

PROPOSED FOODSTORE AT FOSSEWAY FARM, MORETON-IN-MARSH
RESERVED MATTERS APPLICATION: 14/04879/REM
TECHNICAL NOTE 1 (JUNE 2015)

1.0 INTRODUCTION AND BACKGROUND INFORMATION

1.1 Bancroft Consulting have been instructed to review all highways and transportation details submitted in support of the Reserved Matters application for the proposed foodstore at Fosseyway Farm in Moreton-in-Minton (LPA Ref: 14/04879/REM). This Technical Note follows previous assessment of the application details contained within letters dated 3 December 2014 and 31 May 2013.

1.2 It is noted that the principle of development has been established through determination to grant outline planning permission, although the scheme continues to present serious concerns regarding the off-site impact. However, the objective of this Technical Note is to review the most recent details submitted in support of the Reserved Matters application. All comments made within this report are based on the following documents, as available online within Cotswold District Council's planning database.

1. Condition 3: Reserved Matters: Access / Transport ADDENDUM SLR Ref: 402-03738-00001 (dated January 2015)
2. Condition 3: Reserved Matters: Access / Transport Stage 1 Road Safety Audit: Designers Exception Report SLR Ref: 402.03738.00001 (dated February 2015)
3. Site Access Junction PICADY dimensions plan
4. Auditor sign off
5. Site Access Junctions 8
6. Site Access Junction/Swept Path Analysis
7. Site Access Junction/Bus Stop Relocation

1.3 This report also considers the Case Officer's Committee Report prepared in support of the upcoming meeting on 10 June 2015. Whilst this sets out the local highway authority's general position on the Reserved Matters application, which is noted to be one of general support, there is concern that undue weight is being given to the evidence provided, in particular a parking survey to justify overall spaces and compliance with the safety auditor's recommendations.

- 1.4 The following report therefore seeks to provide clarification on the various areas of concern that exist with the current status of the Reserved Matters application, which can be summarised as follows:
- Suitability of 2.4 x 70 metres visibility splays at the proposed access junction and potential for serious collisions.
 - Suitability of the proposed internal access road alignment and its inability to safely accommodate two-way traffic flow without conflict.
 - Potential for large Heavy Goods Vehicles to be undertaking dangerous reversing manoeuvres within the site and at the proposed access junction due to insufficient design and reasonable allowance for likely operational activities.
 - Impact of increased parking demand associated with visitors potentially combining trips to the foodstore and the town centre and the extended dwell time of vehicles.
- 1.5 All statements set out within this report are made in line with current best practice design guidance and national planning policy.

2.0 REVIEW OF OUTSTANDING ISSUES

Case Officer's Committee Report

- 2.1 In reviewing the local highway authority's position the Case Officer makes specific reference to the current proposals being based on a parking survey to justify the overall provision, along with the Road Safety Auditors approval of the latest scheme. However, this is considered to present a misleading position, as follows.
- 2.2 As for the parking provision, the assessment presented for consideration is based on the results of a generic TRICS assessment. Whilst the trip rates were broadly acceptable for the peak hour and daily traffic generation calculations, a detailed review of the 5 selected sites shows that they are each located in areas well away from the established local centre. Consequently, it is unlikely that any of them will truly reflect how the site is being promoted as an extension to the Moreton-in-Marsh Town Centre whereby people will combine visits to both the proposed store and existing shops.

blocking the required manoeuvre. It is also apparent that the service access would not be wide enough for two vehicles to pass along the link, so any conflict could lead to incoming vehicles having to reverse back out into the main site access, which is predicted to be busy and could lead to a serious risk of collisions at the junction.

- 2.8 The Stage 1 Road Safety Audit: Designers Exception Report seeks to provide an updated designers response to the Road Safety Audit problems. Specifically, Problem 2.1 of the audit highlights the potential for head on collisions at the proposed internal access road alignment. In support of the amendments, Drawing Number 001 of the report shows the route tested with the swept path of a 'Skoda Octavia' car in each direction, which demonstrates how tight the manoeuvre would be under this scenario.
- 2.9 Notwithstanding the above, standard practice would require the use of a 'Large Saloon Car' in this situation, which measures 5.08 metres in length rather than 4.57 metres. The use of this vehicle type makes an allowance for the presence of other large vehicles that are commonly used in these situations, such as transit vans and 4x4 vehicles. Considering how tight the manoeuvre is shown to be with the smaller vehicle type (ie Skoda Octavia), it is suggested that further attention must be required to address the curvature of the proposed access road alignment and ensure a safe arrangement can be provided. Given this position, no weight can be placed on the auditors sign-off for the road safety audit, as provided within document 4 of the above list.
- 2.10 Following submission of the details contained within document numbers 1 and 2 above, it is evident that further information was submitted in respect of vehicle manoeuvres at the access, as set out within document number 6 (Site Access Junction/Swept Path Analysis). On the presumption that this supersedes all earlier evidence, then the plan provided clearly shows how the Skoda Octavia assessment includes direct conflict with oncoming vehicles and overrunning of the kerb line at the access. This is precisely the issue raised within the road safety audit and one that would be seriously exacerbated by the presence of larger cars undertaking the manoeuvre (such as a transit van or 4x4 described above).

- 2.3 The effect of this, as addressed in previous submissions, will be to increase the dwell time for shoppers using the car park and significantly increase the overall accumulation levels. To be certain that the proposals will not lead to overspill parking within the surrounding highway network, or even blocking back issues at the junction, the local highway authority must be more certain of the likely conditions.
- 2.4 As regards the Road Safety Auditors issues, set out below are details of how the proposed access road alignment continues to demonstrate potential conflict issues, whilst the service area makes no allowance for more than one vehicle visiting the site at any one time.

Response to additional information submitted

- 2.5 Looking at the details submitted within the January 2015 Transport Addendum, it is evident that the applicant has submitted further information relating to issues associated with the bus stop position, service yard, and the access layout. The report title refers to Condition 3 of the Reserved Matters application, although Bancroft Consulting's letter of 3 December 2014 clearly explains how Condition 10 requires details of the junction layout to be approved.
- 2.6 In addressing the issue of the bus stop location the applicant continues to ignore what are deemed to be fundamental flaws in establishing appropriate visibility splays at this key route (as covered in detail within Bancroft Consulting's letter of 31 May 2013). Insufficient evidence has been provided to justify the use of 2.4 x 70 metres splays at this junction and without this, any further discussion of the access layout and bus stop locations must be viewed as irrelevant.
- 2.7 Section 3 of the Transport Addendum report seeks to address safety audit problems raised in respect of the proposed service yard. Whilst it is acknowledged that the two drawings each show unrestricted turning manoeuvres of likely service vehicles, it is highly unlikely that the service yard would in fact operate in this manner. A store of this type and size would generate numerous deliveries and collections throughout any typical day, with external areas such as these commonly used as informal storage. Both the swept path drawings clearly demonstrate how there is no scope for any parked vehicles or stored goods within the yard without

- 2.11 In addition, the same plan also shows how goods vehicles could not turn at the service access without conflict, which could lead to serious risk of vehicle collisions at this location.
- 2.12 In light of the above, this plan clearly shows how the proposals would represent a dangerous environment and should not be sufficient to address Condition 10 of the Reserved Matters application.

3.0 SUMMARY

- 3.1 This Technical Note provides a detailed review of the latest highways information submitted in support of the Reserved Matters application for the proposed foodstore development at Fosseyway, Moreton-in-Minton.
- 3.2 The National Planning Policy Framework sets out the overarching policy guidance for local authorities in determining planning applications with paragraph 32 of Section 4 dealing specifically with transport impact issues, stating:
- “All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
 - safe and suitable access to the site can be achieved for all people; and*
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*
- 3.3 It is clear from the latest information that has been submitted, which merely follows previous extensive concerns, that safe and suitable access cannot be achieved and the proposed junction will almost certainly lead to a severe residual cumulative impact. Consequently, not only has insufficient information been submitted to resolve the outstanding Reserved Matters, this scheme continues to demonstrate how it cannot comply with the most basic requirements of current national policy guidance.

The Senior Planning Officer
Development Management
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GL7 1PX
FTAO Martin Perks

Your Ref.: 14/04879/REM
Our Ref.: APA/MASSA/13/1239

9 June 2015

Dear Sirs

RE: APPROVAL OF RESERVED MATTERS SUBMISSION REF. 14/04879/REM: DETAILS RELATING TO ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE AND COMPLIANCE WITH CONDITION 16 (LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN) AND CONDITION 18 (SURFACE WATER DRAINAGE) OF DEVELOPMENT GRANTED UNDER OUTLINE PLANNING PERMISSION REFERENCE 13/01971/OUT - FOR DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF FOOD STORE WITH ASSOCIATED PARKING, LANDSCAPING AND ANCILLARY WORKS AT FOSSEWAY FARM, STOW ROAD, MORETON-IN-MARSH, GLOUCESTERSHIRE, GL56 0DS

We refer to the above-cited Application for Approval of Reserved Matters and to your Report thereon to the Planning Committee to be held tomorrow, 10 June 2015.

As you have fully and fairly recorded in the Committee Report, this Practice, together with Shoosmiths Solicitors and Bancroft Consulting Transport Engineers, have written to you on a number of occasions raising a number of compelling objections to the Application, both on procedural grounds and with respect to material planning considerations.

In light of the contents and conclusion of your Report and your recommendation to the Planning Committee, we wish summarise the still outstanding objections to the Application by our Client Warner's Retail (Moreton) Limited (the Objector), which we request be reported to the Committee.

RE: ARM 14/04879/REM – Fosseway Farm, Stow Road, Moreton-in-Marsh, Gloucestershire

- **Outstanding Legal Challenge:** You have noted at Page 45 of the Report that the Outline Planning Permission for which the current Application purports to be an Approval of Reserved Matters is currently subject to a legal challenge by the Objector, which is due to be heard before the Court of Appeal in July 2015. Given this fact and the objections listed below, together with the objections by others, we see every reason, if it is not to be refused outright, to defer consideration of this Application and not to determine it at the Committee tomorrow.

This gives the opportunity to have the benefit of the decision of the Court of Appeal and address the serious deficiency in Transport information to which we refer below.

- **Procedural Irregularity:** The Objector remains of the view that present Application cannot properly be considered to be and determined as an Approval of Reserved Matters. The reasons for this are fully set out in the letter from Shoosmiths dated 18 December 2014 (attached to Committee Papers at pp 79/80). As noted in that and other correspondence, the submitted details are substantially and materially different from what is permitted by the Outline PP, in terms, amongst others, of layout, access and traffic and impact on the amenity of the area, including the AONB. Accordingly, the Application should have been, and still should be, rejected as invalid, irrespective of the planning merits of the proposal. If the Council persists in determining this Application on the basis that it is a valid ARM then you should be aware of the potential legal consequences of that decision.

Given the manifest operational deficiencies of the scheme submitted at the Outline Planning Application Stage, to which we drew attention at the time, and which go to both the marketability of that scheme to a main stream supermarket operator and the practical implementation of that development, the Objector is not at all surprised that the Applicant has sought to substantially modify the scheme. This process has, as the Objector always suspected would be necessary, resulted in a materially *different* proposal, albeit one that is still inappropriate in context, impracticable and unattractive to the market. In this context, we note that there remains no firm evidence of operator interest, despite the Applicants' outrageous attempts to imply the involvement of one operator in particular. In the Objector's submission, therefore, this remains a purely speculative proposal being peddled in the increasingly unlikely hope of securing a footloose supermarket operator. If planning permission is granted, but no operator found, the permission will, nevertheless, continue to hang over Moreton in Marsh-Town-Centre creating uncertainty and blight and impairing legitimate investment in the Centre.

RE: ARM 14/04879/REM – Fosseway Farm, Stow Road, Moreton-in-Marsh, Gloucestershire

- **Transport Objections:** Whilst it is appreciated that lay members of the Committee may find it difficult to grapple with or give weight to the preceding objections as essentially legal/procedural issues, there are other, tangible, serious, and unanswered objections which can be more readily comprehended. (These outstanding concerns are set out in more detail in the Bancroft Consulting Technical Note appended to this letter). Thus, throughout the Objector and others, including the Town Council, have expressed serious concerns about transportation issues and specifically the access arrangements for the Site. At the root of this issue is the size and shape of the Application Site (and particularly the very limited frontage length to Stow Road), the standard and specification of the main road itself and the close proximity of other development and development accesses.

Whilst the officers of the Local Highway Authority may have been persuaded to accept the material submitted by the Applicants, the Objectors, who have the significant benefit of deep local knowledge of the highway network, consider that the proposed access arrangements are substantively unjustified on the available technical evidence and not fit for purpose. The real consequences of this are major risks to the free and safe flow of traffic on the A429 Stow Road and delays, inconvenience and loss of amenity for people, businesses and community assets in that part of the Town. Given the substantial difference in the submitted scheme compared with the outline proposal, including the access junction design and the fundamental and still effectively unresolved questions raised about the suitability of this type and scale of development in this location since the Outline stage, the Committee does not need accept the proposition that the fact of the Outline Planning Permission precludes a refusal to approve the alleged reserved matters at this stage. Thus, it is open to the Committee to refuse the Approval on the grounds that the Applicants have not demonstrated that access arrangements are satisfactory and safe.

In the second sentence of the third paragraph on page 49 of the Committee Report it is stated that the LHA is satisfied that the local road network could accommodate the level of traffic that would be generated by the foodstore. With respect, whilst this may be true as a generality, the Objector Company and its professional advisers consider that is not at all the point. The real question is can the traffic be accommodated at the specific main point of impact of traffic on the network – that is the proposed junction. The Objector and its professional advisers say that the answer to that question is a firm 'NO!', or, at the very least that the proposition that it can has still not be demonstrated by the Applicants. The Bancroft Consulting Note is clear where the serious deficiencies still lie in this respect.


RE: ARM 14/04879/REM – Fosseway Farm, Stow Road, Moreton-in-Marsh, Gloucestershire

On the question of car parking it is clear that the Applicants are trying to have their cake and eat it. On the one hand they argue that patrons of the proposed store will undertake 'shared trips' both to the store and to the Town Centre (a pattern of behaviour that the Objector contends is, on the facts and local conditions, palpably implausible); but on the other, they have failed to properly factor in the implications of these longer stays in the parking accumulation in the store car park. If the car park is surcharged at certain times then parking is likely to spill over onto the surrounding road network and possibly to adjoining private car parks including Hospital and GP Surgery.

- **Other Impacts: Noise:** We note that reference has been made (last paragraph on Page 51) to a planning condition attached to the Outline Planning Permission prohibiting servicing of the store outside the hours of 07:30 to 1800 Monday to Saturday which, it is said, will contribute to mitigating the noise impact of the development on, amongst other neighbours, the Hospital. However, the Objector, itself an experienced supermarket operator with extensive knowledge of this sector, does not consider that such a condition is sustainable and that it will be vulnerable at an early stage to a Section 73 Application for it to be deleted. This is simply because no operator of a convenience supermarket of this size could operate under such a restriction. The business model of all the major operators requires access for servicing – especially for fresh food and other consumables – effectively 7 days-a-week (including Sundays and Bank Holiday) and overnight. In practice the existence of this planning condition provides little protection for the amenity of neighbours, including the Hospital. If relaxed it would spread the problem – in terms of traffic and noise impact - of delivery vehicles over a longer period of the day and week.
- **Other Impacts: Landscape and Visual (including the AONB):** The Objector remains of the view that scheme encompassed by the ARM will have a significantly greater adverse impact on the amenity of the area, including of the AONB and that the development will be more intrusive and harmful to those interests. It is contended that material submitted with the Application fails to demonstrate that the current proposal will not have a materially more harmful impact than that of the Outline PP Scheme.

For all the above reasons, the Committee is requested to refuse the ARM in question. If however, it is not minded to refuse it, then consideration of the Application should be deferred pending the submission of more information and analysis relating to the impact of the development on the free and safe flow of traffic on the surrounding road network.

Yours faithfully,



Antony P. Aspbury
Director

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Your Ref 14/04879/REM
Our Ref MJS/M-00356511
Date 9 June 2015

Dear Sirs

**APPLICATION FOR APPROVAL OF RESERVED MATTERS REFERENCE 14/04879/REM
LAND AT FOSSEWAY FARM, STOW ROAD, MORETON-IN-MARSH, GLOUCESTERSHIRE**

We refer to your letter of 29 May 2015 and thank you for notice of the Committee Meeting on 10 June 2015 at which the above application is due to be determined. We also refer to the report to committee, which we have now considered.

We confirm that our client maintains its objection to the application.

Antony Aspbury Associates will write to you separately regarding the planning merits of the application.

We maintain our view that the application does not accord with the outline planning permission by reason of the location and orientation of the proposed foodstore and should therefore be refused. We consider that the position of the foodstore within the application site must accord with the illustrative layout shown on the plan submitted at the outline stage and which is listed as an approved drawing in Condition 4 of the outline planning permission. In this regard, we disagree with the analysis contained in the committee report.

We also consider that any approval of reserved matters would be premature given that our client's claim for judicial review of the outline planning permission is due to be heard by the Court of Appeal on 21/22 July.

Yours faithfully



Shoosmiths LLP

CT. 9067 - Information Supplied by
the Ward Member

The following information would show that Fayre Court is of significant social & historical importance. The feeling is that it should be preserved as such. The grounds are home to a magnificent hedge and a once beautiful formal garden (where plot 3 would sit).

Lucy Noël Martha (Noëlle), Countess of Rothes, and the wife of the 19th Earl of Rothes was one of the elite passengers onboard the Titanic. She took the tiller of Lifeboat No. 8.

After Norman Rothes, her first husband, died in March 1927, Noël remarried on 22 December 1927, to Colonel Claud Macfie, DSO, in London. The countess retained her title. The couple had no children. While Noël and Claud maintained a home in Sussex, **they lived most of the year at the Macfie estate, Fayre Court at Fairford, Gloucestershire.**

In her last years Noël was interviewed by author Walter Lord for his epic account of the *Titanic* disaster, *A Night to Remember*, which brought her compelling story to a new generation on its publication in 1955.

Noël, Countess of Rothes died in Hove, Sussex, on 12 September 1956, having suffered for some time from heart disease. **A memorial plaque was erected in her honor on the west wall of the chancel of St Mary's Church in Fairford.** It reads: "Noëlle, Widow of the 19th Earl of Rothes, and Beloved Wife of Col. Claud Macfie D.S.O. of Fayre Court, Fairford, At Rest 12 Sept. 1956. Holiness is an infinite compassion for others. Greatness is to take the common things of life and walk truly among them. Happiness is a great love and much serving." [23]

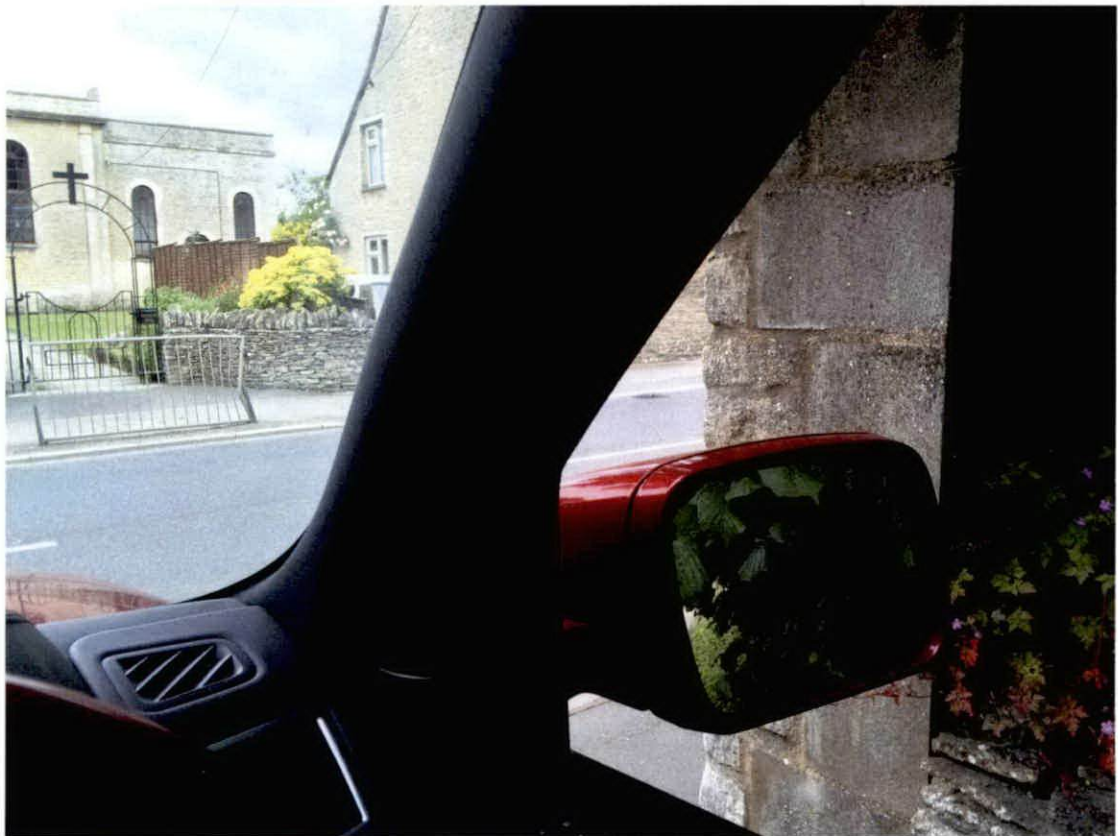
Pictures taken 9th June 2015 at 12.39.

Exiting Fayre Court, Milton Road, Fairford.

Absolutely no view of any pedestrians before driving over the pavement.



Windscreen level with exit.
Bonnet is across the pavement – still no view of pedestrians.



Bonnet is now in the road.

Note there were no cars parked at the time pictures were taken.

This is rare. If the usual cars had been there (one of which is a 4x4) I would not have been able to see the oncoming car.

Nor the BUS, which was just behind it.



STATEMENT ON BEHALF OF MR & MRS P THACKER FOR

New Detached House in Vineyard at Buttress House

2015-06-10 – CDC PLANNING COMMITTEE

We looked for a suitable property to downsize to but found nothing in Chedworth where we have lived for 27 years as there is a severe lack of housing stock for older or disabled people.

We planted a small vineyard some years ago, which currently produces around a tonne of grapes per annum. We designed a house on this land to suit our needs going forward as well allowing us to continue to tend our vineyard, future-proofing our ability to stay in the village for the NEXT 27 years.

To answer Landscape and Conservation objections, the building's design responds to its setting and integrates its residential and agricultural purpose. The proposal is therefore unashamedly a hybrid building. The elevations are designed to complement this utilitarian role and the near absence of a domestic curtilage reflects this.

The building follows the topography of the site and would be largely unseen. The agricultural aesthetic is based on a half green half zinc roof, larch clad walls and Cotswold stone base with the only significant glazing being on the South elevation, the majority of the remaining windows being arrow slit type. Mechanically operated wooden shutters would close across the large windows at night to eliminate light spill to the South.

No views of the house would ever be visible from the Northern boundary or any of the footpaths to the North, with only partial glimpses of the building potentially visible from certain points along the footpaths to the East.

We believe this proposal is VERY respectful of and appropriate to its setting and historic context. The building follows the tradition of independent freeholders using local materials, to build into the valley side. Previous buildings in Chedworth were not built as historic cottages but were contemporary when built - formed by expediency for location and materials. The proposed building is entirely faithful to this principle.

It is acknowledged that the site falls within the swathe of land running through the valley, identified in the Conservation Area Statement as an important open area. However, this area was assessed 14 years ago (2001). Whilst the green open space will be retained essentially intact, it is important to assess our proposal against the current landscape framework of the Conservation Area; work undertaken by Portus + Whitton as part of their Landscape Statement.

The proposed house is NOT outside the established pattern of development – but rather sits near the edge of the village, in between the existing houses on Queen Street, Hartshill and Courts Close.

The building has been designed to meet our social and economic needs as we get older. We have designed an ecologically friendly and sustainable building which is totally accessible for elderly or infirm and which has a low carbon footprint – there is no other housing in Chedworth which meets this criteria. Additionally, approving this application would allow another family to move to Chedworth so supporting the school etc – rather than an elderly couple “blocking” a house which is too big for them.

We have a significant level of support within the village for this development, including the Parish Council and the Chedworth Society – an organisation formed to protect and enhance the unique features of our village. Our proposed planning gain of landscape improvements including replacement of non native species of trees with mostly beech would have an overall positive effect on the wider AONB landscape character.

We hope Members can agree to support our application for an exciting new vision of the future and which will allow us to continue to live in the village we love.

CT, 2165/71 - Objector's Comments

My husband and I are the previous owners of Birch House and lived there for a number of years before moving into the adjoining property. We wish to make two points about the application before you.

First, the siting of the proposed swimming pool. The complex is clearly designed for social use but could well be intrusive as it is situated only three metres from our boundary. We feel that there is an alternative location within the curtilage of Birch House which would be less intrusive and which would also benefit from being outside the Conservation Area and well away from the Public Right of Way.

Second, the sheer scale of the proposed pavilion, which is far bigger than in the original application. At approximately 6 metres high, it will be close to the height of the average bungalow. The roof and chimney will loom over the surrounding area and will look totally incongruous. It is, after all, just a swimming pool pavilion. A short distance away is a substantial wooden shed (not shown on your plans). If a shallow roof is acceptable for a shed, why does the near-by pavilion have to be so significantly higher?

In summary, we are not opposed to a swimming pool in principle. There is a less intrusive alternative location and the proposed pavilion is far larger than its purpose requires. Additionally, there are other features (the shed, a tennis court, a tree house and another steel chimney) which are not on your plans and which we feel should be shown to give you an accurate feel for the entire curtilage of Birch House.

For all these reasons:- the option of a less intrusive location, the incongruous size of the proposed pavilion and the incomplete plans - if you feel unable to give outright refusal, then may we suggest you defer your decision pending a site visit so that you may see for yourselves just how intrusive the development, particularly the proposed pavilion, will be on its surroundings.

**Thank you for listening.
Hilary Crisp**