing point.

36. The proposals also include a long-term landscape and ecological management plan for the site, incorporating habitat enhancement measures for the western sector of the site where built development is not proposed. Offsite highways and travel-related measures are also proposed via the unilateral undertaking submitted at the Inquiry, including contributions towards a new roundabout at the Whelford Road junction; towards provision of further footway/cycling facilities; and the provision of a travel plan.

THE CASE FOR THE APPELLANT

37. The main points of the case put for the appellant are:

Introductory points

38. The application to the Council resulted from a genuine collaborative approach with the Council's relevant senior officers extending over two years. The officers were very familiar with the relevant policies, the planning history including the 1994 appeal and the strength of local objection. The application was amended after submission to reflect all changes suggested by officers. The officer recommendation in the February 2007 committee report (Doc CD 35/4) to permit the development was unequivocal and forcefully expressed. In these circumstances there is an onus on the Council to show that there were sound reasons for rejecting the officers' recommendation. However, there has been no serious attempt to suggest that the advice in the report was unsound. Officers would have been especially careful about their recommendation in the light of the 1994 appeal decision, which was contrary to their recommendation on that occasion.
39. The Council's first reason for refusal (Doc CD 35/6) is in addition contrary to the view of the County Highway Authority, who carefully assessed the impact the traffic generated would have on Fairford and Lechlade (Doc CD 35/4 pp 5 & 9). The Council relies on the evidence of two consultants who had no involvement in the pre-application discussions or the processing of the application. There is no claim that they have spoken to the Members who took the decision; Members have not given evidence themselves. The assertion in Mr Cobden's evidence that the development would have a harmful urbanising effect on the character of the south side of the A417 does not reflect the Members' reasons for refusing permission. Indeed, Mr Cobden's stance in cross-examination that there should be no change to the site does not reflect the position of the Council and is not consistent with the SPG, which clearly sanctions various types of development on the three zones identified on the site.
40. The Council and other objectors rely heavily on the 1994 appeal decision (Doc DN 2 Appx 8). However, there are many significant differences between the schemes:
- The 1994 scheme would have subjected the whole of lakes 103 and 104 to intensive water-skiing activity as a regional facility. The proposal in contrast would keep the whole of Zone A free of any development or noisy activity and no motorised craft would be allowed in Zone B (the rest of lake 104).
 - The 1994 scheme made no real provision for general public access to or use of the facilities. It had no affinity with tourism and was essentially a private

- sports facility. The current scheme is a genuine tourism facility – the hotel and leisure facilities would be fully open to public use and enjoyment, providing facilities such as a swimming pool and health and fitness centre which the Fairford HealthCheck (Doc CD 31) shows are much needed locally.
- The 1994 scheme would have had a very damaging impact on the enjoyment of the public footpath around lake 104 because of the extensive bunding and embankments which would have obscured views of the lake from the circular walk and diverted the footpath from the east side of lake 104 (Doc DN 2 Appx 8 & 9). The current scheme involves no such screening measures between footpath and lake and moreover delivers important improvements by upgrading the surface of paths to facilitate disabled and pushchair use, converting the section of permissive path to full public right of way status, and providing off-site footpath and cycleway improvements and facilities both along the Cinder Track between the east of the site and Fairford and along the A417 to the edge of Fairford from the site entrance (Doc 13 and Drg S202/2 Rev D).
 - The 1994 scheme was also found not to safeguard the nature conservation interest of the site. In contrast, it is agreed that the current scheme would not only ensure no long term harm to nature conservation, but would enhance such interests in the western and southern portions of the site and lead overall to a net ecological enhancement (Docs 5, DM 1). It is further agreed that there would be no implications for the ecological interest of SSSIs in the area (Doc 8). In nature conservation and ecology terms the development would fully comply with development plan policies; this should be given considerable weight.
 - The wide views over lake 104 noted by the Inspector in the 1994 decision (Doc DN 2 Appx 8 para 268) have been considerably reduced by lakeside vegetation growth. As a result the site is today better able to accommodate built form. Moreover, in 1994 no part of the site enjoyed Zone C status in SPG (the SPG only dating from 1999). The Council's third refusal reason does not criticise the buildings proposed around lake 103, which lies in Zone C.
 - The policy context today is quite different to the 1994 scheme. That scheme had only a marginal relationship with tourism (Doc DN 2 Appx 8 para 258). Today there is a more positive policy context, with tourist facilities and accommodation more positively promoted in the Cotswold Water Park via policy UT. 1 in the new local plan (Doc CD 25) and the Water Park SPG (Doc CD 28). At national level, policy guidance is now far more accommodating towards tourism development in rural areas.
41. The 1994 decision was fully taken on board in preparing the current scheme. The Council officers confirmed in their Committee report that they had had full regard to the earlier decision.
42. The Council's pre-application discussions with the appellant made clear that Council Members wished to see a hotel built on the site. That this was a specific aspiration in relation to this site, and not simply a general wish to see a hotel facility somewhere in the eastern section of the Water Park, is clear from the fact that the inclusion of a hotel was pursued after the Council had resolved in May 2002 (Doc DN 2 Appx 7) to approve a 100 bed hotel at nearby Coln Park. As Mr Cobden agreed in cross-examination, the north-east corner of the site is probably

the only suitable location for such a building. This reinforces the case that the Council correctly approaches the zoning identified in its SPG in a flexible manner.

43. There is clearly considerable local objection from Fairford residents who seek to resist any development at the site and seek to designate lake 104 as an area that cannot be built upon (Doc CD 31 p.80). However, as already noted the Council does not oppose all development at the site. Local opposition is not by itself a good ground for refusing permission, unless founded on valid planning reasons (PPS 1 General Principles para 27). It should be noted in particular:

- There is also considerable local support for the scheme, although objectors are more numerous than supporters. Fairford Environmental Society represents the views of only about 100 people, out of a town of some 4,000 population.
- The lakes form part of a regional and national tourist and recreation resource, which is being enjoyed only as a local asset at present. The site has clear potential to be used more in keeping with its role as part of the Water Park's regional and national significance and its identity as a resource for local people and visitors alike.
- The proposal would enable the site to be used and enjoyed by a far wider spectrum of the public and a large number of people, consistent with policy.
- Such wider and greater use would not be at the expense of the enjoyment local people derive from the site. Its nature conservation value would be enhanced, access to and around the site would be improved and the permissive section of the circular walk around lake 104 formalised as a public right of way.
- In addition, locally needed leisure facilities would be provided on site and made available to local people, via a planning agreement. It is accepted that there is a strong need for a swimming pool to serve Fairford, as confirmed by the Fairford HealthCheck (Doc CD 31 pp41-2; 65; 91).
- Mr Firkins agreed on behalf of the Council that the proposed development would assist the viability and vitality of Fairford town centre, and as such would be wholly in line with the strategy for Fairford set out in the local plan (Doc CD 25 pp142-3).
- The Cotswold Water Park Society, set up by the Cotswold Water Park Joint Committee to manage both the conservation and the economy of the Water Park, fully supports the scheme. This provides confirmation that the development would bring public interest benefits.
- The Cotswold Water Park Joint Committee does not object in principle to the proposal and confirms that it is generally in line with the Water Park strategy (Letter appended to Doc FTC 1).

Compliance with the development plan

44. The development plan is the starting point for consideration of the proposals. What weight is given to the development plan and to other material considerations on the other hand is a matter for the decision maker. There are numerous relevant policies in the different parts of the development plan; it would be most unusual to find complete accord with the plan at every level. In

this case, there is a good fit overall with the relevant policies, but in any event the many benefits that the development would secure more than outweigh any degree of conflict with particular policies that may be held to exist.

45. Virtually all the policies concerned involve an element of judgement as to whether conflict exists. Officers' judgement, at both County and District levels, was that the development conformed with the relevant policies (Doc CD 35/4).
46. The Council's decision (Doc CD 35/6) does not claim any conflict with relevant policies in RPG10 (Doc CD 21). The proposal thus fully accords with RPG10 policies SS20 (rural land uses, especially in relation to biodiversity); EN1 (landscape and diversity); EC1 (economic development); TCS1 (tourism); TCS2 (culture, leisure and sport); TRAN7 (rural areas); TRAN10 (walking, cycling and public transport).
47. The emerging RSS (Doc CD 22) deserves weight. The proposals would accord with policy TO1 (sustainable tourism), in that they would improve the diversity of facilities and accommodation throughout the region, particularly when this would reduce seasonality. The need for a hotel is not disputed by the Council, and is confirmed by the Cotswold Water Park Society's Scott Wilson report (Doc CD 33). The hotel would be a very different facility from the business/conference Four Pillars Hotel at South Cerney or the Coln Park hotel (if built).
48. As regards the Structure Plan (Doc CD 23), the proposal fully accords with the policy specific to the Cotswold Water Park, policy NHE.8. It would protect and enhance nature conservation interests; diversify and extend recreation and tourist facilities in the eastern section of the Park whilst respecting its special character; facilitate provision of the eastern Spine Road and enhance linkages on foot, cycle and bus between the site and Fairford; strengthen the local rural economy and enhance the vitality of Fairford, thus protecting the integrity of the rural community.
49. The proposal is consistent with the Structure Plan's endorsement at para. 14.2.44 of the Cotswold Water Park Development Strategy (Doc CD 32). The Strategy puts forward the vision of the Park as a premier location for nature conservation, sport, recreation, tourism and leisure provision, and its encouragement of a broader range of accommodation development, particularly in relation to its support for additional hotels to cater for recreation and leisure and avoidance of an over-predominance of holiday homes in the western section of the Park (paras 5.6.4 and 5.6.5). It also seeks to promote new sport, recreation and tourism proposals in the eastern section of the Park and improve the quality of the Eastern Spine Road.
50. The proposal also accords with other relevant Structure Plan policies, notably RE.4 concerning water based sport, recreation and tourism; TSM.1-TSM.4 dealing with tourist accommodation and facilities, and T.1-T.3 and T.10 dealing with transport issues. The plan also recognises the importance of tourism as a source of employment and opportunity for rural diversification.
51. In the Cotswold District Local Plan (Doc CD 25), policy 26 envisages the provision of hotels within the Water Park (subject to policy UT.1); encourages holiday lodges in the eastern section of the Park, unlike in the western section (para 11.1.3); and welcomes visitor attractions well related to the main tourist routes (ie including the A417). Local Plan chapter 11, dealing with the Water Park, recognises the regional significance of the Park for water based sport, recreation

- and tourism; commends such development as providing an alternative to the traditional Cotswold 'honey pots'; states that there is a requirement for continued provision of sport, recreation and tourism facilities, and appreciates that new buildings will be required. Policy UT.1 is a positive policy to promote tourism in the Park, subject to compliance with various criteria. Four of the seven criteria concern nature conservation and Mr Firkins agreed that the proposals would meet these. It is submitted that in fact the proposal accords with all the UT.1 criteria.
52. The Council's decision cited conflict with Policy UT.2. However, Mr Firkins agreed in evidence that the proposal does not conflict with policy UT.2 and that the decision was wrong in this respect.
53. Policy 36 refers to the Eastern Spine Road and Lechlade Relief Road and para 4.35 amplifies the intentions behind the policy. The appeal proposal will contribute most of the cost of constructing the Whelford Road roundabout, which will encourage greater use of the Eastern Spine Road. When constructed the Lechlade Relief Road will considerably improve traffic conditions in the town centre, as confirmed in paras 9.14.5 and 9.14.6 of the Plan.
54. The Plan commentary on Fairford (pages 141-143) recognises that the town lies slightly off the beaten track in tourism terms and clearly encourages additional visitors to the town in connection with the developing eastern section of the Water Park. The commentary also refers in positive terms to measures to improve sustainable transport links with Lechlade and surrounding parishes, for example bus services and cycle routes. Mr Firkins for the Council accepted that the appeal proposal is in accord with this strategy and would be likely to enhance the town's vitality and attractiveness.
55. The Council's case that the modest level of additional traffic generated by the development would be harmful to the functioning of Fairford is hard to reconcile with its Local Plan strategy of seeking to harness increasing tourism opportunities in the Water Park to benefit Fairford town centre (paras. 9.6.12, 9.8.5 and 9.8.7). A new tourist facility in the Water Park could hardly be closer to Fairford, there would be good opportunity of movement between the two without using a motor car, and the additional traffic would give rise to no discernible impacts.
56. Overall, therefore, there is an excellent fit between the proposed development and all levels of the development plan. The relevant policies have been saved. The emerging LDF has not yet reached a stage where any material weight could be attached to it. The Scott Wilson Report (Doc CD 33) is an up to date background document and, whilst not policy, it forms part of the evidence base for the LDF. As such, its findings should be accorded some weight.

PPS6

57. The impact of the development upon neighbouring centres has been carefully examined by Mr Pattie (Doc SP 1) who has looked at the two existing hotels in Fairford and Lechlade. He concludes they are primarily business orientated and would not suffer impact if the leisure related hotel on the appeal site was developed. The Council did not challenge this conclusion and have not put forward any contrary evidence. Mr Firkins specifically accepted that the appeal proposal would be likely to enhance the vitality and viability of Fairford. No concerns of this nature have been expressed in relation to Lechlade.

58. Whilst PPS6 advocates a sequential approach to the location of town centre uses, and a hotel is cited as a town centre use, the appeal proposal is certainly not a type of hotel appropriate to a town centre. Significantly, Annex A to the Good Practice Guide for Tourism Planning (Doc CD 12) advocates application of the sequential approach to "large" hotels. The proposed 38 suite hotel is not a large hotel, and is of a type, as recognised by paragraph 4 of Annex A, which may well be better located in a rural area to take advantage of a particular natural feature. The Guide clearly accepts that even in National Parks and AONBs the provision of tourist accommodation is needed.
59. The Council has never suggested that the sequential test should apply. Nonetheless, Mr Neame has carried out such an exercise (Doc DN 2 Appx 11). He has identified 1 potential site outside Lechlade, which offers no sequential advantage over the appeal site. Mr Firkins agreed with Mr Neame's conclusion. Thus, if the sequential approach applies at all, the Council and the appellant's professional witnesses are agreed that there is no sequentially preferable site on which to meet the identified need for a hotel in this section of the Water Park.

PPS7

60. PPS7 offers generalised guidance for the whole country. Mr Firkins accepted that such generalised national guidance may be overridden by specific local policies dealing with a particular area. The Cotswold Water Park is clearly such an instance, where Mr Firkins for the Council described the policies for the Park as applying as an exceptions policy alongside the normal countryside policies designed to restrict new development in the countryside. Given the special policy regime for the Water Park in an up to date adopted local plan, then provided the proposed development accords with the development plan it should not be held to conflict with PPS7.
61. PPS7 paras 34-40 support appropriate provision of tourism and recreational facilities and accommodation in the rural areas. Paras 34-35 refer to leisure and tourism activities and facilities as vital to rural areas and encourage LPAs to support their provision. Whilst they should normally be provided in or close to service centres and villages, there is a clear acceptance they may be appropriate elsewhere where needed in connection with a particular countryside attraction. This site lies close to Fairford but in any event a hotel is needed on this site to take advantage of the attraction of these particular lakes. Mr Firkins accepted that a hotel was required as part of the overall proposal to ensure its viability.
62. Other parts of PPS7 are encouraging towards leisure and recreation provision in rural areas (paras 5, 15, 16). The emphasis is on a positive policy framework to promote and facilitate the provision of required facilities. The appeal proposal is thus fully consistent with the main themes of PPS7 as well as its specific content on leisure and tourism.
63. The Secretary of State has not specifically raised the Good Practice Guidance for Tourism Planning (CD 12) but it is clearly material and should be read in conjunction with PPS7. Its status, as explained at paragraph 1.2, is equivalent to a PPS. The guidance emphasises the crucial importance of tourism to economic, social and environmental well-being and requires planners and the tourism industry to work together to facilitate, promote and deliver new tourism developments in a sustainable way. The guide points out that new facilities aid diversification of the rural economy and are of benefit not just to visitors but also

to residents who would not otherwise have access to them. That point applies particularly in this case with the swimming pool and leisure/health facilities, for which the Fairford HealthCheck (Doc CD 31) has found a compelling need.

64. In summary, the particular benefits for the local community brought by this tourism development proposal are:

- It would broaden the tourism "offer" in this part of the Cotswold Water Park and directly assist the local economy.
- It would help to revitalise Fairford town centre wholly in accord with the Local Plan strategy for the town.
- It would support important rural services and facilities, such as restaurants and public houses in Fairford and to a lesser extent Lechlade, as well as itself providing important services to the local community.
- Via the proposed Landscape and Ecological Management Plan, and the measures to enhance access to the site, the scheme will deliver ecological and landscape improvements on the site and will guarantee the long term maintenance and enhancement of an important local recreational resource.

PPG13

65. The Council does not claim any conflict with the guidance in PPG13, either within its decision or its evidence to the inquiry. PPG13 paragraph 37 refers to leisure and tourism development which gives rise to large amounts of travel. However, the proposed development would generate only a very modest level of traffic. Paragraph 40 recognises that in rural areas development will inevitably be more car dependent than urban areas and accordingly promotes the siting of new facilities at the most accessible locations in the local area or where accessibility can be improved. This site is highly accessible, being close to Fairford and adjacent to the A417, a designated main tourist route; and no one has suggested any more accessible location in this eastern section of the Water Park. Further, the appeal proposals will improve non-car accessibility to this site through the various measures committed by the unilateral undertaking (Doc 13) as well as the proposed travel plan. The proposals thus comply with the guidance in PPG13.

Need for the proposed development

66. In evaluating the merits of the proposal it is important to take account of the evidence on need. In contrast to the 1994 decision, where no strong need for the proposed facilities was found (Doc DN 2 Appx 8 para 284), in the current appeal there is compelling need for the hotel and leisure facilities. If, contrary to the appellant's case, it is concluded that the proposals would give rise to some harm, that need must be balanced against the degree of harm found.

67. The Council has not in its own evidence sought to claim a lack of need. Moreover, Council Members made plain their wish for a hotel on the appeal site. This desire was not extinguished by the opening of the Four Pillars Hotel in August 2007 (a permission granted much earlier on 15 December 2004) since it is clear that the Members, in line with expressed Council policy, were seeking to address a deficiency in accommodation provision in the eastern part of the Water Park (as is clear from the Local Plan (Doc CD 25), CWP Strategy (Doc CD 32) and the representations of the CWP Society). Nor is it conditional upon the absence

of any other permission for a hotel in the eastern section. The Council had already resolved to approve a 100 bed hotel at Coln Park in May 2002 (Doc DN 2 Appx 7) prior to the pre-application discussions regarding the appeal site.

68. There is ample evidence from a variety of sources of a need for an additional hotel and leisure facilities in this part of the Water Park:

- The Chief Executive of the CWP Society is emphatic that a need exists for a hotel together with leisure facilities in this part of the Park (Doc DN 2 Appx 12).
- The Scott Wilson Report May 2007 (Doc SP 2 Appx 1) identifies a relatively limited level of accommodation in the Park, clear commercial interest for accommodation growth and scope for further tourism development.
- Scott Wilson and the CWP Society's Chief Executive both confirm that the appeal proposals accord with what they consider is necessary and appropriate in the Park (Doc DN 1 para 6.81).
- The current CWP Strategy 2000 – 2006 (Doc CD 32) clearly seeks a broadening of accommodation types to include, *inter alia*, hotels and there is particular emphasis on development in the eastern section of the Park.
- The adopted Local Plan clearly encourages more holiday lodges in the eastern section of the Park whilst resisting them in the western section (Doc CD 25 policy 26 section 5 & para 11.1.13). Hotels are encouraged in the Park provided the criteria of Policy UT.1 are met, as are other visitor attractions.
- The Fairford HealthCheck Action Plan (Doc CD 31) seeks to improve tourist facilities and encourage visitors to spend more and stay longer in the area (p 86). The HealthCheck identifies a shortage of accommodation at busy times, particularly in Fairford (p 28 item EC5 C3); and a particular need for a swimming pool and more specific sports and leisure facilities (Doc CD 31 pp 41, 65). The questionnaire survey results (p 129) list improving and expanding tourist facilities and promoting the town as a tourist attraction as important issues for the town's future.
- Mr Pattie's expert evidence (Doc SP 1) clearly establishes a need for the package of accommodation and leisure facilities proposed. There is specific hotel operator interest in the proposed hotel (Doc SP 2 Appx 7).
- There is no certainty that the hotel permitted at Coln Park will proceed (Doc SP 1 para 33). Indeed, there is no evidence of an operator committed to that site. In any event it would be a wholly different type of hotel from the appeal proposal, as is the Four Pillars Hotel. If it does proceed, its provision will be many years in the future.

69. Accordingly, the Secretary of State is invited to conclude that there is a strong case of need for the hotel, the associated leisure facilities and the holiday lodges. Apart from Coln Park, where the pace of delivery seems completely unknown, the inquiry has not heard of other proposals, whether committed or proposed, in the eastern section of the Water Park. No one at the inquiry has challenged this need case and it is accepted by Mr Firkins on behalf of the Council. No one has pointed to a more sustainable site.

Reason for refusal 1: Traffic impact

70. This reason has been advanced contrary to the combined advice of the Council's planning officers and the County Highway Authority. Mr Firkins claimed no expertise in transportation matters and deferred to the expertise of Mr Finlayson. Ultimately he conceded he could not challenge Mr Finlayson's assessment of the volume of traffic generated and the directional split, summarised in the Statement of Common Ground agreed with the County Highway Authority (Doc 7). The Council has submitted no evidence about problems in Lechlade. The concern as stated is confined to Fairford.
71. Mr Finlayson's evidence is that in the evening peak hour (the period that the County Highway Authority required to be assessed) the development would give rise to 40 additional movements through Fairford. The assumptions underlying this assessment of traffic generation are very robust; the trip generation rate used for the hotel and leisure facilities is a high one and there is in addition a supplemental allowance for a proportion of external trips. Moreover, the trip generation estimate is based on 100% occupancy of the accommodation, whereas Mr Pattie subsequently stated that occupancy would normally lie in the range 40-60%. 40 peak hour movements thus is probably an over-estimate.
72. Mr Firkins' evidence was that the congestion in Fairford was a problem particularly at peak periods. He agreed the appeal proposal would not cause particular problems outside the peaks. Expressed as a percentage of Mr Finlayson's most recent traffic surveys, 40 additional movements is an increase of just 6% of the existing peak hour flow (Doc PF 1 table 3 p 17). Applying Institute of Environmental Assessment (IEA) guidelines, this would not be discernible. Mr Firkins conceded this. Whilst Mr Firkins evidence (Doc SF 1 para 7.26) suggests that the effects of the additional traffic would be to exacerbate severance, driver and pedestrian delay, pedestrian amenity and impact on the Conservation Area, he failed to carry out any empirical analysis of the level of existing impacts or the level of suggested additional impacts, and therefore failed to consider whether any particular threshold in the IEA guidelines would be exceeded. When taken to Mr Finlayson's analysis (Doc PF 2 Appendix F), Mr Firkins agreed with its content and with Mr Finlayson's conclusions that the traffic increase would be significantly below levels where a material impact would be caused.
73. Existing traffic conditions in Fairford are not unusual and traffic calming is a normal feature where a principal road passes through a settlement. The A417 through Fairford is not used at anything like its full capacity (Doc PF 1 para 6.12). There is a good balance between through traffic movements, the facility to park on street and the ability to cross the road in conditions of safety. The A417 is a principal 'A' class road whose function is to carry traffic as well as being a designated tourist route. The Local Plan expresses no concern about the impact of traffic through the town and its strategy for the town centre is to promote additional tourist visits in association with the increasing tourist developments in the eastern Park. The Town Council fully support such a strategy. The Cotswold District Town Centres and Retailing Study (June 2007) (Docs CD 27, CD 27A) concludes that whilst there is a significant flow of traffic through the centre it is not of a level that detrimentally affects its character (para 4.100). Most people questioned about Fairford (over 71%) said there was nothing that they particularly disliked (p. 294 of CD 27A) and none suggested reducing traffic when

- asked to identify improvements to the centre (p. 298 of CD2 7A). The Fairford HealthCheck (Doc CD 31) does not identify congestion or bus delays as problems.
74. In summary, the resulting modest additional traffic at peak times of the day when there is some congestion in Fairford would be well within the range of normal day to day variations in traffic flow and not such as to cause any material additional impacts on the amenities of those living in or using the services provided in Fairford.
75. There is a long-term aim to downgrade the A417 west of Whelford Road junction to B road status. The appeal proposal would contribute to the improvement of the Eastern Spine Road, which is a prerequisite for this, by funding the provision of the new roundabout at its eastern end. This, together with other Spine Road improvements, will make the route an attractive option and lead to a reduction in traffic using the A417 through Fairford. Further traffic calming measures are planned in Fairford (Doc PF 2 Appx A p14).
76. At the Council's request a cumulative traffic assessment taking into account the Coln Park development has been undertaken (Doc CD 35/2/4). The County Highway Authority is satisfied that the level of additional traffic even allowing for the cumulative effect of other development is not so high as to justify a refusal on traffic grounds (Doc CD 35/4 p9). Contrary to Mr Firkins' evidence, the County Highway Authority is not concerned only with highway safety; it clearly has a much wider remit including in particular the environmental impact of the traffic on Fairford.
77. The Secretary of State is invited to conclude that the Council has been quite unable to substantiate the first reason for refusal.

Reason for refusal 2: Landscape and visual impact

78. The Council's officer team advising on this site included specialist landscape and heritage officers. They had full regard to the 1994 appeal decision and ultimately were able fully to endorse the appropriateness of the current proposal. Whatever view is taken about the attractiveness of the site, it is not designated as a landscape of particular value, either locally or nationally, in respect of which PPS7 states particular attention is necessary. The policy against which the proposal should be assessed is Local Plan Policy UT.1, criteria (c) and (d). Council officers were plainly of the opinion that this policy was met. The site was regarded by them as not being of significantly high landscape quality (Doc CD 35/4 p11), an opinion shared by the appellant's landscape witness Mr Davies, who accepted in cross examination that it was attractive but could not agree with the Council's landscape witness Mr Cobden that it was "strikingly beautiful".
79. The Council's concern about impact on the character of the A417 relates to cumulative effect perceived in combination with the Coln Park development. However, the two site frontages are not intervisible and are a considerable distance apart. Mr Cobden's evidence characterises the effect of the Coln Park development, which has involved the removal of some 350m linear length of roadside vegetation, as "subtle" urbanisation (Doc MC 1 para 5.3). The appeal proposal involves the loss of no more than 14m of roadside vegetation and would have significantly less impact than the subtle changes at Coln Park some distance to the east. Any form of development permitted on the appeal site would require a new access and it has not been suggested the form of access proposed here is in any sense unusual. The minor breaks in the frontage vegetation for the

combined cycle and footway are necessary because of the Council's request that the cycle/footway along the site frontage should run behind the tree/hedge line and not adjacent to the road carriageway. In any event, this very small extra vegetation loss would have no significant landscape or visual impact.

80. There would be a fleeting glimpse of the hotel/leisure building from the main road but the Council throughout the application process encouraged the provision of a landmark structure which would be seen by those passing the site. It is odd and unfair now to criticise the scheme because there would be some view of it from the main road. Mr Cobden accepted that, given Members' desire to see a hotel on the site, there was no better location for it. It is the rational place for the structure to enable awareness of it from the main road, and would confine the bulk of traffic movements within the site to that corner closest to the A417. It would not be sensible to try to accommodate the hotel on lake 103, the zone C portion of the site where new buildings are ordinarily acceptable under the SPG.
81. The Council's main concern about landscape and visual impact relates to the effect of the development on the enjoyment of public rights of way within the site. Other than the issue concerning views from the A417, it is common ground with the Council that there would be no material off-site landscape impact. Moreover, the concern voiced by Mr Cobden about the character arising from the resulting pattern of development on the south side of the A417 is a new point, not raised by the Council in its lengthy but explicitly worded reason for refusal.
82. Whilst some public views within the site would undoubtedly change it should be remembered that:
- The margins of the lakes are rapidly becoming vegetated, so that without proper management many of the expansive views over lake 104 will be lost. The appeal proposal would guarantee long term maintenance and enhancement of the landscape through the Landscape and Ecology Management Plan.
 - The public rights of way would be upgraded and the circular walk that is valued by local people assured throughout its length as a formal public path. The enjoyment of these paths will be maintained, indeed enhanced. The position statement agreed with the County Rights of Way Officer (Doc 6 Appx 2) leaves no doubt that the public right of way is not continuous at the north east corner of lake 104 and that the circular walk exists only by means of the section of permissive footpath provided by the appellant.
 - Views within the Zone A portion of lake 104 (Doc MD 2.1) will remain largely unchanged and the nature conservation interest of that area will be enhanced. Expansive water views will be maintained.
 - Views across to the north-east, east and south-east shorelines of lake 104 will change, but not harmfully (Docs MD 2.1-2.3). There will still be attractive panoramic views; the buildings seen in those views will be at a considerable distance and contained well by the scale of the lake, the existing vegetation and the proposed landscaping. The fact of presence of buildings should not of itself be equated with landscape or visual impact. Mr Cobden's resistance to any change on the site cannot be reconciled with the zoning guidance in the SPG or the Members' request for a hotel on the site. The local plan contains no suggestion that these lakes are a "no development" area.

- Mr Davies' photomontages (Docs MD 2.2 & 2.3) have been accepted as a fair representation of the proposed views. Of course, they are purely illustrative of the bulk, height and massing of the buildings as well as design and landscaping, which are all reserved matters. The photomontages have assumed the buildings are constructed with a 600mm freeboard above the Environment Agency threshold flood event (1 in 100 year storm + 20% for climate change). The Agency requirement in relation to the July 2007 flood event on the site is only for a 300mm freeboard above that water level, due to the exceptional nature of that event. The photomontages show buildings whose presence would be entirely appropriate in this location and would not replicate the visual characteristics of buildings at Watermark or the Lower Mill Estate in the western section of the Water Park (Doc MD 2.4). There will be ample opportunity to achieve appropriate landscaping in and around the proposed buildings at the reserved matters submission stage. Mr Cobden's landscaping criticisms are not justified given that the montages are purely illustrative. A manicured suburban landscape is not intended.
83. Views from the public right of way between lakes 103 and 104 would not be blocked. Views have deliberately been retained between the buildings to the lake beyond and, those views, although changed, would still be attractive to footpath users. Without management, views from the footpath will be increasingly lost and a thickly vegetated tunnel will progressively replace the lake views.
84. The building heights envisaged are modest and in any event will be determined at the reserved matters stage, although a condition no doubt will be imposed if permission is granted to ensure that the buildings do not exceed the heights that have been assessed in the Environmental Statement. The hotel and leisure building will not be a prominent structure when seen from the western shore of lake 104 and the photomontages show that it sits well down in the landscape. Only the siting of buildings is fixed at this stage, so the number of bedrooms, number of storeys, the provision of balconies and so forth are all to be determined at the subsequent reserved matters stage.
85. The Council makes no criticism of the design approach per se and does not suggest any conflict with its Design Code SPG. The officers have encouraged a contemporary design approach, as commended in the Local Plan (Doc CD 25 para 11.1.30), and the photomontages and illustrative drawings reflect this.
86. It is clear from Mr Cobden's evidence that the Council's approach to other development in the Water Park has been to allow it where there would be modest adverse impact on the wider landscape, even though there would be a major adverse impact within the site itself. Mr Cobden stated this had occurred at the Four Pillars Hotel, Watermark and Lower Mill Estate developments (Doc MC 1 section 8). He agreed that, even if his evidence about the impact of the appeal proposal was accepted, to grant permission would be consistent with the approach the Council has repeatedly taken elsewhere. The off-site impact of the appeal proposal would be modest given how well the site is screened from outside its boundaries. Within the site the impact and change would be greater, but not in a significantly harmful way. Buildings would be seen, but not as continuous walls of built form unrelieved by landscaping. Built form would extend around lake 103 but this falls within Zone C where buildings are acceptable. Buildings would be located around lake 103a, but in a very sympathetic manner. Mr Cobden agreed that the density of development would not exceed that seen elsewhere in the Water Park. Indeed, relative to

Watermark and Lower Mill Estate the density cannot be described as “relatively high”. The remodelling of the eastern shoreline of lake 104 would help to give it visual interest and prevent the development being seen as a straight line of buildings, as seen in the western part of the Water Park.

87. The White Consultants June 2000 Landscape Assessment Report for the Council (Doc CD 30) concludes (p 10) that the eastern section of the Park has capacity to absorb development and that there is potential for innovative sustainable development. That judgement should apply to the appeal site. It can accommodate the level of development proposed without harming the wider landscape; indeed, the site has a far better ability to absorb development than seen elsewhere in the Park. The site presents an opportunity to provide much-needed tourist accommodation and facilities in this part of the Park where it would be highly sustainably located so close to Fairford, but without any harmful impact on the landscape setting of the town.
88. Overall, the Secretary of State is requested to conclude that the proposals would not give rise to any unacceptable landscape or visual impact, but that in any event the appeal proposals represent development much needed in this part of the Water Park and that there is no other site identified that is better able to absorb the level of development proposed.

Reason for refusal 3: Conflict with SPG zoning

89. This reason for refusal (Doc CD 35/6) once again provides a full and explicit statement of the precise content of the Council’s objection. The reason recognises that policy is contained in the local plan and that by contrast the SPG (Doc CD 28) represents only supplementary guidance. It is not part of the development plan to which the statutory test concerning the determination of development proposals applies. The SPG clearly does not carry the same weight as development plan policy.
90. The SPG’s function is to assist in the assessment of development proposals on particular sites (Doc CD 28 p 1). It is not itself determinative of such decisions: that is the function of formal development plan policies. Thus, if the proposed development is found to accord with Policy UT.1 there would be no basis for nonetheless rejecting the development on account of non-compliance with the indicated zoning.
91. The objection relates only to those parts of the site zoned A and B. No objection is raised in relation to lake 103 which lies within zone C. CPRE raises no objection to holiday accommodation buildings around lakes 103 and 103a. It is clear that the Council regards the provision of the proposed lodges within zone C as complying with the zoning guidance.
92. The refusal reason spells out the harm alleged to arise from departing from the zoning guidance. In zone A the alleged harm is the impact on tranquillity caused by activities generated by the development. For zone B the harm alleged is the impact on landscape resulting from the presence of buildings and the resultant loss of vegetation. There is no suggestion that the presence of buildings elsewhere on the site would be harmful to the zone A part of lake 104. For this zone the objection is confined to activities. For zone B, the eastern 50% of lake 104, the concern does not relate to activities generated by the development but is confined to the effects of the built form and vegetation loss within zone B itself. No complaint is made about buildings or vegetation loss in zone C.

93. When originally put as a zoning policy within the previous local plan, the Local Plan Inspector was concerned about the provenance of the zoning (Doc DN 2 Appx 6 para 8.6.7). In particular, doubt was expressed about the robustness of the underlying analytical basis, which was not based on any empirical evidence obtained by detailed survey or consultation with landowners and others. The Inspector recommended (para 8.6.10) that prior to its publication as SPG the Council should reassess the zoning proposals. This was never done and, it follows, there was no further consultation on its content which would have been expected had the Council revised the zoning proposals following such a reassessment. The zoning should, therefore, be treated with considerable caution given its dubious provenance and the Council's refusal to reassess, as urged by the Local Plan Inspector. Mr Neame pointed out (Doc DN 1 para 6.28) that the splitting of lake 104 into two zones apparently resulted from a Member decision at a committee without the benefit of any technical appraisal.
94. The Local Plan Inspector did not recommend that zoning should be deleted from policy in the Local Plan purely for procedural reasons. He thought the zoning concept should not be included because it could inhibit development initiatives and deter otherwise beneficial and acceptable development and that it would be a more appropriate and flexible policy aid if published separately as SPG (Doc DN 2 Appx 6 paras 8.6.7-9). Nor is it right to suggest that the SPG zoning gains added weight because it was originally examined as part of the local plan process. It plainly was not (although some particular sites came under scrutiny), as otherwise the Inspector would not have recommended that the zoning should be reassessed. He clearly envisaged that there would be a comprehensive reassessment, not confined to the particular sites on which he had commented.
95. In practice the Council has not allowed the zoning to deter it from granting permission for development which it considered appropriate and acceptable notwithstanding clear non-compliance with the indicated zoning. There are notable examples of where buildings have been permitted in zones A and B (Doc 6 Appx 4). There is no reason to adopt a different approach in relation to the appeal site. If the Secretary of State considers the development otherwise acceptable, she should have no hesitation in allowing the appeal in the safe knowledge that to do so is entirely consistent with the Council's own approach in other cases.
96. Nothing is proposed within zone A itself which could be harmful to its tranquillity. The proposals for this part of lake 104 are limited to landscape and nature conservation enhancements and the upgrading of paths. There would be no noisy or disturbing activity on the zone B portion of lake 104. In particular, motorised craft would not use the lake. Vehicular activity would be confined mainly to the north east corner of the site beyond the hotel/leisure building and is not likely to affect tranquillity within zone A. Human activity on the lake shores may be observed but it would be at a distance, intermittent in nature and highly unlikely to affect enjoyment of zone A.
97. On examining CPRE's tranquillity map (Doc MD 2.5) the site is not in a particularly tranquil area – it is indicated as about midway between most and least tranquil. Mr Firkins agreed that within the zone A portion of the site the factors commonly perceived as contributing to tranquillity and applicable to inland sites would still be enjoyed. Factors perceived as the opposite of tranquillity - constant vehicular noise, seeing lots of people, urban development or overhead light pollution, or hearing lots of people would not be introduced to

zone A by the development. Within the zone A portion of the site it is already possible to see and hear low flying aircraft, see the A417 and hear its traffic, and see power lines between lakes 103 and 104.

98. The zoning guidance for zone A in the SPG has been adhered to – it relates to development within zone A itself and there is nothing about what is proposed within zone A which would harm its particular qualities. Furthermore, zone A is partly characterised as areas having poor access, which certainly does not apply to this site. In addition, the SPG applies zone A to areas closest to existing settlements in order to ensure no detrimental impact on those settlements: there is nothing about the proposed on-site activities or buildings which would have any harmful effect on nearby Fairford or its surrounding protection zone. As Mr Firkins agreed, it was an error for the refusal notice to have raised conflict with policy UT.2.
99. The landscape impact of the proposed development in zone B has been addressed above in relation to the second reason for refusal. If buildings in connection with tourist attraction and accommodation are acceptable in the zone C portion of the appeal site it is difficult to understand why they would be unacceptable in the zone B portion. The SPG states that zone C areas normally have good spine road access and are sufficiently far removed from settlements to ensure there is no likelihood of disturbance or noise. That description applies equally to the eastern 50% of lake 104 as to lake 103.
100. In conclusion, there is nothing in the SPG which requires the appeal scheme to be rejected. As it states (Doc CD 28 p 1), it is intended to be a “flexible framework” and to allow “freedom for enterprise and initiative” whilst protecting the quality of the area. The character and appearance of the site will change somewhat but this is inevitable when development takes place on zones B and C. The quality of the area, albeit changed, will be protected and enhanced. The appellant’s enterprise and initiative will result in a commendable form of development much needed in this section of the Water Park and providing support and benefit to the vitality and viability of Fairford in general and its important tourist role in particular. Council officers specifically advised Members that it would not be defensible to base a refusal solely on the basis that a proposal did not adhere to the SPG zoning guidance (Doc CD 35/4 p 11). The third reason for refusal (Doc CD 35/6) does just that and is not defensible.

Flooding

101. Understandably, in view of recent flooding events, local people are apprehensive. However, the floodplain map is demonstrably inaccurate in the area of the site; the extent of areas shown as liable to flooding from the River Coln is plainly inconsistent with the observable physical topography of the river corridor. In addition, the presence of the various lakes creates a complex situation in terms of the hydrology of the area. In view of this there has been an extremely thorough appraisal and flood risk assessment carried out by the appellant’s consultant in consultation with the Environment Agency (Docs CD 34/9; CD 35/2/5). After completion of the assessment process the Agency unreservedly withdrew its earlier objection in February 2007 (Doc 15).
102. Following the July 2007 flood event it raised further concerns (Doc 16) which led to detailed examination of the available information concerning this event. This has resulted in the Environment Agency agreeing a Flooding Matters

Statement of Common Ground in relation to the July 2007 flood event (Doc 17). The Agency is satisfied that the July 2007 flood event does not affect the validity of the conclusions drawn from the original modelling work which directly led to the complete withdrawal of its earlier objection. It has been agreed that the July event was far more extreme than the PPS25 threshold (1: 100 year event + 20%); the rainfall event alone represented a 280 year return event and the flooding was exacerbated by extensive blockages in the River Coln and Fire Brigade pumping across the site. The Flood Risk Assessment and the more recent modelling demonstrate that the proposals are fully compliant with PPS25.

103. The appellant has also provided a further written response to each of the detailed questions raised by Fairford Environmental Society concerning the robustness of the fluvial flood risk assessment carried out for the site (Doc 18).
104. However, notwithstanding that the Environment Agency, having considered the further assessment following the July 2007 event, still raises no objection to the development proposals, the appellant is prepared to raise the finished slab levels of the buildings to 300mm above the estimated 2007 flood peak levels as a further precautionary measure (Doc 19). The appellant also agrees, as requested by the Environment Agency, to include functional engineered weir structures to permit controlled discharge of flood waters between the lakes during extreme flood events.

The Town Council and Fairford Forward

105. The Council's spokesman, Mr Hing, agreed that Town Councillors were "deeply split" on this issue. The Town Council had originally objected but it appears that there was now strong support for the proposed development from a sizeable proportion of the Councillors. For whatever reason, the desire for a further vote on the issue was seemingly denied and so the true current position of Town Council Members is unknown. The inclusion in its Action Plan within the Fairford HealthCheck (Doc CD 31 p 80) of an aim to designate lake 104 as a "no development" area was apparently inserted purely at the suggestion of one individual right at the end of a lengthy process. Otherwise the HealthCheck is wholly supportive of the appeal proposals. In particular it fully endorses the need for the proposed leisure facilities and is powerfully supportive of the local plan's strategy of encouraging more tourist visits to Fairford to sustain and enhance its economy. The latter must lead to additional traffic passing through the town, and thereby fundamentally undermines both District and Town Council opposition to additional traffic. As it happens the appeal site's close proximity to Fairford and the sustainable travel measures proposed would ensure that there would be less traffic generated affecting Fairford than if the proposals were sited further away, and the availability of leisure facilities on the site for local people will reduce their need to travel greater distances, mainly by car, for leisure purposes.

THE CASE FOR THE COUNCIL

106. The main points of the case put for the Council are:

Introductory points

107. The Secretary of State has recovered this appeal on the grounds that it involves proposals which give rise to "substantial regional or national

controversy”, demonstrated by the volume of objection and petitions it has generated. The Council welcomes the decision to recover. The Cotswold Water Park is of international significance for nature conservation and of regional significance for water based sport, recreation and tourism (Doc CD 25 para 11.1.2). It is an extensive rural area of distinctive landscape character arising from mineral extraction and restoration, taking on a wetland character and including “strikingly beautiful lakes with maturing vegetation around their margins” (Doc CD 25 para 11.1.7). The impact of tourism development of the scale proposed in this unique rural area is of more than local importance.

108. The Water Park’s attributes in relation to nature conservation, landscape character and capacity to accommodate recreation and tourism are not mutually exclusive. However, planning for their maintenance or development on individual sites requires critical examination and careful assessment of proposals. It is significant that the point has been reached where further tourist accommodation development in the western part of the Park would harm its character (Doc CD 25 para 11.1.13). Mr Davies’ evidence to the inquiry was that he would not wish to see the design approach of the Lower Mill and Watermark developments (Doc MD 2.4) replicated here, and that “lessons had been learned”. The Council urges the Secretary of State to set a benchmark for ensuring that tourism development in the eastern section of the Water Park does not repeat the mistakes of the past.

Policy

109. The scheme proposes the construction of 200 units of accommodation and an hotel/leisure complex in the open countryside. PPS7 seeks to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes and its heritage and wildlife. Tourism development has its place in the countryside providing it does not detract from the attractiveness or importance of the feature concerned or the surrounding countryside (PPS7 para 35(ii)). Where tourism accommodation is proposed the objective of providing adequate sites and facilities must be weighed carefully with the need to protect landscapes and environmentally sensitive sites.
110. The Cotswold District Local Plan 2006 (Doc CD 25) recognises this. Policy 26 supports tourism development but subject, in the Water Park, to policy UT.1. The latter supports tourism development, but only if criteria are satisfied including the retention and enhancement of existing landscape features that contribute to the character and appearance of the site and the design and siting of new buildings being sympathetic to the character of the site and avoiding harm to the landscape. Both sides agree that the landscape and visual impacts of the development are key considerations in this case.
111. Mr Davies for the appellant accepted that if it were concluded that the proposal failed to satisfy criteria (c) and (d) of policy UT.1, then the scheme would be in conflict with that policy. The Council submits that the issue of conflict or otherwise with policy UT.1 should be determinative of this appeal. It is a key policy, which is strict and for a purpose. Whereas nature conservation and landscape are pre-existing attributes of the Water Park resource, proposals for tourism development are not part of the established scene and involve the introduction of alien elements into the countryside. The function of policy UT.1 is to ensure that when tourism developments are introduced into the Water Park, it is not done at the expense of harm caused to the unique landscape, which is the basis of its attractiveness and its role as a recreation and tourism resource.

112. The evidence demonstrates that the appeal proposal conflicts with policy UT.1 criteria (c) and (d). If it is concluded that harm would be caused to the landscape of the appeal site and its character and appearance, the Local Plan provides no policy basis for finding that there are other material considerations which can override that harm and warrant the grant of planning permission. Contrary to the appellant's assertion, the Plan does not require any balance to be achieved in the provision of tourism accommodation in the western and eastern parts of the Park; nor does it recognise any imbalance which needs to be corrected.

Other material considerations

113. Other material considerations do not exist which could override conflict with policy UT.1. Nonetheless, a number of matters have been raised, as follows:

114. *Management of the site.* It is not in dispute that the site would be managed if permission for the scheme were granted. However, it would be the management of a damaged landscape. Moreover, refusal would not inevitably mean no management. The lakes have all been used for fishing in the past and managed (Doc CD 34/2 sections 5.8.2 et seq and 6.6.3). There is no evidence that the appeal proposals are the only tourism proposals that could go forward on the site, or that the site could not be managed as part of an appropriate tourism development compliant with policy UT.1. Mr Davies acknowledged in cross-examination that without active management the ecological value of the site was nonetheless increasing; and the attractive features of the site identified by the appeal Inspector in 1994 (Doc DN 2 Appx 8) remain to be seen today.

115. *Spin-off benefit to Fairford and Lechlade.* The Council acknowledges that if permission were granted the users of the hotel and lodge accommodation would spend money in Fairford. That benefit, however, would not override the demonstrable harm to the landscape, character and appearance of the lakes. All the evidence is that Fairford is a balanced, buoyant economy which is performing well (Docs CD 31, CD 25 p141, CD 27/27A). Whilst the Local Plan states that Fairford should aspire to promote itself in association with tourism in the eastern part of the Water Park, this cannot be pursued sensibly in breach of policy UT.1 which seeks to safeguard the very landscape assets which go to make this part of the Park a tourism destination from which Fairford might benefit.

116. *Local use of leisure facilities.* The Council accepts that if leisure facilities including a swimming pool were provided for the public at the site they would be used. To that extent they would meet a demand. However, the terms of availability of use, and at what price, remains unclear. Draft condition 38 refers to a Community Action Plan as a mechanism to deal with these matters, but there is no evidence as to what provisions it would contain or who would fix the price for public use. It is doubtful whether a condition is an appropriate method of dealing with this. In any event, there is no compelling evidence to demonstrate that public demand for leisure facilities (essentially a swimming pool) should override demonstrable harm to the landscape, character and appearance of the Park in conflict with policy UT.1. Such an approach would be wholly at odds with the aspirations for the Water Park set out in chapter 11 of the Local Plan (Doc CD 25).

117. *Hotel benefit.* The "small" hotel of 38 bedrooms is not the same facility as described on pages 8 and 9 of the Environmental Statement (Doc CD 34/2). Mr

Pattie, whilst providing evidence to the inquiry concerning hotel need, had no direct knowledge of the hotel details provided in the Environmental Statement. There is no evidence that what is being provided meets the hotel requirement supposedly being looked for in the eastern part of the Water Park by Councillors in 2003.

118. It is accepted that there would be demand for the hotel and that Local Plan policy 26 supports hotel provision in the eastern part of the Park – but this is subject to policy UT.1. Thus, the Plan itself makes it clear that demand/need for a hotel is not to override conflict with policy UT.1. Although Mr Pattie’s evidence is that he identifies a specific demand/need for a 38 bedroom hotel in this area which the development would fulfil, the Local Plan (Doc CD 25) makes it clear at para 11.1.7 that the need for investment in the Water Park area should not be an excuse for allowing unacceptable developments.
119. *Biodiversity.* The Council accepts that there would be a net gain overall for ecology if the Landscape and Ecology Management Plan were to be satisfactorily implemented. However, protection and enhancement of the ecological resource is only one part of policy UT.1. UT.1 criteria (c) and (d) relating to landscape character and appearance are distinct criteria that must be satisfied to avoid conflict with policy. There is no evidence that the proposal is the only means of protecting and enhancing the ecological resource of the site, or that refusal of permission would be harmful to the ecology of the site. The biodiversity benefits therefore do not remove or override the fact of conflict with policy UT.1 criteria (c) and (d).
120. *Public rights of way.* Although the rights of way statement of common ground between the appellant and the County Council rights of way officer (Doc 6 Appx 2) forms an appendix to the Statement of Common Ground agreed with the Council (Doc 5), the District Council has not taken a formal view as to whether the document represents the definitive position. Furthermore, all the evidence shows that the circular walk as it exists on the ground has been used by the public for many years without hindrance. It should not therefore be assumed that if the appeal fails the current state of affairs will necessarily change. In any case, the opportunity to formalise a length of permissive path at the expense of harm to the landscape, character and appearance of the appeal site is not supported by policy. It would be wholly contrary to the policy UT.1 aim of protecting and enhancing the Water Park landscape so that it may continue to be enjoyed by the public, including tourists who visit the area and who make use of the rights of way.

Demonstrable harm – Reason 1; Traffic

121. The physical characteristics of the roads in the centre of Fairford are readily observable. The A417 national route is effectively reduced to single lane traffic in London Street, at the four way junction south of the market square and in Milton Street. There is queuing of traffic passing through the town. The Council does not dispute the traffic generation data produced for the appellant (Docs CD34/5, CD 35/2/4), and accepts the estimated 40:30:30 distribution between the A417 westwards, A417 eastwards and along Whelford Road on the basis given at the inquiry; namely that it relates only to the arrival/departure routes of users of the proposed accommodation seeking to travel between their main residence and the site as a holiday destination. Mr Finlayson confirmed in cross-examination that the distribution did not take into account the distribution of traffic generated by

- occupants of the holiday accommodation once in residence. However, residents may remain on the site for a considerable time, depending on the value of their fractional ownership, during which time they will undoubtedly make a significant number of trips to Fairford and beyond along the A417.
122. Little comfort can be drawn from the Coln Park Traffic Assessment (Doc SF 1 Appx 3), which refers to the possibility of increased congestion in Fairford and Lechlade.
123. Mr Finlayson's 10% figure for trips by local people to the new leisure facility (Doc CD 35/2/4 para 2.7) is an assumption based on estimated visits by the public in circumstances where the terms of access remain undecided. There must be doubt, in these circumstances, as to the level of contribution to traffic flows made by local residents travelling to and from the appeal site facilities.
124. Traffic problems do exist in Fairford and are real to the people who live there. The Fairford HealthCheck (Doc CD 31) states at page 9 that whilst traffic calming measures have made it easier to cross London Road near Londis, it is still very dangerous to cross London Street from either side of the market place. Although there is a plan to improve the junction, this has yet to materialise. At page 52 the document refers to the "bottleneck" and reports mixed views as to whether the traffic calming measure has been successful.
125. The evidence of the Fairford Environmental Society and individual representations demonstrate the local concerns about traffic and the adverse effects (intimidation, severance, pedestrian delay), which are generically described in the Institute of Environmental Assessment Guidelines (Doc PF 2 Appx C). The Guidelines also note (page 34) that severance can relate to quite minor traffic flows, if they impede pedestrian access to essential facilities. Severance effects can apply equally to residents, motorists or pedestrians.
126. The Guidelines for Environmental Assessment of Road Traffic are only guidelines. They are not exhaustive, nor a reference for the very detailed or specific problems that occur in assessing the environmental impact of traffic. Whilst it is accepted that the resulting cumulative increase in traffic would fall below the 10% threshold referred to in the Guidelines, this is not a reason to ignore the existing and specific problems encountered every day in Fairford relating to severance, fear and intimidation and pedestrian and driver delay which have yet to be addressed and which can only be made worse by increased traffic flows.

Demonstrable harm – Reason 2 Harm to the character and appearance of the site

127. The Council's concerns about the proposal in these terms are identified in the second reason for refusal as relating to the visual intrusion caused by the proposed buildings arising from their size, massing and siting, the damage they would cause to views enjoyed by the public from rights of way, and the harm to the landscape features of the site, which are important components of its character and appearance.
128. The Council officers' assessment of the proposals in the Committee report (Doc CD 35/4) identified:

- That the density of the proposed buildings would be relatively high and that the visual character of the site would be altered
- That the development would have a material impact upon the landscape character of the site
- That the main impact of the proposal on public access would be the change to the character of the site in relation to views across the site, the tranquillity of the area and in the experience of walking between lodges at the eastern part of the site between lakes 104 and 103
- The statement of the applicant that there is no intention to screen the development from public views as the new buildings should stand on their own merits as being appropriate and not harmful to the landscape setting
- That the development would have a significant impact on the character and appearance of the site and its wider context.

129. It is acknowledged that despite these observations the officers recommended approval, largely because they came to a view that there would be no harm caused to a landscape which they concluded was not of significant value, or not of significantly high landscape value. In particular, in relation to density they considered that the proposal was similar to many of the holiday accommodation sites within the western part of the Water Park. These are matters of judgement, with which Council Members, in their role as decision makers, did not concur. However, they nevertheless provide a useful frame of reference in coming to a judgement as to whether the development would be likely to cause harm to the landscape quality of the appeal site and its character and appearance.

130. The starting point for the consideration of these matters is the development plan and whether the development accords with it. Chapter 11 of the adopted Local Plan (Doc CD 25) establishes a number of principles for the consideration of development proposals in the Water Park:

- The landscape is of high value (para 11.1.7)
- The Water Park is an important nature conservation resource (para 11.1.10)
- Further chalet development in the western part of the Water Park would harm its character (para 11.1.13)
- The concerns of local people must be taken into account (para 11.1.16)
- The need for investment in the area should not be an excuse for allowing unacceptable developments (para 11.1.17)
- Development should be broadly compatible with the Water Park zones, published as SPG (para 11.1.21)
- Development throughout the Water Park must comply with certain basic principles concerning nature conservation, protection of settlements, landscape enhancement, sport, recreation and tourism, design, and the role of the private sector (paras 11.1.22-32)

131. The provisions of Local Plan policy UT.1, which is based on these principles, state that proposals for water based sport, recreation and tourism will be permitted if a number of criteria are all met. These criteria include:

- (c) the retention and, where appropriate, enhancement of existing landscape features that contribute to the character and/or appearance of the site
 - (d) the design and siting of new buildings being sympathetic to the character of the area and avoiding harm to the landscape
132. The existing features of the site have been considered by Inspectors on two previous occasions. The 1994 appeal Inspector concluded that “the various elements of the appeal site – the large and mainly unenclosed water body of lake 104 with its peninsula, bay and surrounding open grassland with wide panoramas, the smaller and much more enclosed lake 103 with its mass of fringing shrubs and trees, and the boundary vegetation found on all sides of the site, especially along the southern margins near the brook, lake 102 and the River Coln – form an attractive assemblage which contributes greatly to the rural surroundings of Fairford” (Doc DN 2 Appx 8 para 266). The appellant’s landscape witness Mr Davies accepted that even with changes over the years there is still an attractive assemblage of features to be seen on the site. Mr Davies’ photographs (Doc MD 2.1) demonstrate the essential character and appearance of lake 104 that policy UT.1 seeks to retain and enhance – precisely such a beautiful lake with maturing vegetation around its margins as generically described in the Local Plan in relation to the Water Park landscape (Doc CD 25 para 11.1.7).
133. Second, the Inspector dealing with objections to the previous local plan in 1995 expressly considered representations concerning the zoning proposed to be applied to lakes 103 and 104 (Doc DN 2 Appx 6). He considered in detail the principles underlying the different zones A, B and C (paras 8.6.2-19) and their applicability to the appeal site (paras 8.6.37-46). Notwithstanding his recommendation that the proposed zoning policy be deleted from the Plan and be published separately as SPG, he considered representations that lakes 104 and 103 should both be included within zone A, and others that lake 104 (in whole or in part) should be included in zone C, along with lake 103. The Inspector concluded that the eastern part of lake 104 should be included within zone B rather than zone C, not least because the more intensive uses normally deemed acceptable within zone C would be more likely to diminish the character and appearance of the attractive local scene and its enjoyment by members of the public (para 8.6.43). This view was consistent with that of the 1994 appeal Inspector, who considered it inevitable that the development proposed at that time - including the new clubhouse, lodges, studios, other buildings, access roads and car parking areas - would have had a significant adverse effect on the character and appearance of this peaceful and attractive rural landscape and its enjoyment by the public (Doc DN 2 Appx 8 para 267).
134. Although there has been some increase in the amount of scrub vegetation on the site since the mid 1990s, the “attractive assemblage” of landscape elements on the site remains evident. Whilst it is also accepted that more policy support at national, regional and local level for tourism development has emerged since the 1990s, policy UT.1 makes clear that the need to support tourism development does not override the protection and enhancement of the Water Park landscape.
135. The proposals would have significant adverse impacts on the landscape, character and appearance of the site. The changes are evident from drawings

FS04V, 115C and the Accurate Visual Representations (AVRs) contained in Mr Davies' evidence (Docs MD 2.2 & 2.3). These include:

- Substantial loss of grassland areas in the north-east part of the site and loss of existing trees around lakes 103 and 104, including loss of all lake margin vegetation along the north-east and east shoreline of lake 104
- Fragmentation/removal of parts of principal mature hedge/treeline features H20 between lakes 103 and 104 and H1 on the site frontage with the A417
- Significant alterations to the physical shoreline alignment of lake 104 (see drawing 115C)
- Frontage buildings of 3 storey height on the eastern and north-eastern shores of lake 104, with separation distances of only 2-4 metres
- Lodge development extending into the water of lake 104, including jettied lodge groups, unrelieved by landscaping
- Placing of the hotel/leisure complex building, with a maximum building footprint width of some 110m, in the water area of lake 104 unrelieved by landscaping
- Construction of lodges projecting into the water, including jettied lodge groups, on lake 103 unrelieved by landscaping
- Buildings of 2 and 3 storey height (8 to 12 metres) breaking the skyline and obscuring the existing backdrop of trees to the lakes
- A roadway extending through the whole of the eastern part of the site from the A417 to the southern tip of lake 103a, with 250 car parking spaces in groups of various sizes off the roadway and a 120 space car park at the north-east end of the site
- Manicured amenity landscaping around the holiday lodges and hotel/leisure complex
- Highway paraphernalia such as junction markings, signs, lit crossing island, bus stops/shelters on the A417

136. Although the building designs provided are illustrative, the siting of the buildings is fixed. The fact that design, external appearance and landscaping are reserved matters does not discharge the decision maker from coming to a view about the likely impact of the development proposed. In particular, Environmental Impact Assessment Regulations require regard to be had to the likely significant effects of the development. The appellant has submitted illustrative drawings and visual representations to demonstrate the impact of the scheme and such illustrative material has been relied upon to assess the likely significant effects.

137. Even taking into account that the design, external appearance and landscaping details are illustrative it is plain that the north-eastern and eastern shore of lake 104 would appear largely as continuous blocks of development. The minimal distances between the buildings and the lack of separating blocks of planting are deliberate. There is no attempt to screen the buildings from public view as they are intended to stand on their merits as being appropriate.

138. It is therefore plain that there would be a change in character and appearance from lakes with a mass of fringing shrubs and trees to a disrupted shoreline with deliberately sited prominent buildings in close proximity to one another with little or no opportunities for landscaping. The need for adequate car parking close to the pavilions and apartments limits still further the scope for landscape screening.
139. The public accessibility of the site and history of enjoyment of its qualities is a highly significant consideration in this case. Lakes 104 and 103 are easily reached via public footpaths from Fairford. Being close to the town yet within the open countryside, and because of the attractive character of lake 104 in particular and its ability to provide a circular walk around the lake as well as linking with other footpaths in the Coln river corridor (Plan 1615/100), the footpath route around lake 104 is an important and highly valued amenity. It has been valued and used by local townspeople for many years. The value and importance of the site in these terms was recognised in the previous appeal decision of 1994. It remains the case today, as witnessed by the very many letters objecting to the proposal and the evidence of other parties at the inquiry.
140. Recreational enjoyment of the character of the site does not preclude any other use. Recreational fishing has taken place on lakes 103 and 103a since the mid-1990s. The overall strategy for the Cotswold Water Park does not mean that every site within it must have a regionally significant recreational or tourism use. Each site should be looked at on its merits, and an appropriate level and type of use determined accordingly.
141. The proposed development would completely change the sensory experience for those using the circular route around lake 104, whether as a walk in itself or using lesser parts of it, potentially in combination with other rights of way. The existing views across lake 104 from its western side to a vegetated eastern and north-eastern shoreline of rural character would be replaced by views of extensive blocks of 2 and 3 storey buildings sited close together (MD 2.2 AVRs 01, 02, 03). From closer quarters on the north side of the lake the intrusion would be increased by the jettied group of 3 storey pavilions jutting out into the lake (MD 2.3 AVR 10). The presence of the buildings, with attendant vehicles, residential activity, lights at certain times and activity on the lake, would undoubtedly affect the tranquillity of the western part of the site and its enjoyment by local people.
142. At the north-east end of the lake and along its eastern side the existing rural path would become a hard surfaced route, shared with motor vehicles and with parking areas alongside. The walk would become a walk among buildings. There would be a fundamental, wholesale change in the character of the lake's east shore from one of fringing vegetation to a "suburban" housing environment. The fundamental change in lake character would have much to do with the siting of the buildings, since no attempt has been made to integrate or set the buildings within the context of the landscape. Rather, the approach has been to set buildings prominently on the lake edge and the lake itself, with little separation between them. This is a wrong and damaging approach which causes real harm to lake 104. There would be a similar built development effect along the shores of lake 103; however, it is acknowledged that this lake lies within zone C.
143. The proposal plainly fails to satisfy the aspirations for the development set out in the Environmental Statement of integrating into the surrounding landscape

and respecting the context of the site and the character of the surrounding areas (Doc CD 34/2 section 1 para 2.2.1). The development would not be absorbed by the backdrops of trees around the lakes, as asserted by Mr Davies. The submitted AVRs demonstrate this (Docs MD 2.2 & 2.3). The basic development approach is contrary to Local Plan policy UT.1, in that it does not achieve the retention or the enhancement of existing landscape features that contribute to the character and appearance of the site, particularly as seen by the public when using the footpath network. The proposed development would involve buildings and associated uses that would significantly affect the character and appearance of the north-east and eastern shores of lake 104 and around lakes 103 and 103a. This would cause demonstrable harm to the physical geography of the site and the character of the area, contrary to the requirements of policy UT.1. Whilst it is recognised that the Water Park constitutes a unique area, where tourism should be supported, there are important safeguards built in to the policies governing this, which are not observed in this case.

Demonstrable harm – Reason 3 Zoning

144. The content of Mr Neame's historical account of the Water Park zoning SPG (Doc DN 2 Appx 4) is not in dispute. Whilst there has not been a formal review of the zoning originally put forward as part of the previous Local Plan, a view was plainly formed by the Council in response to the Local Plan Inspector's report as to the appropriate approach to uses and activities in the differing parts of the Water Park, which has acted as a guide over the years. In the case of the eastern part of lake 104 the local planning authority took particular care over the zoning of the lake after visiting the area, recommending that it be placed in zone B by reason of the threat to the character and appearance of the attractive local scene and its enjoyment. This is the very threat now presented by the appeal scheme.
145. Mr Neame accepts that consideration of zoning remains part of the up-to-date development plan for the purposes of considering development within the Water park, as it is specifically referred to as such in the Local Plan (Doc CD 25 para 11.1.21 & policy UT.1 guidance note 4 (p 162)). The Local Plan is clear (para 3.5.28) that the fact that an area is popular with visitors is not considered sufficient justification in itself for the location of new tourist attractions. This statement of principle is not limited to the AONB. It continues by saying that the overriding priority, particularly in the AONB, is to protect landscape quality and prevent unnecessary development in the countryside. Paragraph 3.5.9 says that visitor attractions may be acceptable within zone C in the Water Park. Paragraph 11.2.21 emphasises the need for development to be broadly compatible with the Water Park zones.
146. As Council officers recognised, the majority of new buildings would be constructed within zone B. Moreover, on the northern part of lake 104 the built development is taken to the eastern limit of zone A, so that it is contiguous with that zone. The proposals are not broadly compatible with the zoning but would be a radical departure with direct adverse consequences for the character and appearance of the attractive local scene and its enjoyment, an issue addressed in both reasons 2 and 3 of the refusal notice. The proposal was not refused permission solely on the basis that it did not adhere to zoning guidance (Doc CD 35/6). The impact of the development in terms of activities and harm to landscape were expressly identified.

THE CASES FOR OTHER PARTIES

Fairford Environmental Society (Docs FES 1 & FES 2)

147. The Society is a formally constituted body consisting of residents of Fairford and its environs. It was originally set up in 1993 to co-ordinate opposition to the 1994 appeal scheme on the site. It is opposed to the current proposals. Its evidence to the inquiry is intended to operate alongside the Council's case. In the light of this the Society has sought not to duplicate the evidence presented by the Council on this appeal.

148. The Society's concerns are in relation to 3 main areas: effect on recreational amenity, traffic and biodiversity. The first two matters clearly also form part of the Council's case. However, the impact of the development on the ecology of the appeal site is not an issue raised by the Council. In addition, the Society is not a party to the Statement of Common Ground (Doc 5) and has registered its disquiet in relation to the rights of way position statement agreed between the appellant and the County Council in respect of the permissive stretch of BFA 30 around the north-eastern corner of lake 104 (Doc 6 Appx 2) and in relation to the Environment Agency position concerning flood risk on the site.

Recreational amenity

149. It is clear that the appeal site is an important recreational resource to the residents of Fairford and is well used by walkers. The value of this resource derives from a combination of attributes, unique in the area. It is accessible by foot from Fairford: in fact, the majority of footpaths which leave the eastern side of Fairford pass through or by the appeal site, and users can take advantage of the circular walk around lake 104. However, the principal reason why the footpaths across the appeal site are so well used is that they take the user from the town into countryside where views across the lake and encounters with wildlife may be enjoyed. The particular recreational amenity provided by the appeal site thus flows from the combination of landscape and ecology.

150. The Society believes that this amenity would be harmed by the proposal. In its letter of objection to the application (5 January 2007) the Society described the nature of the amenity as follows:

"At the moment it is an enclosed rural environment which offers extensive views, but also more intimate moments, especially along the eastern edge where in recent years the diversity of flora has increased dramatically, and teasels and a raft of orchids have delighted walkers... The birdlife is also appreciated by walkers and birdwatchers."

151. The Society agrees with the Council that the elements of the appeal site identified by the appeal Inspector in 1994 as being important to its attractiveness continue to be relevant today. The 1994 Inspector's view was an independent conclusion that the site was an attractive landscape which was worth protecting. He considered that the features present formed an attractive assemblage which contributes greatly to the rural surroundings of Fairford" (Doc DN 2 Appx 8 para 266). It should also be noted that the landscape was less established following mineral extraction at that stage.

152. The appellant maintains that the elements concerned would continue to exist after the development. However, this says nothing about the effect that the proposed development would have on the assemblage. The proposal would add

a significant amount of built form. The addition of this element in such quantity would radically and harmfully change the assemblage. The quantity of built form would mean that the rural experience would be significantly damaged, not only on the north and east sides of lake 104 and on the footpath between lakes 104 and 103 but across the whole of the appeal site, as a result of the scale, mass and siting of the built form.

153. The Society believes that amenity will be damaged in the following further ways:

- In ecological terms. The appellant accepts that there will be harm as a result of loss of habitat and arising from construction works. The ecological amenity of the site is likely to be considerably reduced during the 60 month construction period. In the longer term the ecological amenity for users of the footpath will be damaged as a result of greater dislocation from the landscape by reason of the enclosure and upgrading of the footpaths and the confinement of ecological value to the western part of lake 104 rather than around the whole circumference of the lake
- Long views across lake 104 from the west would be harmed by the sweep of built form from the northern shore to the southern part of the east shore. Even from the western end of the appeal site, users of the public right of way would not feel the same sense of rural environment
- Users of the route around the north-east corner of lake 104 and between lakes 104 and 103, would lose all sense of rural experience, due to its transformation into a shared surface used by vehicles gaining access to the pavilions and apartments on both sides of the route.
- Off the site, users of the A417 would experience a change from a tree lined road to an increase in signage and road markings, and built form visible from the access to the appeal site.

154. The Council's reasoning in refusing the 1994 application, the wording of which the Inspector included in his report to the Secretary of State, continues to be relevant today:

"The application site is generally peaceful at present and devoid of buildings, roads, hardstandings or parking areas. The level of change in the appearance and tranquillity of the site and its immediate environs as a result of this proposal would spoil these important aspects of the site's character. In particular, the development would introduce a significant complex of buildings and a sizeable parking area which, although once degraded by mineral working, is now perceived as pleasant, largely undeveloped countryside."

155. It is acknowledged that the publicly accessible leisure facilities would provide some form of replacement recreational amenity, of a type sought by residents of Fairford. However, this does not make the proposal either the appropriate place or the appropriate mechanism for providing such facilities. The recreational amenity currently provided by the site is unique and irreplaceable, and should not lightly be swept aside. Leisure facilities by contrast may be provided in a variety of circumstances.

156. Further, there must be doubt as to the level of public accessibility to leisure facilities which are part of a hotel and holiday accommodation development and

where the mechanism of access has yet to be agreed. Mr Pattie acknowledged when giving evidence that it is implicit in balancing the demands of external customers with those of internal patrons that the hotel must derive an economic advantage from attracting external custom. Imposition of a monthly membership fee would not properly comprise the public access envisaged. It is significant that no other facilities in the Water Park have been identified as striking the balance between internal and external customer demand by way of a pay as you go facility, as suggested here by the appellant. There is an unresolved tension between the commercial needs of the hotel operator and real public access, which should be reflected in the weight to be placed on the public benefit accruing from the leisure facilities provided. Furthermore, the appellant's trip generation evidence projects only a small number of external trips to the site in order to use the leisure facilities.

157. In relation to the status of the right of way at the north-east corner of lake 104, the Society considers that limited weight should be ascribed to the proposal to formalise the section of permissive path as a public right of way as part of the proposal. A public right of way between the two end-points of the permissive path is identified on the definitive rights of way map, as indicated by the confirmed diversion order (Doc 6 Appx 2). The letters from the County Council rights of way officer (Doc FES 1/10) makes no mention of any problem with use of existing public rights of way; nor any mention of when the water body was created in its present form in this location. There is no evidence of any let or hindrance to public use of the route around the lake under section 31 of the Highways Act. The subsequent deposition by the appellant pursuant to section 35 is purely a holding matter. Other mechanisms concerning the establishment of the existence of a public right of way in this location remain open to local residents, who have enjoyed unimpeded access around this part of the lake over many years.

Traffic

158. The Society's principal concern on this issue is the effect of traffic on Fairford itself. The appellant acknowledges that the development will lead to an increase in traffic through Fairford, but does not regard the increase as significant enough to be harmful.
159. The environmental impact of extra traffic will depend on existing conditions. Fairford is particularly sensitive to any increase in traffic flow, owing to the pinch points which characterise the A417 as it passes through the town. Mrs Jones in evidence for the Society explained the problems caused by these pinch points (Docs FES 2/16 & 2/17 photos); the traffic calming measures, the narrowing of the useable carriageway width to a single lane caused by on-street parking, the road narrowing by the market place, on-street parking in Milton Street and the awkward bend at the bridge.
160. Mr Finlayson in cross-examination described the road environment through Fairford as being "in balance", where parking, pedestrian movements and through traffic are all currently being accommodated. However, the efforts of the Town Council and Fairford Forward to resolve traffic-related issues, the aspiration to change the classification of the A417 to a B road and the problems caused by heavy lorries using the road point to the balance being a precarious one.

161. The appellant points to the Fairford HealthCheck (Doc CD 31), which states at page 52 that “there are no seriously congested junctions in Fairford but there is a bottleneck between the market place and London Street”. However, it is this bottleneck, clearly identified in the HealthCheck, together with the other locations identified by Mrs Jones, which comprise some of the pinch points which have led to residents’ concerns. Moreover, although the HealthCheck survey results (p 129) do not identify a specific concern with congestion, the questionnaire (p 120) does not carry an explicit question on congestion (it refers only to the standard of the roads, and concern is expressed about the surface of the A417).
162. The proposed upgrade of the Eastern Spine Road is unlikely to eliminate these concerns. The Society supports this project; it also has policy support. However, the project has had a long gestation and is still not implemented. The appellant’s contribution to the roundabout at the Whelford Road junction is unlikely to change this. In any event, users of the development are most likely to use Fairford for facilities, and so the traffic implications for the town would remain.

Biodiversity

163. The starting point for this analysis is that the proposal will cause harm to the ecology of the appeal site. The harm will comprise permanent loss of habitat arising from the imposition of built form and hard surfacing on the appeal site, increased post-construction disturbance and disturbance during the construction period itself.
164. The appellant proposes a number of mitigation measures; the retention of the western part of lake 104 as a quiet zone, habitat creation and enhancement in this area and a Landscape and Ecological Management Plan, as well as adherence to construction methodology statements designed to minimise disturbance during the construction phase.
165. The officer report on the application concluded that, if all the mitigation proposals were fully implemented, then on balance they would provide a net ecological enhancement (Doc CD 35/4 report p 10). However, the Society ask that the following be borne in mind in considering this conclusion:
- The experience and observations of users of the rights of way is that the north-eastern corner of lake 104 is preferred by wildfowl. Mr Murray for the appellant agreed that such observation is valid ecological data. It is this corner that will be most affected by the proposals
 - The potential for the appeal site to act as a refuge for wildfowl displaced from the Coln Park site was recognised by officers and accepted by Mr Murray. Construction on the Coln Park site is only just beginning, and so the available ecological baseline data and other survey data would not recognise any displacement effect
 - The construction period for the appeal proposals is currently estimated at 5 years. Such a long period is critical in terms of permanent ecological harm. However, it is at best an estimate, subject to many variables
 - The ecological management benefits proffered should be read in context. Such benefits should flow from responsible ownership per se, and not be conditional upon a planning permission

- Even though the Landscape and Ecological Management Plan provided under the section 106 undertaking provides a mechanism for Council control, its effectiveness will depend upon quality of implementation. There are many areas of detail which could undermine the effectiveness in practice of the mitigation put forward.

Flood risk and Sewerage

166. The Society is not content with the analysis of the flood risk position as set out in the Statement of Common Ground (Doc 17). The Society has raised a number of matters following the flooding of the site and problems experienced in Fairford at the time of the July 2007 flood event (Doc FES 1/1). It continues to have concerns about the robustness of the flood risk assessment. The site is within the flood plain, where there should be no development. The Environment Agency acknowledges that the hydrology of the lakes area is complex and that the July 2007 event is not fully understood. The subsequent modelling of the July 2007 event is not robust, and the estimated flood level which forms the basis of the building slab levels now proposed is inaccurate, as CPRE's evidence (Doc 20) demonstrates. References to slab levels should relate to the level of the slab base, not the top surface level. In the light of these uncertainties a precautionary approach to permitting development should be adopted (Doc 21).
167. Although the sewerage system serving Fairford was upgraded in 2006, this did not prevent serious problems arising at the time of the July 2007 flood event. The sewerage system in Fairford has combined drains, which cannot cope in times of heavy rain and flood. The proposed development, with up to 1,000 people present, can only aggravate existing problems that occur when the water table rises above a critical level (Doc FES 1/6).

Fairford Town Council (Cllr T Hing) (Doc FTC 1)

168. The Town Council has voted to object to the proposal. The adopted District Local Plan (Doc CD 25) envisages only modest development for Fairford, meeting the specific needs of the community (para 9.7.2), and states that the town is not a suitable location for significant development (para 9.8.2). Existing employment allocations are considered adequate to meet foreseeable needs (para 9.8.4). The Fairford HealthCheck (Doc CD 31), prepared by the Town Council after three years of consultation, lists one of the aims of its Action Plan as to "perpetuate the distinct green character that makes Fairford special", and identifies "to protect lake 104 forever from development" as an action towards this aim (page 80).
169. A previous much smaller proposal involving 69 units of accommodation was dismissed on appeal by the Secretary of State in 1994. The Secretary of State strongly supported the Inspector's findings in relation to the substantial harm that would be caused to the rural character and appearance of the site, its landscape qualities and the public's enjoyment of the local landscape from the circular footpath system around the site. He concluded that the harmful impact on the local landscape amounted to a compelling objection sufficient in itself to warrant dismissal of the appeals concerned (Doc DN 2 Appx 8 Decision para 10).
170. A significant part of the proposed development is on land identified within zone B in the Cotswold Water Park SPG. Zone B is for low intensity recreation. Although the SPG indicates that low density and small scale caravan/camping sites will be acceptable within zone B, including small private clubs, this proposal

- does not fall into this category. The Cotswold Water Park Joint Committee continues to have concerns about the scale and density of what is proposed (Doc FTC 1 Appx 1). The appearance of the buildings as currently shown is not in keeping with the local character; and the high density of the development would be likely to result in significant light pollution to nearby residents.
171. Lake 104 with its circular walk is a unique facility for Fairford, with excellent links to other public rights of way. There will be a loss of amenity value to local people as the lake is a popular walk and will be severely damaged by all the buildings. The Environmental Statement states that the predicted visual impact for the nearby footpaths would be of "high significance" and would be "permanent as they cannot easily be mitigated" (Doc CD 34/2 para 13.1.1).
172. The high density of the development would put a strain on local services, particularly the local doctors' surgery. Permission has already been granted for a 100 bedroom hotel and 160 holiday units at Coln Park (lake 112) close by to the west. Fairford would not be able to meet the demands of both developments. Although the Fairford HealthCheck (Doc CD 31) seeks to encourage tourism, this level of tourism activity would be excessive.
173. Lake 104 is an important site for breeding birds and over-wintering waterfowl. There is concern that species warranting protection would be frightened away during the lengthy construction period, and would not return because of the dense development proposed. Whilst it is noted that the Cotswold Water Park Joint Committee is satisfied with the revised Environmental Statement in respect of landscape and ecology issues and the accompanying mitigation measures to address these, it has stressed that it is important that these measures are fully implemented and monitored (Doc FTC 1 Appx 1).
174. The A417 is a major route running directly through the centre of Fairford, passing extremely close to important historic buildings, many of which are showing signs of significant damage. The proposal would generate considerable extra traffic on the A417 through Fairford. There are three major pinch points where it is impossible for two vehicles to pass and two extended areas where on-street parking similarly reduces the available road width. Traffic is already chaotic at peak periods. The A417 would not cope with the extra traffic. There has been a longstanding campaign to have the A417 downgraded to B road status due to the difficulties in the town, particularly with lorries; and the A417 route between Lechlade and Cirencester has a history of accidents.
175. The submitted Traffic Assessment (Doc CD 34/5) refers to the planned improvements to the Cotswold Water Park Eastern Spine Road. A bypass proposal for Fairford was abandoned by the County Council in favour of this scheme. However, major funding has not been forthcoming for the scheme, and improvement works are proceeding slowly on an incremental basis. The Traffic Assessment assumes that the Eastern Spine Road major scheme and the Whelford Road junction roundabout will definitely go ahead; however, this is far from certain.
176. The Traffic Assessment indicates around 500 additional vehicle movements per day through Fairford. There will be similar additional movements from the Coln Park development. Inadequate allowance has been made in the Assessment for the fact that Fairford and Lechlade are historic market town environments. Activities at RAF Fairford, including the annual Royal International Air Tattoo, add

to vehicular activity in the locality. There would be construction traffic over a five year period.

177. The site is in the flood plain and very close to the River Coln. The eastern land section was flooded in 2000 and again in July 2007. Lakes 104, 103 and 103a all overflowed in July 2007. The events of July 2007 and its catastrophic consequences for residents of Fairford demonstrate how fragile the hydrology is in this area. Any development on the site could potentially increase the risk of flooding in Fairford, only a few hundred yards upstream on the River Coln.
178. Whilst opposed to the proposal, the Town Council requests that, if permission is granted, the following measures are secured: a significant contribution should be required towards the Eastern Spine Road upgrade (including full funding of the Whelford Road roundabout); provision of cycle links and footpaths; unrestricted pay as you go use of the leisure facilities by local people; a contribution towards the proposed country park between Fairford and Lechlade.

Mrs M Bishop (Fairford Forward) (Doc FF 1)

179. Fairford Forward is an action group formed by the Town Council to follow up the action plans resulting from the Fairford HealthCheck (Doc CD 31). It opposes the development, which fails to accord with the aspirations for Fairford identified by the HealthCheck exercise.
180. The Fairford HealthCheck underlines, amongst other things, the historic character of Fairford; the damage resulting from traffic, especially heavy goods vehicles; and the health of the local economy. In recent years there have been initiatives to revitalise local shops, services and community facilities.
181. A particular feature of Fairford is the countryside walks from the town which are extremely popular not just with the residents of Fairford, but with walking groups from further afield who visit the town. The River Coln path complex is a very important amenity to the town. It leads to lake 104 and can be accessed from all the southern parts of the town. The HealthCheck (page 41) notes that the walks along the River Coln and around the lakes are very beautiful and that 100% of people surveyed used the footpaths through ECT (the Ernest Cook Trust estate) and along the river. Fairford actively promotes itself as a walking destination, and leaflets and a booklet have been published for the walks within the Coln Valley corridor (Doc FF 1/1-7). Lake 104 features prominently in the walks identified; the leaflet "Three Walks Around Fairford" in particular refers to the fine views and profusion of water birds at the western end of lake 104.
182. The proposed development of a greenfield, rural site is inappropriate to the area and contrary to planning guidelines. The construction of a significant number of buildings and roads would, by their size, density and siting, be harmful to the character of the countryside and the beneficial views from the public rights of way, and thus harm the recreational amenity of local residents. The harm would be exacerbated by the cumulative effects of other similar developments nearby, which are already meeting the leisure and tourism needs of the area. The development would add to the loss of rural character and impression of ribbon development along the A417 between Fairford and Lechlade. There are no specific reasons why development should take place on this site which are sufficient to outweigh the harm to amenity that would be caused.

183. The possible gains cited by the developers do not stand scrutiny. Employment creation is not an issue as there is below-average unemployment. The proposed hotel may well draw custom away from hotel and bed and breakfast establishments in Fairford.
184. The benefit of new leisure facilities is overstated. It is clear that the hotel leisure facilities would be primarily for those staying in the hotel and the holiday homes. It is extremely unlikely that the hotel swimming pool would be a facility where local people could go whenever they wished, where school children to go to regularly to learn to swim, or where a swimming gala could be held. The other benefits in terms of leisure/community facilities are not significant. There are plans to triple the size of the existing gymnasium facility at Fairford sports and leisure centre, together with additional facilities for the school. The Council's own Community and Heritage Centre redevelopment project, which is underway, will provide ample amenities and facilities within the town for meetings, weddings and parties.
185. Although the appellant puts forward the improvement of existing paths as a benefit, the resulting paths would no longer provide a rural walk but would lead to a tourist holiday complex with houses, apartments, roads, cars and hardstandings, which would completely ruin this natural area. There would be greatly decreased access to the lake for walkers who are at present major users of the site. The existing footpath around the attractive lake margin on its east and north-east sides would be diverted away from the lake, onto the road behind the houses and the hotel.
186. The proposed development would bring about significant loss of natural habitat, of trees and hedges, of water birds and wildlife. Being one of the largest lakes on the water park, lake 104 is open and peaceful and supports a large population of water birds. The proposed habitat improvement measures around the western half of the lake would not compensate for the removal of vegetation, erection of buildings and activities of up to 1000 people around and on the eastern half. The development of the eastern part of lake 104 would have an adverse impact on wildlife within the western part.
187. The scheme would involve the loss of protected trees on the site. The expanse of open water should not be broken up by a chain of floating islands. The huge hotel and 3 storey apartment blocks to the north would be visually intrusive. Instead of the present open and natural views around the lake, a small number of restricted views would be left between the housing. Works and buildings would intrude upon other views; the large buildings would dominate rather than fit in to the landscape. There would be serious, permanent loss of visual amenity in relation to the public footpaths. The dubious social and economic gains do not outweigh this loss of amenity.
188. The development should not be permitted to proceed because it would be in the flood plain. The Environment Agency accepts that its flooding map and understanding of the hydrology of the area is inaccurate. The additional areas of hard surfacing would significantly increase surface run-off at time of heavy rainfall, exacerbating flooding problems in the area. The local sewerage system would be unable to cope with the development. The Flooding Matters Statement of Common Ground (Doc 17) contains inaccuracies and further examination of this matter is required.

189. Although the appellant relies heavily on the fact that the Council's planning officers have supported the proposal, the planning officers have failed to appreciate the landscape and nature conservation potential of the site and its value in these terms to the local community. They made an assumption that the proposal would benefit the economy without having regard to local conditions and wishes. Fortunately the decision was made by elected Councillors who were aware of these matters.

Mr N Dummett (Campaign to Protect Rural England) (Doc CPRE 1)

190. CPRE's support for the decision to refuse permission is based on two main considerations. The development would be damaging to the landscape; it would also be contrary to the zoning strategy for the Water Park.

191. Local Plan policy UT.1, dealing with developments in the Water Park, states that development will only be permitted subject to the design and siting of new buildings being sympathetic to the character of the area and avoiding harm to the landscape (criterion (d)). Local Plan policy 26 reinforces this, stating that proposals for holiday lodges will be permitted within the eastern section of the Park in accordance with the criteria in policy UT.1 only if they would have no harmful impact on the landscape.

192. The assertion of Council officers in their committee report that the landscape is of no significant quality is quite wrong when applied to the whole site. There is no evidence as to any proper assessment underpinning this assertion. Of course there are areas of the site which are of lower quality, and indeed some of it is degraded, but that does not mean that the site as a whole has no merit. When considering landscape character and quality one must consider the overall impression it makes on the viewer and the specific factors which make up its distinctive character.

193. The landscape impact issues for the three lakes on the site are very different. CPRE acknowledges that lake 103 is a long thin lake not accessible by the general public and lying at a lower level than lake 104. Appropriate development here would not cause landscape damage provided that the belts of trees around the lake are kept in place. Lake 103 is quite suitable in principle for the kind of development proposed, especially with the addition of the plot of land at the northern end which could accommodate a hotel if required. However, the three jettied groups of lodges would destroy the views down the length of the lake, which is a key element of its character. CPRE also has reservations about the overall density of buildings and the illustrative design details.

194. Lake 103a could benefit from low intensity low level development if it were accompanied by sensitive restoration of the surrounding woodland. However, the present proposals demonstrate an excessive density of building and excessive removal of tree screening. The 3 storey apartment buildings would be out of scale with the intimate character of the lake.

195. Lake 104 is of quite different character to the other two, and is CPRE's principal concern. It is unique in the Water Park. It is one of only two lakes in the whole of the Water Park completely encircled by a public footpath. Furthermore, and unlike lake 6 in the western part of the Water Park, it has a rare combination of direct footpath connection to a nearby settlement, yet also a sense of remoteness and tranquillity – of being "away from it all". This character

- comes from the harmony of the water, meadows and fringing trees and bushes, but also surrounding more distant background of treetops, the relatively low level of external road noise and the almost complete absence of non-rural man-made features. Although it has been asserted that the growth of vegetation is progressively obscuring longer views, plenty of points remain where there are uninterrupted long views and a continuous feel of being close to the water is provided by glimpses through the foliage of the trees – even more so in winter when the trees have shed their leaves (Doc CPRE 1 photos 1 & 2). These factors mean that lake 104 has great landscape merit in the context of the Water Park.
196. The “blow-up” of the CPRE tranquillity map (Doc MD 2.5) shows that the site is of moderate tranquillity. That it is not rated more tranquil is entirely due to the proximity of the A417, which observers have noted has a significant effect only in the northeast corner of the site. The other factors which militate against tranquillity are absent; the factor of low flying aircraft refers to regular and frequent flights, not the sporadic occurrences at RAF Fairford which have a transitory and infrequent effect on the tranquillity of the site. Tranquillity is a recognised aspect of landscape character. Causing a significant deterioration in the existing level of tranquillity of lake 104 would not be respecting its character.
197. The development proposed around the north-eastern and eastern parts of lake 104 would remove the character of this part of the lake completely. In place of the existing lakeside vegetation and the rural, untamed feel would be prominent and dominant built development, visible from almost every part of the wider site. The jettied development on the north shoreline would foreshorten an important view down the lake. The buildings on the lake shore would have gaps between them of only 2-4 metres. The density of pavilions and apartments on the part of the site being developed would be around 20-25 units per hectare. In addition, there would be roads, parked cars and domestic paraphernalia, lights from the buildings (especially the hotel), roads and cars, and manicured landscaping. In short, it will be a relatively dense, suburban built environment.
198. The photomontages understate the visual impact of the buildings when viewed across the lake. The effect of the buildings, particularly the hotel, facing west and south-west across the lake upon views from its western end would be accentuated by the late afternoon/evening sunlight and reflection from windows.
199. From the A417 the hotel would be a dominant feature of the landscape seen from passing cars. It would be visible through the frontage hedgerow during the winter as well as from the site access point; at night, the lighting will be apparent. The activity and noise from the occupants of the lodges and apartments, together with the activity associated with the hotel and leisure complex, including wedding functions and the like, would further detract from the tranquillity of the site.
200. CPRE has further concerns about the height of the buildings as now proposed taking into account the slab levels recommended in relation to the July 2007 flood event (Doc CPRE Flood final). It now appears that the base of the plinths of the buildings would be 300mm above the July 2007 flood level. This is well above existing ground level in many areas where buildings would be sited. Moreover, the gate that has been used to estimate the July 2007 flood level has since the flooding been positioned lower down on its post, resulting in the suggested building slab levels being about 100mm lower than they should be (Doc 20). Other photographs submitted (Doc CPRE 1 photos 3-5) show the key

heights of certain prominent trees and a marker post and assist in envisaging the impact of the buildings on the landscape.

Mr Dennis Grant (Cotswold Water Park Society) (Doc CWPS 1)

201. The Cotswold Water Park Society Ltd is a non profit-distributing organisation with charitable status, set up in 1997 under the direction of the Cotswold Water Park Joint Committee with a mandate to manage the economy and the conservation of the Cotswold Water Park. The Society sets out its vision as being to harness the impact of continuing mineral extraction to create a distinctive countryside environment for local residents and a quality destination for day visitors and tourists that sets new standards in sustainability for living in, working in, conserving and enjoying the Cotswold Water Park. A key objective of this vision is to achieve within the Park a sustainable and interdependent relationship between nature conservation, recreation provision, local character conservation and economic activity at a sub-regional level. The Society seeks to establish the Park as a tourism destination in its own right, drawing upon assets developed in line with the particular character of the Park area for a variety of tourism purposes and supporting a number of different markets.

202. Having objected to the original proposal, the Society's initial concerns regarding the landscape and biodiversity interests of the site were fully addressed by the submission of further information. As a result, the Society supports the proposed development, which it considers balances the nature conservation issues affecting the site with developing the tourism mandate for the Water Park. It has drawn attention to the following points in support of its stance:

- There is a lack of hotel accommodation in the Park, which is hindering the objective of increasing tourism income in the area
- The scheme fully provides for public access to the site and facilities
- The proposal meets the zoning requirements in every respect
- There is no basis for the concerns about traffic generation and consequent congestion in the area. With the exception of certain Bank Holidays, the traffic generated by this type of development is spread throughout the year and is accommodated without causing difficulties.

Mrs Joan Kinnock

203. Mrs Kinnock wished to speak as to her personal views about the site and the effect of the proposed development. She is 75 years of age and has lived in Fairford for 10 years. She walks almost daily, and regards lake 104 and its environs as a place which acts as an important spiritual outlet. It is a valuable asset to Fairford, providing an important area of natural environment. She has been concerned about the disturbance to the site which has already occurred since April, with green areas ripped up and footpaths hemmed in by barbed wire fences and tall posts.

204. The site is an area of tranquillity which would be destroyed by the proposed holiday development. The leisure facilities do not justify the development – Fairford already has a small sports centre. The guests at the proposed hotel

would have untrammelled views of the lake, whilst local users of the footpaths would be blocked off from the water by the built development. Several decades of undisturbed peaceful enjoyment of the lake by local residents would be swept away.

205. Mrs Kinnock also voiced concerns about the traffic impacts of the proposed development upon the A417 through Fairford, with its narrowness and current congestion. The proposal would bring about more congestion and harm to the fabric of historic buildings.

Written Representations (Doc 3)

206. The officer committee report on the planning application (Doc CD 35/4) gave details of objections to the proposal from Fairford Town Council; Southrop Parish Council; Fairford Environmental Society (supported by a petition of 1147 signatures); Fairford Forward; Fairford Preservation Trust; and 258 individual letters of objection. One letter of support and one letter of support in principle but raising concerns about various detailed matters were also recorded in the officer report.
207. In response to the publicising of the appeal, some 220 letters opposing the proposal have been submitted. The views of Fairford Town Council, Fairford Forward, Fairford Environmental Society and Campaign to Protect Rural England have already been covered in the preceding sections of this report.
208. Southrop Parish Council objects to the proposal as the lake is a local beauty spot and should be protected in the interests of local amenity; there would be serious loss of amenity and adverse local traffic effects; there would be no real planning gains; no part of lake 104 is zoned for high density development; the development together with that at Claydon Pike (Coln Park) would overload the area and local services; there would be light pollution; the Cotswold Water Park Joint Committee has serious concerns; and the proposal would be contrary to national guidance and development plan policies as stated by the notice of refusal of planning permission.
209. Fairford Preservation Trust considers that the proposal is excessive in extent and wholly inappropriate for the area; there would be additional traffic problems through Fairford and Lechlade; surface drainage and flooding in the area would be worsened; Fairford and Lechlade would not cope with the demands arising from additional people staying at the site, especially when added to the pressures from the Claydon Pike (Coln Park) development; the site is a valuable recreation area that would be badly spoiled by the development; and there would be adverse effects on wildlife.
210. The Ramblers' Association (Gloucestershire Area) objects because the proposal would spoil a lovely walk, especially valuable because it is one of the few continuous walks around a lake in the Water Park. The development would result in much of the walk becoming a hard surfaced road with vehicles passing between houses.
211. The 212 or so individual letters of opposition collectively repeat, in one form or another, the various concerns and points of objection already recorded in this report. The principal concerns, expressed in the majority of the letters, relate to

the loss of the amenity provided by the attractive rural walk around lake 104 and to the effect in Fairford of the traffic associated with the proposal.

212. Turning to written representations in favour of the proposal, the officer committee report on the planning application (Doc CD 35/4) recorded 2 letters from individuals who favoured the proposal. In response to the publicising of the appeal, some 21 letters supporting the proposal have been submitted. The main points made are that the development would be beneficial to the town and an asset for the community's future, in particular by contributing to jobs, increasing trade for local services and providing leisure facilities for use by local people; that the walk around the lake would be maintained and that the proposal would bring about better footpaths and cycling facilities; and that the contribution towards improvement of the Whelford Road junction would be a benefit.
213. Mr Howard Dowler, a local resident and Fairford Town Councillor, initially intended to give evidence in person in support of the proposal. During the course of the Inquiry he decided that he felt unable to give evidence in person, and instead submitted his representations in the form of a written statement (Doc HD 1). Mr Dowler strongly feels that there has been a well-orchestrated campaign of opposition to the proposed development which does not represent the views of a majority of people in Fairford, and that those in favour of the development have been deterred from making their views known by the forceful tactics of opponents of the scheme. He believes that with the current composition of Town and District Councillors a vote on the proposals by these bodies today would produce a different result.
214. Mr Dowler believes that the need for this tourism development is paramount for Fairford. It would bring employment, economic growth and revenue, improved road safety and improved footpaths from the town to and around lake 104, facilitating access for all. The wildlife interest of the site would be properly managed, protected and enhanced. The limited congestion in Fairford is due to the gravel lorries passing through Fairford. The development would assist in removing this problem, as the contribution to providing the roundabout at the Whelford Road junction would be an important step in the upgrading of the Eastern Spine Road, which is needed to take heavy traffic away from Fairford.
215. Mr Dowler considers that the inclusion of the protection of lake 104 in the Fairford HealthCheck action plan was as a result of a late suggestion by a lone individual. He also states that footpaths in the area are correctly defined; and that the lack of dredging of the River Coln in recent years is a major contributor to the recent flooding in Fairford.

Planning Conditions and Obligations

216. The conditions put forward as necessary to be imposed should planning permission be granted for the development are reproduced at Annex 1 to this report. The need for, purpose and relevance of each of the conditions was considered at the Inquiry, bearing in mind Circular advice on the use of conditions. Conditions 1-46 are jointly agreed by the Council and the appellant; conditions 47-49 are not considered necessary by the appellant, although he would not object to their inclusion on any permission granted.

217. I consider that, if the Secretary of State were to decide that planning permission should be granted, then it would be appropriate to impose conditions 1-46 contained in Annex 1 to this report, subject to the following changes:

- Condition 2: Following the further analysis of the July 2007 flood event, (Doc 19), the condition should be re-worded:

"The reserved matters plans shall show the existing and proposed ground levels and the slab levels of the proposed buildings. The slab levels shall be no less than 300mm above the estimated flood water level in July 2007 of 80.59m AOD for locations in the vicinity of lake 104 and 80.19m AOD for locations adjacent to lakes 103 and 103a. The development shall only be carried out in accordance with the plans so approved, unless otherwise agreed in writing with the local planning authority."

- Condition 25: The condition as worded is unacceptably uncertain, as there is no clear definition of the phrase "within the area of land liable to flood". Condition 25 should be re-worded:

"No spoil or other materials shall be deposited or stored on the site other than in locations identified within a detailed storage scheme, which shall be submitted to and approved in writing by the local planning authority prior to the commencement of development."

- Condition 46: The condition as put forward is incompatible with the form of development proposed, which would involve substantial changes to the existing landform at the north-east corner of lake 104, where the existing section of permissive path runs, in order to accommodate the hotel and leisure building in the position shown. This would make it impossible to maintain the present line of the section of permissive path during construction. The condition should be re-worded:

"A permissive footpath route shall be maintained in the vicinity of the north-east corner of lake 104, so as to provide a continuous route linking to the public footpath along the north and east sides of lake 104, throughout the construction phase of the development, in accordance with details which shall be submitted to and approved in writing by the local planning authority before development commences. All reasonable steps shall be taken to ensure the dedication as a public right of way of a footpath route around the north-east corner of lake 104 and linking at each end with existing public footpath BFA 30 prior to completion of the development."

218. As regards proposed conditions 47-49, although it is arguable that the restriction on the use of the pavilions and apartments imposed by condition 5 makes it plain that the resulting buildings do not constitute dwellinghouses, I consider that for the avoidance of any doubt or uncertainty conditions 47 and 48 should nonetheless be imposed in the event of a grant of planning permission. However, there would be no need to impose condition 49 relating to samples of external materials at this time. Such a condition could of course be attached to any subsequent reserved matters approval if considered necessary at that later time.

219. In addition, I consider that there would be a need for a condition to ensure the provision of the leisure facilities, in view of their intended wider community use as secured by condition 38. At the inquiry it was stated on behalf of the appellant that a reasonable point within the implementation of the scheme as a whole for the completion of the hotel/leisure building would be not later than the first occupation of the 100th holiday unit on the site. An appropriate wording for such a condition would be:

“No more than 100 of the holiday units hereby permitted shall be brought into use before the hotel/leisure building has been completed and made available for use in accordance with the Community Access Plan approved under the terms of condition 38.”

220. Two separate planning obligations, both executed on 12 December 2007, have also been submitted on behalf of the appellant. The first (Doc 13) is a unilateral undertaking to the County Highway Authority in respect of various highways matters proposed as part of the development. In summary, the undertakings relate to:

- A contribution of £200,000 in respect of the provision of the A417 London Road/Whelford Road roundabout.
- A contribution of up to £30,000 towards the upgrading of a 600m length of footpath from the site to Fairford as a cycle path.
- To prepare and monitor a travel plan in connection with the development.
- To contribute up to £1,000 towards the provision of cycle parking stands in Fairford market place.
- To contribute up to £5,000 towards a scheme for the extension of the existing 50mph speed restriction zone on the A417 on the east side of Fairford to the east side of the Whelford Road junction.

The second (Doc 14) is a planning obligation by agreement with the Council. In summary, the undertakings relate to:

- An undertaking not to allow construction of any holiday homes other than on the identified part of the site (clause 6.1.1).
- Restrictions on the occupancy periods, use, sub-letting or future disposal of interest in the holiday homes, together with monitoring and reporting arrangements concerning the occupancy of the holiday homes for holiday purposes only (clauses 6.2.1-6.2.5).
- Undertakings concerning the submission and content of a Landscape and Ecological Management Plan for the site and the future implementation, management and monitoring of the Plan (clauses 6.2.6-6.2.7).

221. In my judgement the matters which form the subject of the two planning obligations meet the relevant tests. They are fairly, directly and reasonably related to the development for which planning permission is sought and serve a relevant planning purpose. In particular, they would be necessary in order to address the highway and travel impacts of the proposal; the landscape and ecological impacts of the proposal; and to regulate the future occupancy and use of the proposed holiday accommodation units, in order to preclude their use on a wider residential basis. This last provision is consistent with the requirements of policy 26 of the Local Plan (Doc CD 25).

CONCLUSIONS

222. In the conclusions which follow I identify in squared brackets [] the numbers of the paragraphs of this report which contain the source material from which my conclusions are drawn.
223. I begin by considering the relevant background of planning policies provided by the statutory development plan. I then proceed to consider, in the light of these policy considerations, (i) the effects of the proposed development on the landscape character and appearance of the area, especially on the public enjoyment of the local landscape from the footpaths on the site; (ii) the consistency or otherwise of the development proposals with the zoning guidance referred to in the Cotswold District Local Plan and contained in SPG; and (iii) the traffic effects of the proposed development. Next I provide my conclusions as to the congruity of the development proposals with the areas of national planning policy particularly referred to by the Secretary of State, namely PPS6, PPS7 and PPG13. I then consider flood risk issues, followed by other matters raised either as further grounds of objection to the development or as material considerations weighing in favour of the proposal. I then consider whether any permission granted should be subject to planning conditions and legal undertakings, as put forward at the Inquiry. Finally, I set out my overall conclusions and recommendation concerning the proposal.

Development plan matters [15-24; 44-56; 110-112]

224. The statutory development plan comprises the Gloucestershire Structure Plan Second Review, adopted in 1999 with a Plan period until 2011; the Cotswold District Local Plan 2001 - 2011, adopted in 2006 and Regional Planning Guidance 10 – South West (September 2001) (RPG10) [15].
225. Looking first at the thrust of RPG10, which is broad guidance for the south-west region, there is support for the development of sustainable tourism; and on a wider front, emphasis on ensuring that new development in rural areas proceeds in such a way that the character of the countryside and its contributory environmental features, including landscape and biodiversity, are protected and, where possible, enhanced [16].
226. Given that the emerging South West Regional Spatial Strategy (RSS) is still in its formative stages, and in any event is anticipated to maintain the direction of RPG10 outlined above [15,16], its emerging content does not require further consideration in relation to the determination of this proposal.
227. Of the Structure Plan policies summarised in paragraph [17], NHE.8 draws attention to the need to consider proposals for development in the Cotswold Water Park in the context of all the Water Park objectives. Policy TSM.3 concerning proposals for groups of self-catering holiday accommodation units includes provisos that their scale, quality of design and landscaping should be consistent with the character of the area, and that proposals avoid adverse impacts upon sites of nature conservation interest, the landscape, nearby settlements, and the local highway network. Other Structure Plan policies focus on securing a sustainable approach to new development, particularly in terms of safeguarding aspects of the local environment which contribute to local character

- and distinctiveness (S.6); ensuring that development sustains and enhances character and appearance and the economic and social well-being of local communities (S.4); seeking that the countryside's character, appearance and resources are protected from harmful development, except where there is an overriding justification (NHE.1); and pursuing sustainably located and served development in relation to length and number of motorised journeys, availability of realistic alternatives to the private car and overall accessibility to related uses and activities (T.1-T.4; TSM.1; TSM.2).
228. Any judgement about the compliance or otherwise of the appeal proposal with the Structure Plan therefore depends upon an overall assessment of its impacts in terms of the range of issues identified.
229. Turning to the policies of the Cotswold District Local Plan [18], these have a similar overall thrust to the Structure Plan. Collectively they seek to ensure that development proposals meet sustainable development criteria, including in terms of their locational, accessibility and transport characteristics and their environmental impacts, including their effects on landscape and character and appearance.
230. The Local Plan also contains policies specifically designed to provide a basis for the consideration of development proposals involving hotels and self-contained holiday accommodation (policy 26) and for development proposals within the Cotswold Water Park (policy UT.1). These policies, whilst favouring in principle proposals for tourism development within the Water Park and specifically allowing for new hotels and proposals for holiday lodges within the eastern section of the Cotswold Water Park, at the same time make clear that the criteria forming part of policy UT.1 should be satisfied. Whether the proposed development adequately meets these criteria, particularly criteria (c) and (d) in this case, is critical to a judgement as to whether the proposal accords or conflicts with the provisions of the local plan [110-111].
231. In addition, paragraph 11.1.21 of the Local Plan sets out the two-part approach adopted by the local planning authority to deal with the complex issues concerning the subsequent use of the sites within the Water Park after mineral extraction has ceased. The approach requires all development to comply fully with policies which consider various, but equally important, aspects of the potential impact of proposals. It requires individual development proposals to meet the broad principles set out for the development of the Water Park resource; and also to be broadly compatible with the Water Park zones, published separately as Supplementary Planning Guidance. Although this Supplementary Planning Guidance does not itself have the status of a statutory development plan document, the zoning Guidance is explicitly recognised by the Local Plan as an important relevant matter against which development proposals within the Water Park need to be assessed. As such, consideration of whether a proposal is broadly compatible with the Water Park zones identified in the Guidance must plainly form part of the assessment of the development against the provisions of the Local Plan [23].
232. The emerging Local Development Framework is not yet at such a stage as to carry material weight in terms of the determination of this proposal [24].

Effects on landscape character and appearance, especially on public enjoyment from footpaths [9-14; 32-36; 40-41; 78-88; 120; 127-143; 149-157; 168-171; 181-183; 191-200; 202; 203-204; 206-215]

233. In my judgement the assessment of the 1994 appeal Inspector that the site possesses a combination of features that form an attractive assemblage which contributes greatly to the rural surroundings of Fairford applies equally at the present time. The features particularly identified by that Inspector – the large and mainly unenclosed water body of lake 104 with its peninsula, bay and surrounding open grassland with wide panoramas, the smaller and more enclosed lake 103 with fringing trees and shrubs, the boundary vegetation, especially along the southern margins of the site near Court Brook, lake 102 and the River Coln – continue to define the essential landscape character and qualities of the site [132-134, 151, 169, 195].
234. There have been some changes since 1994, particularly the growth of scrubby vegetation around some parts of the lake margins, which no doubt has reduced some of the former wide views across the water [40]. However, there are still vistas across lake 104 from various points on the circular route around it [132, 135], and numerous less expansive or filtered views of lake 104 between and through the areas of lakeside vegetation, particularly during the times of the year when the trees and bushes are not in full leaf [195]. Since 1994, moreover, the post-mineral extraction landscape of lakes 104, 103 and 103a has matured significantly, especially with the growth of young trees on the site [132, 151]. I consider that the site, particularly that part containing lake 104 with its attractive qualities of rural character and unspoilt open space, the expanse of water fringed with trees and enhanced by the various bays, promontories and islands and populated by water birds, and the wider backdrop of the River Coln corridor and elements of mature woodland, constitutes an attractive rural landscape.
235. The site's location is indicated as being within an area of moderate tranquillity by the CPRE's tranquil areas mapping exercise [97, 196]. Despite its proximity to Fairford and to the A417, the site for the most part has a peaceful and secluded atmosphere. Although the noise of passing traffic on the A417 is apparent in the north-eastern corner of the site the volume of traffic on this route is not high and the noise in my judgement does not intrude significantly upon the peaceful enjoyment of the site obtained from the public paths. Low flying aircraft associated with RAF Fairford are not a frequent occurrence [196]. I do not consider that there are any significant detractors from the peaceful character of the site. The power line noted by the appellant [97] and identified generically as a detractor from a perception of tranquillity is a modest feature in this case, which I do not regard as significant in these terms. Although there are buildings, structures and recreational activities located within the countryside surrounding the site, I do not regard these as readily apparent to users of the public paths on the site and do not consider that they materially detract from the rural and essentially peaceful experience obtained.
236. The site does not lie within an area designated for its landscape value; it is not within the AONB or within a special landscape area designated in the Local Plan [78]. Nonetheless, it is plain from the number and nature of representations received that the environs of lake 104 are regarded by many as being an attractive landscape of attractive, peaceful rural character and appearance [149-151,], which in my view is confirmed by the submitted photographic material [82] and by my own observations of the site and its surroundings.

237. Furthermore, it is the combination of the landscape character of the site together with its location in relation to Fairford and the public accessibility it enjoys which results in its main amenity value. The location of lake 104 so close to Fairford and easily accessed from the town via a variety of public footpath routes, the attractive, peaceful, rural character and setting of lake 104, and the existence of a "natural" circular route around the lake which also links into the network of paths within the River Coln corridor combine to create an important asset which clearly is highly valued by the local community [139, 171, 181, 208-211].
238. The proposed development, which would include a substantial building containing the proposed hotel and leisure facilities and a total of 200 holiday accommodation units in the form of pavilions and apartments, together with associated access roads and areas of hard standing for car parking, would have a very substantial impact upon the present peaceful rural character of the site. Although the detailed design, materials and external appearance of the buildings and landscaping are not put forward for consideration at this stage, the overall scale and effect of the development within the landscape can plainly be judged from the number and purpose of the buildings proposed and the dimensions and positions of their footprints.
239. Buildings would be closely spaced around the eastern part of the north shore and the whole of the eastern shore of lake 104. The major visual effect of a virtually continuous waterside frontage of buildings around this part of the lake would be compounded by the jettied groups of pavilions and the main part of the hotel building projecting out over the water. Much of the existing vegetation around the lake margin within the build area would inevitably be removed, including mature trees at the remodelled north-eastern lake corner and elsewhere [135, 138, 197]. Although the subsequent landscaping proposals, which are reserved for future consideration, would no doubt include provision for new planting, the closely spaced nature of the building layout and amenity considerations in respect of the occupants of the accommodation would plainly limit the scope for new planting.
240. The character and appearance of lakes 103 and 103a would also change significantly due to the introduction of new buildings around their edge. Because of the more enclosed nature of these lakes, the visual effects of the buildings proposed in these areas would be less far-reaching. However, the visual scale and character of lake 103 would be significantly compromised by the jettied groups of dwellings projecting into the lake [135, 193].
241. In my judgement the scale and intensity of built development around the eastern part of the north shore and the eastern shore of lake 104 would dramatically and adversely affect its peaceful rural character. The built development would dominate and largely eliminate the existing wooded character of the lake margin in these areas. Even allowing for a thoughtful design approach to the individual buildings, I consider that the urbanising effect of the proposed development would be all too evident from public viewpoints at the western end of lake 104 and on approaches to the development along the northern and southern sides of the lake. Furthermore, a substantial part of the circular walk around lake 104 would change from a rural footpath in a countryside setting, with views and glimpses to and across the water, to a walk dominated by buildings, roadways and parking areas and divorced from lake 104 by the closely spaced buildings lining the water's edge [135, 142, 185, 197].

242. Although increased ease of public use of the paths through their physical improvement is advanced as a benefit of the scheme [40, 82], I do not consider that this significantly offsets the harm to public enjoyment of the rural environment afforded by lake 104 that I have identified. Similarly, I ascribe little weight to the fact that the current short section of permissive path around the north-eastern corner of lake 104 would be replaced by a formalised public right of way [82]. Evidence that the section of path has enjoyed unhindered use over many years [120, 157] is not contested; nor is it suggested that there would be any intention to close the permissive path if planning permission is not granted. Moreover, whilst the precise circumstances leading to the public right of way diverted in 1983 becoming a route through the corner of the lake are unclear, and the position in law is not for me to determine, there is no dispute that the purpose of the diversion order was to route the public footpath around this corner of the lake [11]. In the circumstances the benefit of the proposal to provide a formal public right of way in place of the permissive path is insignificant compared to the overall loss of public amenity that would result from the development.
243. Concerns have also been raised about the effect of the development upon the character and appearance of the site as perceived from the A417 [135, 199]. However, the substantial tree screen along the road frontage of the site would very largely remain intact; and the view of the development at the site access point would be fleeting. Additional site boundary screen planting and the avoidance of excessive lighting within the site could be addressed within the detailed development proposals, as regulated by appropriate conditions. In my judgement the proposal would not unacceptably detract from the character and appearance of the area by way of its impact as perceived from the A417. I do not regard the impact of the proposed development in these terms as having a significant cumulative effect in conjunction with the Coln Park development, since the latter is some 2km away to the west along the A417, and thus is physically well separated from the appeal site.
244. I have also taken account of the fact that the proposed development leaves the open character of the western part of the site intact and proposes habitat enhancement measures in this area. This would also ensure that the setting of Fairford would not be harmed. However, neither this, nor the potential benefits associated with a long-term Landscape and Ecological Management Plan for the site, would substantively reduce the clear and serious harm to the landscape character and appearance of the site that would arise and the detriment to public amenity that this would cause.
245. The policies of the development plan, whilst clearly recognising the special circumstances of the Cotswold Water Park and designed to promote appropriate tourism-related developments within the Park, equally make clear that development must satisfy a number of criteria concerning environmental implications. In the light of the matters identified above the proposed development plainly is out of accord with the thrust of Structure Plan policies that development should respect, and not harm, the character and appearance of local environment. In particular it fails to meet the requirements of Structure Plan policy TSM.3 that the scale of proposals for self-catering holiday accommodation units should be consistent with the character of the area and that proposals should avoid adverse impacts upon the landscape. Similarly, it fails to satisfy the requirements of Structure plan policy S.6 that, in providing for

development, aspects of the environment which contribute to local character and distinctiveness, including the quality of the landscape, should be safeguarded. Whilst I have considered carefully the various dimensions of the proposal in terms of its potential social, economic and wider environmental benefits to the area, I do not consider that the balance of considerations in this case in the terms set out in Structure Plan policy NHE.1 points to the grant of permission.

246. Whilst Local Plan policies 26 and UT.1 countenance tourism development proposals for new hotels and holiday lodge accommodation within the eastern part of the Water Park, the appeal proposal plainly does not comply with criterion (c) or criterion (d) of policy UT.1. This failing renders the proposal contrary to policy 26 as well as to policy UT.1 itself. I also consider that the proposals pay insufficient regard to the potential for retaining existing protected trees within the body of the site and assimilating them within the development layout, particularly around the north-eastern shore of lake 104. As such the proposals run counter to Local Plan policy 10. However, there is no conflict with policy UT.2, since the proposals would not extend into the settlement protection zone [52].
247. I conclude that the proposed development, because of the scale and intensity of the built form proposed, especially around the north-east and eastern shorelines of lake 104, would cause serious harm to the attractive rural character and appearance of the site; and that this would severely detract from public amenity, in view of the consequences for the highly valued footpath route around the lake. As such the proposal would fail to comply with Structure Plan policies TSM.3, S.6 and NHE.1 and with Local Plan policies 26, UT.1 and 10.

Consistency or otherwise with the SPG zoning guidance referred to in the Cotswold District Local Plan [22-23; 40; 86; 89-100; 133; 144-146]

248. Paragraph 11.1.21 of the local plan states that it is particularly important for development proposals to be broadly compatible with the Water Park zones, published separately as SPG [23]. In relation to the appeal site the zoning guidance places the western part of lake 104 within zone A; the eastern part of lake 104 and lake 103a within zone B; and lake 103 within zone C [22].
249. The appeal proposals accord with the zoning guidance so far as the western part of the site within zone A is concerned. No buildings are proposed within this area; and the low intensity use of this part of the site for nature conservation purposes and quiet enjoyment of the countryside from the existing public rights of way is wholly in accordance with the guidance for zone A areas [96, 98].
250. The part of the site containing lake 103 is within zone C, which is identified by the SPG as an area where sport, recreation and tourism may take place. The guidance states that medium to high intensity uses will normally be allowed, provided that there is adequate access to the development site. Having regard to the SPG zoning guidance, I consider that there is no conflict in principle with the appeal proposal to site holiday accommodation units within the part of the appeal site identified as being within zone C [23, 40, 91].
251. The remainder of the appeal site, namely that around the eastern part of lake 104 and including lake 103a at the south-eastern extremity of the site, lies within zone B. The SPG characterises zone B areas as "low intensity recreation zones", where the recreational use of land and/or water is acceptable in principle, but where the proximity of existing settlements requires control over the type of use in order to protect nearby residents, or where the character of the landscape

within a zone may need to be safeguarded from more intensive development . A variety of recreational uses are considered appropriate to zone B areas, provided that there is no significant noise or traffic nuisance. Low density and small-scale caravan or camping sites are appropriate to zone B [23].

252. The proposed holiday accommodation and hotel/leisure facilities building would in my judgement constitute medium to high intensity uses as defined by the SPG, and would not constitute low intensity recreation uses identified as appropriate to zone B. I recognise that the Local Plan looks for broad compatibility with the SPG zoning guidance rather than strict compliance in every respect. I also note that this part of the appeal site has direct access to the A417 and lies very close to the east end of the Eastern Spine Road, and thus is well located in relation to main tourist routes. However, the zone B part of the site in my view merits careful control of the intensity of development, in order to protect the character of the peaceful rural landscape of lake 104 and its surroundings and also to ensure that the integrity of the quiet zone A to the west is not harmed by intrusive development nearby.
253. In my judgement the extent of medium to high intensity development within the area identified as zone B is such that the appeal proposal cannot reasonably be characterised as broadly compatible with the SPG zoning guidance. Moreover, the character of the landscape within the zone B portion of the appeal site is such that the intensity of development proposed within this part of the site would be unacceptable. I therefore conclude that the appeal proposal would be seriously at odds with the SPG zoning guidance, and cannot be said to be in broad compliance with the Water Park zones identified therein; and that this renders the proposal contrary to paragraph 11.1.21 of the adopted Local Plan.
254. In considering this matter I have taken account of the process by which the zoning SPG was created. I recognise that the Local Plan Inspector in 1995 expressed reservations about the rigour of the analysis on which the Council's zoning proposals were based; and it appears that the Council did not conduct a systematic review of its draft zoning proposals before subsequently adopting them in the form of SPG. However, it is clear that the Inspector also specifically scrutinised the zoning proposals for the appeal site and concluded that the western and eastern parts of part of lake 104 were appropriately identified as zone A and zone B areas respectively [93-94, 133, 144]. Accordingly I do not consider that the process by which the SPG zoning guidance was produced undermines the zoning that it identifies in respect of lake 104.
255. Attention has also been drawn to other development permitted elsewhere in the Water Park that does not comply with the zoning guidelines [86, 95]. However, such decisions, concerning other forms of development on other sites, each with their own locational and environmental characteristics, do not provide a convincing argument to override the basic thrust of the zoning guidance in the case of the appeal site. I consider that the acceptability of the appeal proposals should be determined on the basis of an assessment of the merits of the proposal itself, not on the basis of examples of non-conformity with zoning guidance in other parts of the Water Park.
256. Given the seriously adverse consequences for the character and appearance of the locality and for public amenity that I have identified, I consider that the extent to which the proposals do not comply with the Water Park zoning SPG in this case weighs significantly against the development.

Effects on traffic conditions [39-40; 49; 53; 65; 70-77; 121-126; 158-162; 174-176; 180; 205]

257. Although the Council's notice of refusal of planning permission referred to traffic impacts in Fairford and Lechlade, the evidence to the inquiry only concerned traffic impacts in Fairford, arising from increased use of the A417 [70].
258. Traffic assessments have been carried out in connection with the appeal proposal. In accordance with the request of the County Highway Authority, these have considered the effect of the proposal on peak hour flows, and have also considered the cumulative implications of the proposed development together with the additional traffic generated by the Coln Park development. The County Highway Authority raises no objection to the proposed development [39, 70, 76].
259. The A417 through Fairford does have a number of points of constriction, relating in some places to the physical width and alignment of the carriageway and in others to the designation of on-street parking areas which narrow the available carriageway width [121, 159, 174]. However, the overall traffic flows experienced through Fairford are relatively modest, even at peak hour times, and are well below the operational highway capacity of the A417 [71, 73-74]. Whilst I accept that the constricting features noted above give rise on occasions to traffic conflict, particularly when large vehicles are involved, the evidence indicates that these are generally minor and transient occurrences of short duration, typical of small historic settlements with traffic passing through. My own observations reinforce this conclusion.
260. The Council does not dispute the traffic generation data produced for the appellant [121]. It is based on robust assumptions about likely occupancy rates and trip generation rates in relation to the constituent elements of the development. The estimated peak hour increase in vehicular flows through Fairford arising from the proposed development is just 40 vehicles, an increase of around 6%. Even allowing that the assumed distribution of traffic flows arising from the development site does not incorporate a detailed analysis of the likely trip patterns of users of the proposed holiday accommodation while in residence, I conclude that the effect of the proposed development upon environmental conditions in Fairford, whether at peak hour times or at other times of the day, would not be significant [71-72, 121].
261. Although concerns are expressed about the adverse effects of traffic in Fairford in terms of intimidation, severance and pedestrian delay [125, 161], I consider that the proposed development would not materially exacerbate existing conditions in the town in these terms, so far as they might exist at present. In the light of the results of the exercise undertaken to assess the proposal and the nearby Coln Park development I conclude that the combined effects of the two developments would be acceptable in highways terms [76]. There is no evidence that the proposed development would cause a worsening of highway conditions in Lechlade.
262. In overall terms the site is well located in relation to the highway network serving the eastern part of the Water Park. It has direct access onto the A417 at a point just to the west of the Eastern Spine Road (Whelford Road). Although the previous intention to develop the Eastern Spine Road in the form of a major highway scheme has been replaced by an intention to upgrade the existing route with a series of smaller scale on-line improvements [175], there remains a firm

commitment to developing the Eastern Spine Road as the primary means of access to the eastern part of the Water Park from the A419(T), which in turn links to the M4 and the M5 [53].

263. The improvement of the Eastern Spine Road route is an important element in the development of the Cotswold Water Park [49], in terms of providing an optimum route to the trunk route network both for heavy goods traffic associated with mineral extraction activities and for recreational and tourist traffic associated with the Water Park. The Eastern Spine Road route is intended to draw heavy goods vehicles in particular away from the A417 route westwards through Fairford to the A419(T) east of Cirencester, enabling this section of the A417 to be downgraded to B road status. The section 106 undertaking provided by the appellant includes, as a measure to mitigate the traffic effects of the proposed development, a contribution towards the construction of a roundabout to improve the capacity of the Whelford Road/A417 junction at the end of the Eastern Spine Road. This element of the proposals would constitute a significant step towards the reduction of heavy goods vehicles in particular through Fairford and the eventual downgrading of the A417 west of the Whelford Road junction to B road status [53, 75].
264. The appeal site is well located in relation to local facilities and services in Fairford; and the proposals include measures to facilitate and encourage journeys between the proposed development and the town by bus, bicycle and on foot [40]. Whilst not all local journeys between the site and Fairford would be undertaken in these ways, I consider that the proposed measures would make a significant contribution towards the use of more sustainable means of travel as regards local journeys associated with the proposed development, thus reducing the overall vehicular consequences of the proposal. This would apply both to journeys into Fairford by occupants of the holiday accommodation whilst staying on the site and to local people making use of the facilities provided as part of the hotel/leisure element of the development or employed at the site [65].
265. On this issue I conclude that the proposed development would not have significantly adverse traffic impacts, and would accord with policies in the development plan concerning the traffic effects of new development. Moreover, it would be in accord with the thrust and direction of the overall strategy for development in the Water Park in these terms; and would assist, by way of the proposed contribution towards improvement of the Whelford Road junction, in advancing the transfer of traffic, particularly heavy lorries, away from the A417 through Fairford onto the Eastern Spine Road.

PPS6 [42; 47; 49; 51; 57-59; 65; 67-68]

266. PPS6 advocates a sequential approach to the location of town centre uses, and a hotel is cited as a town centre use. However, the hotel accommodation in this case is proposed specifically as a means of providing an additional element of leisure-related tourism accommodation within the eastern part of the Water Park, together with restaurant and leisure facilities associated with the occupancy of the holiday pavilions and apartments, as an integral part of the holiday accommodation scheme centred on lakes 104, 103 and 103a. As such it is not a type of hotel or leisure facility normally associated with a town centre location. Paragraph 4 of Annex A of the Good Practice Guide for Tourism Planning recognises that the provision of tourism accommodation may in some cases be better located in a rural area to take advantage of particular natural features;

and the development plan policies relating to this part of the Water Park indicate scope in principle for the consideration of hotel tourist accommodation. Moreover, I consider that it would be unrealistic from an operational standpoint to consider the hotel and/or leisure elements of the development proposals as discrete uses which could be disaggregated from the overall scheme and considered in isolation as prospective town centre developments.

267. Having regard to the tests in paragraph 3.4 of PPS6, no formal needs assessment has been carried out by the appellant in this case. However, the appellant points out that the inclusion of hotel tourist accommodation as an element of the proposals arose as a result of Council officers indicating a desire on the part of elected Members to see such a facility [42, 67]. Moreover, the thrust of policies and strategy for the development of the Water Park reflects a clear perceived need for such forms of tourist accommodation in the Water Park [47, 49, 51, 68].
268. The proposed hotel accommodation and leisure elements of the development are modest in scale and proportionate to the other elements of the proposal. The appellant has examined the possible existence of other sites for a hotel development, but found none which are sequentially preferable in relation to the town centres of Fairford or Lechlade [59]. The appellant has also considered the potential effect of the proposed hotel element on the existing hotels in Fairford and Lechlade, and concluded that the proposed leisure-related development would not have an adverse impact on the vitality or viability of the existing centres [57]. Notwithstanding that the development would occupy a rural site outside the existing settlement, the proposed location for the hotel and leisure uses would be easily accessible in relation to Fairford and in relation to bus routes. The sustainable transport measures proposed as part of the development would enhance accessibility by sustainable modes of travel [65].
269. In the light of the foregoing I conclude that the proposal demonstrates an acceptable level of consistency with guidance in PPS6.

PPS7 [60-64; 65]

270. PPS7 offers guidance for the whole country concerning sustainable development in rural areas. The location of the appeal site within the Cotswold Water Park clearly places it within an area where a specific set of development plan policies operates, designed to secure the minerals development, nature conservation, landscape, tourism and recreational objectives for the Water Park, alongside the general countryside protection and development policies which otherwise apply [60].
271. PPS7 sets certain key principles for ensuring that development in rural areas is sustainable. It also contains guidance specifically related to tourism and leisure development and to tourist accommodation [61-62]. Having regard to the key sustainability principles and the advice specifically directed towards the form of development under consideration here, the proposed development performs relatively well against many of the criteria identified. The site is close to the rural centre of Fairford and well placed in relation to travel routes into the town. The development would have good accessibility to Fairford by sustainable means of travel, especially given the package of measures to facilitate travel to and from the site on foot and by cycle and bus which form part of the proposals [65]. Notwithstanding that the precise arrangements for community access to the

proposed swimming pool facility are undecided [156], there would be a social benefit to residents of Fairford in terms of the leisure facilities provided by the development. There would also be social and economic benefits to the locality in terms of the employment opportunities generated by the proposed development and the benefits to existing services in Fairford arising from the increased numbers of visitors staying in the area [64].

272. In terms of the key principles of PPS7 concerning protection of the countryside, the provision of adequate tourist accommodation facilities within the Cotswold Water Park must plainly be balanced against the need to control new building development in the open countryside away from existing settlements and safeguard the character of the countryside. PPS7 expects most tourist accommodation facilities to be located in, or adjacent to, existing towns and villages (paragraph 37). Although the proposed buildings would not be in or adjacent to Fairford, the site access would be little more than 800m along the A417 from the built up limits of the town. No evidence of the existence of brownfield sites available to accommodate the proposed development was submitted to the inquiry. The development plan adopts a positive stance in principle towards the provision of new self-catering holiday accommodation and hotel tourist accommodation within the eastern part of the Cotswold Water Park; and the physical locations of the water bodies of former mineral workings on which the concept of the Water Park is founded plainly constrains the range of potential locations where development founded on the presence of the water bodies can realistically be considered.
273. In the light of these factors, I do not consider that the location of the proposed development within the open countryside should in itself be regarded as a fundamental failing in terms of its consistency with PPS7. However, for the reasons I have given in the earlier sections of my conclusions, I consider that the proposed development represents a form of built development which, by reason of its scale and intensity, would seriously harm the landscape character of an area of attractive countryside which is of clear value to the local community. This renders the proposal contrary to the sustainable development principles relating to effective protection and enhancement of the environment in key principles (i), (iv) and (vi) contained in paragraph 1 of PPS7. The proposal to incorporate a scheme of landscape and ecological improvements and long-term management [64] does not alter my judgement that the overall consequences for the character of the site and its contribution to public amenity would be seriously adverse.
274. Taking all of the foregoing, I conclude that whilst the proposed development is consistent with a number of the key sustainability principles outlined in paragraph 1 of PPS7, in particular in terms of its location and accessibility in relation to the existing centre of Fairford and the economic and social benefits that would result, it is plainly contrary to the sustainability principles relating to effective protection and enhancement of the environment in key principles (i), (iv) and (vi). The contents of the Good Practice Guide for Tourism Planning, to which the appellant draws attention [63] do not disturb my conclusions on this matter.

PPG13 [63; 65]

275. Guidance in PPG13 focuses on the characteristics of new development in relation to accessibility; the co-location of complementary uses and activities;

reducing the need to travel; and sustainable transport modes. The site is relatively highly accessible, given that it is situated within a rural area and taking into account the proposal's requirement for a location associated with a suitable water area within the Water Park. The development would be well sited in relation to the main tourist routes within the eastern Water Park, close to Fairford and well placed in relation to travel routes into the town. The development would be accessible to Fairford by sustainable means of travel, and would incorporate a travel plan and measures to facilitate travel to and from the site on foot and by cycle and bus [65]. The development would provide increased employment opportunities and improved access to leisure facilities close to Fairford for the local community [63].

276. Having regard to the guidance in PPG13 concerning the need to locate development in a way which helps to promote more sustainable transport choices, better accessibility and reduce the need to travel, I conclude that the proposed development would be consistent with the thrust of this guidance.

Flood risk [101-104; 166-167; 177; 188; 200]

277. Flood risk matters did not form part of the Council's reasons for refusing permission. However, concerns about flooding have been raised by interested parties, in particular by Fairford Environmental Society [166-167], Fairford Town Council [177] and Fairford Forward [188]. CPRE has also made comments about the implications of flooding on the site for the heights of buildings and their consequent visual impact [200].

278. The appellant has conducted a detailed fluvial flood risk assessment in relation to the development proposals, conforming to the principles and policy guidance contained in PPS25 and based on a 1:100 year event + 20% flood level. The Environment Agency confirmed its satisfaction with the assessment in February 2007, and accordingly withdrew its earlier objection to the proposal [101].

279. Further analysis has been carried out in the light of the July 2007 flood event which affected the site. However, the July 2007 event was associated with extreme rainfall, which by itself represented a 280 year return event and was far more extreme than the flood levels set by PPS25 for the assessment of development proposals [102]. Consequently, the extent of flooding on the site which occurred on this occasion has not altered the position of the Environment Agency regarding the appropriateness of the development proposed on the site. Whilst I note that the accuracy of the estimated flood level during this event in relation to lake 104 is disputed by Fairford Environmental Society and CPRE [166, 200], this does not alter the robustness of the flood risk assessment carried out in relation to the advice contained in PPS25.

280. Notwithstanding the foregoing, the appellant has indicated a willingness to increase the finished slab levels above those required by the Environment Agency in relation to the 1:100 year event + 20%; and also proposes the incorporation of functional engineered weir structures to permit controlled discharge of flood waters between the lakes during extreme flood events [104]. Although Fairford Environmental Society and others question the appropriateness of the site to accommodate the development [166, 188], no evidence has been submitted which alters my conclusion that the proposal complies with the guidance in PPS25 concerning development and flood risk. Whilst Fairford residents may have genuine concerns about the adequacy of the combined sewer system in times of

extreme rainfall [167], there is no evidence that the proposed development would have any material effect on the existing situation.

281. I conclude that the proposed development would conform to the guidance in PPS25, both as regards the principle of accommodating the type of development proposed on the site and, subject to detailed design matters which could be controlled by conditions, in terms of site flooding implications for occupants of the development and the avoidance of increased flooding consequences elsewhere.

Biodiversity and nature conservation [40; 119; 163-165; 173; 186]

282. The Council's reasons for refusal did not cite harm in terms of the development's implications for biodiversity or nature conservation. Evidence on the value of the site in these terms and concern about ecological harm has nonetheless been presented by Fairford Environmental Society and others [163, 165, 173, 186]. However, whilst it is plain that the development proposals would affect the ecology of that part of the site subject to built development, there would be substantial mitigation providing a net ecological gain in the form of habitat enhancement and ecological management, focused particularly on the western part of the site, around a large part of lake 104 [119, 164-165]. No part of the site is subject to national or local designation for its nature conservation interest; and the development would have no material effect on nearby Sites of Special Scientific Interest [40].

283. Having regard to the current ecological characteristics and value of the site, and the proposed long-term ecological enhancements that are proposed as mitigation for the effects of development on other parts of the site, I consider that the ecological benefits that would accrue are sufficient to counter the negative effects of the development in such terms upon parts of the site, including the disturbance that would occur during construction. In my judgement lake 104 is a sufficiently large body of water to accommodate the proposed development at its north-eastern and eastern end without materially harming the wildlife interest of the remainder of the lake, given the restrictions on powered craft on the lake that would be imposed. With appropriate conditions and undertakings, as agreed by the appellant, I conclude that the nature conservation-related provisions of Local Plan policy UT.1 concerning development within the Cotswold Water Park would adequately be met by the proposals [40].

Other material considerations

284. A number of considerations weigh in favour of the proposed development. The proposal would provide additional tourism accommodation within the eastern section of the Water Park, in line with the strategic thrust of policies towards increasing visitor stays within the area. The evidence indicates a general recognition of a need to provide additional tourism accommodation and broaden the accommodation base in this part of the Park [47, 49, 51, 66-69, 202]. The proposal would make a significant contribution towards meeting this objective. The recent planning permission for holiday lodges and a hotel at Coln Park does not alter this conclusion.

285. The development would have clear benefits to the local rural economy through the creation of employment opportunities and increased visitor numbers in the Fairford area with associated spending on local goods and services [43, 54, 63-64, 115]. The Local Plan and the Fairford HealthCheck both identify a desire to

- increase tourist activity in Fairford [68]. The proposed development would make a significant contribution in this respect. There is no evidence pointing to an overloading of local services in Fairford arising from the proposed development.
286. The swimming pool and other leisure facilities proposed as part of the hotel element would be a benefit to the local community [68, 116], although much would depend upon the terms on which they were made available. In this respect I have doubts about the scope in real terms for making the proposed swimming pool available for schools or other group community use [156, 184]. Moreover, there is evidence of plans to improve the existing range and level of leisure facilities in Fairford by other means [184].
287. The sustainable travel and highways measures, in the form of contributions towards the provision of cycleway/footways, cycle stands in Fairford, bus stops and the proposed roundabout at the junction of the A417 with the Eastern Spine Road, are also matters associated with the development which would be of wider public benefit [65].
288. I have considered all other matters raised. The substance of the 1994 appeal case was materially different to the current proposal, both in terms of the form of development being considered and the policy framework in existence at the time [40]. Nonetheless, the 1994 appeal provides an impartial judgement as to the character and quality of the site in landscape terms at that time, and also corroborates the strong evidence in this appeal of the considerable amenity value to the local community that is provided by the rural walk around lake 104. My conclusions are that the site continues to display an attractive rural character, especially as regards lake 104; and that, judged on their own merits, the current proposals would be seriously harmful to the attractive character of the site and the significant public amenity arising from its use and enjoyment, and that as such the proposal would conflict with prevailing policies.
289. I have also considered the cumulative impact concerns raised in relation to the consequences of this proposal taken together with the Coln Park development [172, 176]. However, the Coln Park development is located some way to the east. In my judgement the distance between the two developments on the A417 would be such that no significant cumulative impact issues arise in these terms. In terms of activity generated in the locality and additional pressures on local services, the effects of the Coln Park development would in my opinion be predominantly focused on Lechlade rather than Fairford. The cumulative traffic effects of the two developments would not have a significantly detrimental effect on existing conditions in Fairford [76]. I conclude that there are no cumulative impact issues arising from the existence of the permission for the Coln Park development which materially weigh against the appeal proposal.

Conditions and obligations [216-221]

290. I consider that the conditions put forward at the Inquiry, qualified by my comments in this report [217-219], would be necessary to regulate the form of development permitted if permission were to be granted. The terms of the two planning obligations submitted by the appellant similarly address matters that are directly related to the effects of the development, and in my judgement would be necessary to the grant of planning permission, should such a decision be reached [220-221]. Accordingly, the obligations offered by the appellant are

material considerations which I have taken into account in reaching my overall conclusions and recommendation.

291. However, the conditions and obligations put forward do not address the clear and compelling objections to the proposed development I have identified, in terms of its effects on the character of the site and the amenity arising from the use and enjoyment of its footpaths. In my judgement additional conditions could not be imposed on any permission for the proposed development which would overcome these objections.

Overall conclusions

292. I conclude that the proposed development would seriously harm the character and appearance of the site, with consequent severe loss of public amenity associated with the use of the footpaths through the site. Notwithstanding the generally favourable thrust of development plan policies towards tourism related development within the Cotswold Water Park, the proposals would conflict with Structure Plan policies TSM.3, S.6 and NHE.1 and with Local Plan policies 26, UT.1 and 10. The proposals would also fail to comply with the Local Plan requirement for broad compliance with the Council's zoning guidance SPG.

293. The proposal would not have significantly adverse traffic impacts, and would be consistent with the thrust of national guidance in PPG13 and PPS6. However, whilst the proposal is consistent with a number of the key sustainability principles in PPS7, it is plainly contrary to those relating to effective protection and enhancement of the environment in key principles (i), (iv) and (vi). The development would be acceptable in relation to the advice concerning development and flood risk in PPS25.

294. Although there would be various benefits arising from the proposal, primarily in relation to economic and social benefits for the area, improved sustainable travel facilities and highway benefits, in my judgement these are insufficient to outweigh the substantial harm and conflict with the development plan I have identified. I therefore conclude that there are compelling reasons why planning permission should be withheld.

Recommendation

295. For the reasons given, I recommend that the appeal be dismissed.

296. However, should the Secretary of State, notwithstanding my recommendation, decide that planning permission should nevertheless be granted, the following conditions should be imposed: 1, 3-24, 26-45 and 47-48 as set out in Annex 1 to this report; conditions 2, 25 and 46, as set out in paragraph 217 of this report; and an additional condition (49), as set out in paragraph 219 of this report. Any permission granted should also be accompanied by the two planning obligations dated 12 December 2007.

Alwyn B Nixon

Inspector

Annex 1: List of Planning Conditions Agreed between Council and Appellant

Conditions agreed by both parties

1. Details of the design and external appearance of the proposed buildings and of the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. The reserved matters plans shall show the existing and proposed ground levels, the slab level of the proposed building(s) and the slab level of adjacent buildings, the slab levels shall be no less than 300mm above the flood water level recorded in July 2007 of 80.19m AOD. The development shall only be carried out in accordance with the plans so approved, unless otherwise agreed in writing with the local planning authority.
3. Application for the approval of the reserved matters shall be made to the local planning authority by three years from the date of this decision notice.
4. The development shall be begun by 2 years from the date that the last of the reserved matters is approved.
5. Notwithstanding Classes C2 and C3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or the equivalent to that Class in any statutory instrument amending or replacing the 1987 Order or any other change of use permitted by the Town and Country Planning (General Permitted Development) Order 1995, the accommodation shall be used to provide short term holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any other statutory instrument amending or replacing it, no gate, fence, wall or other means of enclosure shall be erected, constructed or sited in the development other than those permitted by this decision.
7. No site works shall be begun until such a time as a temporary car parking area for site operatives and construction traffic has been laid out in accordance with details to be submitted to and agreed in writing by the local planning authority and that area shall be retained available for that purpose for the duration of building operations.
8. Prior to the commencement of development wheel wash facilities shall be provided on site in accordance with details to be submitted to and approved in writing by the local planning authority. The facilities shall then be installed and maintained for the duration of the development in accordance with the approved details. All vehicles shall use the facilities prior to their exit from the site.
9. The development shall not start before a comprehensive scheme of hard and soft landscaping has been submitted and approved in writing by the local planning authority. The scheme must show the location, size and condition of all existing

trees and hedgerows on and adjoining the land and identify those to be retained, together with measures for their protection during construction work. It must show details of all planting areas, including plant species, numbers and sizes. The proposed means of enclosure and screening should also be included, together with details of mounding, walls and fences and hard surface materials to be used throughout the proposed development. The development shall be carried out in accordance with the approved details and thereafter maintained in accordance with the Landscape and Ecological Management Plan.

10. All fencing, walling and surfacing comprised in the approved landscaping scheme shall be carried out prior to the development being brought into use or in accordance with an implementation programme first approved in writing by the local planning authority.
11. Landscaping and screening on the boundary of the site shall be completed by the end of the first planting season following the start of construction and the remainder by the end of the planting season immediately following the development being brought into use or occupied.
12. 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.
13. Prior to the commencement of any works on site (including demolition and site clearance), a Tree Protection Plan (TPP) shall be submitted to and approved in writing by the local planning authority. The TPP shall detail the methods of tree/hedge protection and clearly detail the positioning and specifications for erection of tree protective fencing. The fencing shall be constructed in accordance with the specifications set out within the BS5837:2005 and shall remain in place until the completion of the construction process. No fires shall be lit within 5m of the Construction Exclusion Zone and materials that will contaminate the soil such as cement or diesel must not be discharged within 10m of the tree stem. Existing ground levels shall remain the same within the Construction Exclusion Zone and no building materials or surplus soil shall be stored therein. All service runs shall fall outside the Construction Exclusion Zone unless otherwise approved in writing by the local planning authority. Details shall be carried out in accordance with the submitted information.
14. No development shall take place until details of the provision to be made for artificial bird nesting sites/boxes and artificial bat roosting sites/boxes have been submitted to and approved by the local planning authority. The development shall be completed and thereafter maintained fully in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
15. Before the development commences a scheme shall be submitted to and agreed in writing by the local planning authority which specifies the provisions to be made for the level of illumination of the site and the control of light pollution. The scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- 16.No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation and completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 17.No development shall commence until a programme of works for the provision of access to all parts of the site (by all modes) including details of the permanent closure of existing vehicular accesses has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved programme and details unless otherwise agreed in writing beforehand by the local planning authority. The programme shall include proposals to upgrade public footpaths within the site to a cycle and DDA compliant standard subject to the approval of the local planning authority.
- 18.Any new hedge, fence, wall or other object planted or erected alongside the proposed cycle path across the site's frontage to the A417 in accordance with details submitted to and approved in writing by the local planning authority shall thereafter be maintained at a height no greater than 1.2m.
- 19.No conferences, seminars or other business events shall be held on the site. Any function held on the site shall not exceed 150 people at any one time.
- 20.No works shall commence on site until details of vehicular parking and manoeuvring facilities within the curtilage of the site have been submitted to and approved in writing by the local planning authority. The parking and manoeuvring facilities shall then be completed in all respects in accordance with those details before the development is brought into use and shall be maintained as such thereafter.
- 21.No works shall commence on site until details of secure covered cycle parking facilities within the curtilage of the site have been submitted to and approved in writing by the local planning authority. The cycle parking shall then be completed in all respects in accordance with those details before the development is brought into use and shall be maintained as such thereafter.
- 22.No part of the development shall be beneficially occupied until bus stop facilities (and pedestrian linkages to them) have been provided adjacent to the site on the A417 in accordance with details which shall be submitted to and approved in writing beforehand by the local planning authority.
- 23.No part of the development shall be beneficially occupied until a path along the A417, from the site to Fairford, has been completed in accordance with details which shall have been submitted to and approved in writing beforehand by the local planning authority.
- 24.Prior to the commencement of development, drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority, and the scheme shall subsequently be

implemented in accordance with the approved details before the development is completed.

- 25.No spoil or materials shall be deposited or stored on that part of the site lying within the area of land liable to flood.
- 26.There shall be no raising or alteration of existing ground levels on the site other than in the areas shown on the compensation scheme outlined in drawing 1615 115C by The Edwards Irish Partnership LLP dated October 2006. There shall be no importation of additional fill material unless first otherwise agreed in writing with the local planning authority.
- 27.Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.
- 28.Prior to the commencement of development a Flood Management Plan suitable to the scale and nature of the proposal shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Flood Management Plan.
- 29.Before the development commences a scheme shall be submitted to and agreed in writing by the local planning authority which specifies the provisions to be made for the control of noise emanating from the site, including a timetable for implementation. The noise mitigation scheme shall be implemented and thereafter maintained and shall not be altered without the prior written approval of the local planning authority.
- 30.Construction work shall not begin until a scheme for protecting the proposed hotel complex and pavilions from noise from the A417 and adjoining lake 105 has been submitted to and approved by the local planning authority; all works which form part of the scheme shall be completed before the hotel complex or pavilions are occupied. The scheme shall be maintained and shall not be altered without prior written approval of the local planning authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
- 31.There shall be no outdoor public address systems, tannoy or other amplified communication system on the site at any time except in an emergency.
- 32.No powered craft shall be used on any of the lakes at any time except in an emergency. Any non powered craft used on any of the lakes shall only comprise rowing boats, pedalos, canoes and kayaks.
- 33.The non-powered craft used on the lakes shall only be used on Lake 103 and the eastern section of Lake 104, to the east of the floating islands identified on the site layout plan No. FS04V.
- 34.The development shall not start until detailed drawings showing flues and ventilation openings on the hotel and leisure building has been approved in writing by the local planning authority and the flues and ventilation shall be constructed and thereafter maintained in accordance with the approved drawings before the development is brought into use or occupied.

35. The development shall not start until a scheme for treating fumes and odours from the hotel and leisure building has been approved in writing by the local planning authority and the means of treating the fumes and odours shall be installed and be operational before the development is brought into use or occupied. The development shall thereafter be maintained in accordance with the approved details.
36. Before the development commences a scheme shall be submitted to and agreed in writing by the local planning authority which specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be maintained and shall not be altered without the prior written approval of the local planning authority.
37. The development shall not begin until a scheme to investigate and remediate any land contamination on the site has been approved in writing by the local planning authority. The scheme shall include actions to identify and assess the extent of contamination and measures to remove risks to human health and the environment. Following remediation, a completion report that validates the remedial measures shall be submitted to and approved in writing by the local planning authority before any of the buildings are occupied. The development shall be carried out in accordance with the recommendations of the approved report.
38. Prior to the first occupation of the hotel/leisure facilities a Community Access Plan shall be prepared in conjunction with the Council for the provision of public access to the leisure facilities. The hotel and leisure facilities shall not be occupied until the Community Access Plan has been submitted to and approved in writing by the Council, and thereafter the Community Access Plan shall be implemented in accordance with its provisions. The Community Access Plan shall include:
- i) The means whereby the leisure facilities or part thereof is available for use by members of the public;
 - ii) The pricing structure for public access to the leisure facilities;
 - iii) The means whereby the leisure facilities or part thereof is available for use by local community groups; and
 - iv) A reporting mechanism whereby the operation of the Community Access Plan can be monitored and reviewed by the Council.
39. Prior to commencement of the development a scheme to mitigate the offsite impacts of the development and its use on ecology and biodiversity in the Cotswold Water Park shall be submitted to and approved in writing by the local planning authority, and shall thereafter be carried out in accordance with the approved details.
40. Prior to the commencement of development the design details of the functional weirs between lakes 103 and 104 shall be submitted to and approved in writing by the local planning authority. The functional weirs shall be constructed in accordance with the approved design details prior to first occupation of any building and thereafter maintained in their approved form unless otherwise agreed in writing by the local planning authority.
41. The reserved matters shall be in general conformity with the environmental information contained within the Environmental Impact Assessment that

accompanied the planning application. The Environmental Impact Assessment comprises the Environmental Statement submitted with the application on 30 August 2005 and the further information submitted pursuant to the local planning authority's request made under Regulation 19 of the 1999 Regulations.

42. Prior to the commencement of development the details of the sustainable drainage plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
43. Prior to the commencement of development the details of the energy efficiency scheme shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
44. None of the buildings on any part of the development hereby permitted and detailed on site layout plan No. FS04V shall exceed the following heights, measured from the finished floor level of the building to the ridge of its roof:

Leisure Centre Building: 11.6m to ridge and 17.5m to spire on tower
Suites adjoining Leisure Building: 14m
2 bedroom pavilion: 8.6m
3 bedroom pavilion: 9.7m
4 bedroom pavilion: 10.2m
5 bedroom pavilion: 12m
6 bedroom pavilion: 11.2m
Apartment building: 12.8m.

45. No site works shall commence until such a time as a temporary car parking area for site operatives and construction traffic and an area for the storage of construction materials has been laid out in accordance with details to be submitted to and agreed in writing by the local planning authority and that area shall be retained available for that purpose for the duration of building operations.
46. The development shall maintain the permissive footpath section of the north east corner of lake 104 during construction and shall take all reasonable steps to ensure the dedication of this section of footpath as a Public Right of Way prior to the final occupation of the development.

Conditions sought by the Council but not considered necessary by the Appellant

47. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any other statutory instrument amending or replacing it, no extensions, outbuildings or means of enclosure shall be erected, constructed or sited other than those permitted by this decision.
48. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any other statutory instrument amending or replacing it, no doors, windows or rooflights shall be inserted in the buildings other than those permitted by this decision.
49. The development shall not begin until samples of the external materials of the buildings have been approved in writing by the local planning authority and only

the approved materials shall be used unless otherwise agreed in writing with the local planning authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Comyn, of Counsel	Instructed by Ms B Patel, Cotswold District Council
He called	
Mr S Firkins BA(Hons) MTP MRTPI	S F Planning Ltd
Mr M Cobden BSc(Hort) DipLA MLI	

FOR THE APPELLANT:

Mr R Phillips, QC	
He called	
Mr D Neame BSc(Hons) MSc MRTPI	Charles Planning Associates Ltd
Mr M Davies BA(Hons) DipLA MLI	Davies Landscape Architects
Mr P Finlayson BSc CEng MICE MIHT MCIWEM	PFA Consulting
Mr D Murray BSc(Hons) MSc IEEM CEnv	Waterman CPM Environmental Planning & Design
Mr S Pattie MIH	Cushman & Wakefield Hotels

FOR FAIRFORD ENVIRONMENTAL SOCIETY:

Mr M Westmoreland-Smith, of Counsel	
He called	
Mr S Mumford	Fairford Environmental Society
Mrs S Jones	Fairford Environmental Society
Mr G Bishop	Fairford Environmental Society

INTERESTED PERSONS:

Cllr T Hing	Fairford Town Council
Mrs M Bishop	Fairford Forward
Mr N Dummett	Campaign to Protect Rural England
Mr D Grant	Cotswold Water Park Society
Mrs J Kinnock	

DOCUMENTS

- 1 Inquiry Attendance Lists
- 2 Documentation Relating to Notification of Inquiry
- 3 Written Representations by Interested Persons
- 4 Original Planning Application submission (*documentation on case file*)
- 5 Statement of Common Ground between appellant and Council
- 6 Appendices to Statement of Common Ground (Appx 1 – Appx 6)
- 7 Statement of Common Ground on highways matters between appellant and County Highway Authority
- 8 Statement of Common Ground between appellant and Council concerning SSSI matters
- 9 Letter from appellant dated 10 December 2007 concerning site address and description of proposed development
- 10 Inquiry note confirming subsequent changes to Transport Assessment submitted with planning application
- 11 Inquiry note confirming means of construction of holiday lodges wholly or partly over water areas
- 12 Inquiry note providing site occupancy estimate breakdown (with Council's alternative analysis attached)
- 13 Unilateral undertaking as to planning obligation dated 12 December 2007
- 14 Planning obligation (by agreement) dated 12 December 2007
- 15 Environment Agency letter withdrawing objection to planning application, subject to imposition of conditions, dated 20 February 2007
- 16 Environment Agency Position Statement following July 2007 flood event, dated 6 November 2007
- 17 Flooding matters Statement of Common Ground between appellant and Environment Agency, December 2007, with Technical Appendix
- 18 Appellant's response to handwritten questions raised by Fairford Environmental Society concerning flood risk assessment exercise for site
- 19 Appellant's statement dated 18 December 2007 concerning peak July 2007 flood levels and implications for finished slab levels of buildings
- 20 Comments of CPRE on appellant's statement concerning July 2007 flood levels and implications for slab levels
- 21 Comments of Fairford Environmental Society on appellant's statement concerning July 2007 flood levels and implications for slab levels

INQUIRY CORE DOCUMENTS

Government Publications (Copies not attached to Report)

- CD 1 Planning Policy Statement 1 (PPS1), Delivering Sustainable Development (February 2005)
- CD 2 Planning Policy Statement 6 (PPS6), Planning and Town Centres (March 2005)
- CD 3 Planning Policy Statement 7 (PPS7), Sustainable Development in Rural Areas (August 2004)
- CD 4 Planning Policy Guidance Note 9, Nature Conservation (PPG9) (October 1994) (*relevant at time of application submission in August 2005*)
- CD 5 DRAFT Planning Policy Statement 9, Biodiversity and Geological Conservation (PPS9) (September 2004) (*relevant at time of application submission in August 2005*)
- CD 6 Planning Policy Statement 9, Biodiversity and Geological Conservation (PPS9) (August 2005) (*published after submission of planning application*)
- CD 7 Planning Policy Statement 12, (PPS12) Local Development Frameworks (September 2004)

- CD 8 Planning Policy Guidance Note 13, Transport (PPG13) (March 2001)
- CD 9 Planning Policy Guidance Note 16, Archaeology and Planning (PPG16) (August 2001)
- CD 10 Planning Policy Guidance Note 17, Planning for Open Space, Sport and Recreation (PPG17) (June 2002)
- CD 11 Planning Policy Guidance Note 21, Tourism (PPG21) (November 1992) (*relevant at time of application submission in August 2005*)
- CD 12 Good Practice Guidance for Tourism Planning (May 2006)
- CD 13 Planning Policy Guidance Note 24, Planning and Noise (PPG24) (August 2001)
- CD 14 Planning Policy Guidance Note 25, Development and Flood Risk (PPG25) (July 2001) (*relevant at time of application submission in August 2005*)
- CD 15 Planning Policy Statement 25, Development and Flood Risk (2006)
- CD 16 Circular 02/2005: Planning Obligations
- CD 17 Circular 06/05: Biodiversity and Geographical Conservation - Statutory Obligations and Their Impact Within the Planning System
- CD 18 Circular 02/99: Environmental Impact Assessment
- CD 19 Circular 11/95: Use of conditions in planning permission
- CD 20 Circular 02/93: Public Rights of Way

Other publications

- CD 21 Regional Planning Guidance (10) South West (September 2001) (*extracts*)
- CD 22 Submission Draft South West RSS (April 2006) (*extract*)
- CD 23 Gloucestershire Structure Plan (Adopted 1999)
- CD 24 Cotswold District Local Plan (August 1999) (*policy extract*)
- CD 24A Cotswold District Local Plan (August 1999) (*extract – Cotswold Water Park*)
- CD 25 Cotswold District Local Plan (April 2006)
- CD 26 Cotswold District Second Local Development Scheme (March 2007 – March 2010) (March 2007)
- CD 27 Cotswold District Town Centres and Retailing Study (June 2007) (*extract*)
- CD 27A Cotswold District Town Centres and Retailing Study (June 2007) (*further extracts*)
- CD 28 Cotswold Water Park Supplementary Planning Guidance (1999)
- CD 29 Cotswold Design Code SPG (March 2000)
- CD 30 Assessment of Landscapes Outside the Cotswold AONB (White Consultants) (June 2000)
- CD 31 Fairford Forward – Fairford's HealthCheck
- CD 32 Cotswold Water Park Strategy 2000–2006 (Cotswold Water Park Joint Committee) (December 2000)
- CD 33 Scott Wilson Consultants Report: Strategic Review and Implementation Plan for the CWP – Summary of Stage 1 Technical Reports (May 2007)

Environmental Statement

- CD 34/1 Vol 1 Non-technical Summary
- CD 34/2 Vol 2 Environmental Statement
- CD 34/3 Vol 3 Appx 1 Ecology
- CD 34/4 Vol 3 Appx 2 Landscape
- CD 34/5 Vol 3 Appx 3 Transport Assessment
- CD 34/6 Vol 3 Appx 4 Archaeology
- CD 34/7 Vol 3 Appx 5 Assessment of Services, Facilities & Key Employment Generators
- CD 34/8 Vol 3 Appx 6 Noise Assessment
- CD 34/9 Vol 3 Appx 7 Flood Risk Assessment
- CD 34/10 Computer Generated Photo-real Images

Supplementary Documentation

- CD 35/1 Original planning application documentation
- CD 35/2 ES further information pursuant to Regulation 19 of 1999 Regulations
- CD 35/3 Documentation concerning amendments to planning application

- CD 35/4 Officer report to Committee (including update) – 21 February 2007
- CD 35/5 Planning Committee decision minute
- CD 35/6 Decision notice dated 23 February 2007

PROOFS AND APPENDICES FOR THE LPA

- SF 1 Proof of evidence of Mr Firkins with Appendices 1-3
- MC 1 Proof of evidence of Mr Cobden with Appendices 1-3

PROOFS AND APPENDICES FOR THE APPELLANT

- DN 1 Proof of evidence of Mr Neame
- DN 2 Appendices 1 – 13 to Mr Neame’s evidence
- MD 1 Proof of evidence of Mr Davies
- MD 2.1-2.4 Appendices to Mr Davies’ evidence
- MD 2.5 Map based on CPRE Gloucestershire Tranquillity Map
- MD 2.6 Schedule of illustrative design building heights used for AVRs
- MD 2.7 Assessment of site access implications for roadside vegetation
- PF 1 Proof of evidence of Mr Finlayson
- PF 2 Appendices A – F to Mr Finlayson’s evidence
- DM 1 Proof of evidence of Mr Murray with Appendices 1 - 2
- DM 2 Ecological baseline assessment of lakes 103, 103a and 104
- SP 1 Proof of evidence of Mr Pattie
- SP 2 Appendices 1 – 7 to Mr Pattie’s evidence

OTHER INTERESTED PARTIES

- FES 1 Fairford Environmental Society inquiry submissions 1 – 10
- FES 2 Additional Fairford Environmental Society documentation (objection letter of 5 January 2007 and Appendices 1 – 19)
- FTC 1 Statement by Cllr Hing on behalf of Fairford Town Council with Appended letter dated 9 November 2007 from Cotswold Water Park Joint Committee
- FF 1 Statement by Mrs Bishop on behalf of Fairford Forward and bundle of published booklets and leaflets on Fairford and local walks (1 – 7)
- CPRE 1 Statement by Mr Dummett on behalf of CPRE with Appended earlier statement of 12 June 2007 and Photos CPRE1-5
- CWPS 1 Submission by Mr D Grant on behalf of Cotswold Water Park Society
- HD 1 Written statement submitted by Mr H Dowler

PLANS

- A Planning application drawings:
 - Site location plan 1615/100
 - Application site plan 1615/101 (updated at inquiry by additional “blue line” area to north of lake 103)
 - Site Layout Plan 1615/FS04V
 - Proposed Site Entrance S202/2 Rev D
 - Davies Landscape Architects Appendix 7 (modification to site access detail)
 - Plan Indicating Extent of remodelling of Lakes 1615/115C
- B Illustrative Building Plans and Elevations 1615/102-114 and Illustrative Proposals Rev B