



## Appeal Decision

Inquiry Held between 9 February and 5 March 2021

Site visit made on 8 March 2021

**by S R G Baird BA (Hons) MRTPI**

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

**Decision date: 11<sup>th</sup> May 2021**

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**Appeal Ref: APP/C3105/W/20/3259189**

**Land to the east of M40 and south of A4095, Chesterton, Bicester, Oxfordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Great Lakes UK Limited against the decision of Cherwell District Council.
  - The application Ref 19/02550/F, dated 11 November 2019, was refused by notice dated 12 March 2020.
  - The development proposed is the redevelopment of part of a golf course to provide a new leisure resort (sui generis) incorporating a waterpark, a family entertainment centre, a hotel, conferencing facilities and restaurants with associated access, parking and landscaping.
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### Preliminary Matters

1. The local planning authority (lpa) confirmed that drainage measures outlined by the appellant are acceptable and Reason for Refusal 5 (RfR) was not pursued.
2. The lpa, Oxfordshire County Council (OCC) and those with an interest in the land, entered into an Agreement under S106 of the above Act to provide for: a financial bond; the payment of fees; financial contributions for cultural well-being purposes, public transport and cycle improvements; traffic calming measures in Middleton Stoney; the off-site provision of footpaths and cycleways; a shuttle bus service for staff and guests; day passes for local residents; travel, training and employment plans and golf related schemes.
3. The inquiry was adjourned to allow for the submission of (a) revised planning conditions and (b) a signed copy of the S106 Agreement. The inquiry was closed in writing on 13 April 2021.

### Decision

4. The appeal is allowed and planning permission is granted for the redevelopment of part of a golf course to provide a new leisure resort (sui generis) incorporating a waterpark, a family entertainment centre, a hotel, conferencing facilities and restaurants with associated access, parking and landscaping on land to the east of M40 and south of A4095, Chesterton, Bicester, Oxfordshire in accordance with the terms of the application, Ref 19/02550/F, dated 11 November 2019, and the plans submitted with it, subject to the conditions contained in the attached Schedule of Conditions.

## Main Issues

5. These are:
  1. the effect on the safety and free flow of traffic on the highway network, with particular reference to the effect on the Middleton Stoney junction;
  2. the landscape and visual impact of the proposal;
  3. the implications for sport and recreational facilities in the area, with particular reference to the provision of golf facilities;
  4. whether, having regard to the nature of the development, the appeal site represents a locationally sustainable choice;
  5. whether the proposal conflicts with the provisions of the development plan, and if so whether there are any material considerations that would outweigh that conflict.

## Reasons

6. The development plan includes The Cherwell Local Plan 2011-2031 (LP) and saved policies of the Cherwell Local Plan 1996 (SLP).

### Issue 1 – Highway Safety

7. LP Policy SLE 5 indicates that development that would have a severe traffic impact will not be supported. National Planning Policy Framework (Framework) paragraph 109 says that, development should only be refused on highway grounds if the residual cumulative impacts on the road network would be severe. In the interests of amenity and highway safety, SLP Policy TR7 indicates that development that would generate substantial levels of traffic on minor roads will not normally be permitted. Other than the effect on the MS junction, the Highway Authority (HA) confirmed that the development would not have a severe effect on the network.

### Middleton Stoney (MS) Junction

8. Generally, resort visitors from the North, Midlands and East Midlands would approach the site from Junction 10 of the M40 via the B430 and through the MS traffic light-controlled junction. This junction is and will be used by traffic to and from the Heyford Park (HP), Phases 1 and 2, developments. Mitigation works to the MS junction required by Phase 1 have been approved and the trigger point for implementation is approaching. The approved scheme is for a widening of the junction to provide a right-turn lane into the B4030 Bicester Road for traffic approaching from the south. HP Phase 2 is the subject of a resolution to grant permission and whilst further junction mitigation works have been proposed, they have yet to be approved.
9. Based on a worst-case level of traffic generated by the resort, various junction operation scenarios were modelled and the outputs<sup>1</sup> are agreed by appellant and HA. Of these, Scenarios 4, 8, 9 and 10 are the most relevant.
10. Given that the HP Phase 1 mitigation scheme will be implemented soon, Scenario 4 is effectively a proxy for the existing situation and an appropriate starting point. This scenario shows a junction at overcapacity, with a PRC of - 27.6% in the AM peak and - 9% in the PM peak. Scenario 8 models

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<sup>1</sup> Practical Reserve Capacity (PRC), Degree of Saturation (DoS) and Mean Maximum Queue.

HP Phases 1 and 2 trips, using the approved Phase 1 and proposed Phase 2 mitigation schemes. This returns a PRC of - 19.3% in the AM peak and - 3% in the PM peak. Whilst the HP Phase 2 mitigation works have yet to be approved, that is the best evidence available. Whilst still over-capacity, junction operation would materially improve.

11. If it was considered necessary, the appellant indicates that additional mitigation could be undertaken. Scenarios 9 and 10 model the impact of HP Phases 1 and 2 and the impact of resort traffic with and without further mitigation. These show that the PRC in the AM peak would be the same at - 20.8% and - 6% in the PM peak. These returns show that further mitigation over and above that proposed for HP would make no difference to the operation of the junction when used by resort traffic.
12. I recognise that when a junction is operating above capacity, small changes can have a disproportionate effect. However, the percentage differences in the DoS modelled for the B430 south approach and the B4030 east approach of 1.4% and 1.1% respectively in the AM peak and 0.1% and 3.3% in the PM peak strike me as marginal, as does the difference in the AM peak PRC of 1.5%. Other than increasing the MMQ by 10 vehicles on the B430 south approach and 4 cars on the B4030 east approach, the development would not make a material difference to the operation and capacity of the junction.
13. The test in LP Policy SLE 5 and Framework paragraph 109 is that of a severe impact. Given that neither the LP nor the Framework contain a definition of severe, I fall back to the commonly accepted definition of severe as being "*very great or intense*". On this basis, further mitigation is unnecessary and the residual cumulative impact of the development on the operation and capacity of the MS junction would not be severe.

#### Minor Roads

14. Given the nature and function of the B430, the B4030 and particularly the A4095, which runs through the western edge of Chesterton, these are not "minor" roads. Other than the effect on the MS junction, the level of traffic likely to use these roads were not matters that the HA pursued. Whilst I appreciate the concerns of residents particularly about the stretch of the A4095 through Chesterton, based on likely traffic generation through the village, I saw nothing to suggest that the impact would unacceptably affect the safety and free flow of traffic.
15. Notwithstanding the above, one route from the A41 through Little Chesterton to the A4095 is, for the most part, a single-track road with stretches where forward visibility is poor. This part of the network would be an entirely unsuitable route to access to the development. Concern was expressed that visitors approaching from the south and using SatNav would be directed on this route for the last leg of their journey. I acknowledge that some navigation systems would, notwithstanding the nature of the road, suggest this route. However, through a comprehensive signage strategy, as provided for by the suggested planning conditions, and the potential to reinforce the message during the visitor booking process, the effect on this route could be acceptably mitigated. My experience is that an appropriately designed signage strategy, particularly in relation to tourist and recreation destinations, does have a significant and positive effect on travel behaviour and the routing of traffic.

### Car Parking

16. The development provides for 902 car parking spaces for visitors and staff and the HA and the Ipa are content with the scale of the provision. Based on its own analysis, Parishes Against Wolf (PAW) submits that this level of car parking would be insufficient to meet the demands of the resort and result in parking on the A4095 or in Chesterton to the detriment of highway safety.
17. Consistent with what one would expect from an operation such as this, the Transport Assessment (TA) shows peak parking demand between 0800 to 1900 hours on weekdays and at the weekend with the peak occurring between 1300 to 1600 hours. This ties in with the projected occupancy shown in the TA. The TA shows that the average duration of stay is 1.6 days, with an average of 4.5 guests per room, car occupancy of 3 guests and hotel occupancy rates of 75% on weekdays and 100% at weekends. These are reasonable assumptions to use when assessing the appropriateness of the proposed car parking. Based on the inevitable overlapping of guest arrivals and departures and the churn of parking demand these assumptions suggest to me that the level of car parking proposed would be sufficient for both staff and guests. On this basis, I have no reason to disagree with the conclusions of the HA or the Ipa.
18. Even at peak occupancy, with guests arriving earlier than check-in times, albeit there appears to be no advantage to this in terms of accessing the facilities, and leaving later so as to maximise the experience, I find PAW's assessment of parking demand based on the various assumptions and methodology it uses results in a material over-estimate of likely demand. Moreover, there is considerable scope through travel planning and the staff shuttle bus to manage and reduce the demand for car parking thus maximising the availability of spaces for guests. On this basis, the HA/Ipa's acceptance of 902 spaces is not unreasonable.
19. Drawing the above together, the proposal would not have an unacceptable impact on the safety and free flow of traffic on the highway network. The proposal would not conflict with LP Policy SLE 5, SLP Policy TR7 and Framework paragraph 109.

### Issue 2 – Landscape and Visual Impact

20. The site lies within open countryside with no national or local landscape designations regarding its intrinsic quality. The site comprises the back 9-holes of an 18-hole golf course and whilst it contains no buildings, it adjoins the Bicester Hotel, Golf and Spa, a sprawling mainly 2-storey building.
21. LP Policy ESD 13 indicates that development will not be permitted where it would cause undue visual intrusion into the countryside; would be inconsistent with local character or harm the setting of settlements. LP Policy ESD 15 requires that development should deliver high quality places, contribute positively to the character and identity of an area by creating or reinforcing local distinctiveness and consider the amenity of existing developments in terms of outlook. Framework paragraph 170 says that decisions should contribute to and enhance the natural and local environment through, recognising the intrinsic character and beauty of the countryside and protecting and enhancing valued landscapes in a manner commensurate with their statutory designation or identified quality in a development plan.

22. The appellant's Landscape and Visual Impact Assessment (LVIA), the scope of which was agreed with and accepted by the lpa provides, a robust and comprehensive assessment of the baseline condition and impact of the development. The LVIA includes a series of views to and across the site from public vantage points and visual representations of the scheme. These are useful aids, but they are no substitute for views and impressions obtained from walking the site and the network of roads and public footpaths in the area. When concluding on landscape and visual impact, I rely more on the impressions obtained during the site visits, particularly the post-inquiry visit.

#### Landscape Character

23. Published landscape character assessments include, Natural England's National Character Area Profile 107 (NCA) for the Cotswolds, OCC's Oxford Local Landscape and Wildlife Study (OWLS) and the lpa's Countryside Design Summary (CDS). A recurring theme of these studies is the reference to parkland landscapes within the relevant landscape types.
24. The NCA profile is a high-level landscape character assessment covering an extensive area, including the Cotswolds Area of Outstanding Natural Beauty (AONB). The NCA identifies as a Key Characteristic, parkland, gardens and historic designed landscapes. That said, the site is located almost on the eastern edge of the NCA, where it merges with neighbouring NCAs. This is an area of transition where many of the key characteristics of the NCA are either absent or heavily diluted. The OWLS and the CDS are finer grain character assessments. The OWLS shows the site located within the Wooded Estatelands Landscape Type (LT) and, at a finer grain, the Middleton Stoney Local Character Area (LoCA). Whilst the Wooded Estatelands LT lists large parklands and mansion houses as a key characteristic, this is qualified as, "*large parklands with ...distinctive country houses*". Similarly, the Middleton Stoney LoCA refers to parklands as a prominent feature. The overarching landscape strategy for these areas is to safeguard and enhance the characteristic landscape of parklands, estates, hedgerows, and unspoilt villages. The CDS shows the site falling within the Ploughley Limestone Plateau Character Area, described as containing, amongst other things, the extensive remains of 19<sup>th</sup> century parklands. Here, development should avoid exposed and prominent locations.
25. Although Bignell Park is located on the opposite side of the A4095, there is nothing to suggest that the appeal site once formed part of a designed parkland. The golf course is heavily manicured and apart from blocks of woodland located in the northern third of the site, and on the south-eastern boundary with the M40, the fairways are separated by relatively thin lines of trees of varying quality and maturity, the majority being of low value. In this context, given the overriding thrust of the published landscape character assessments, the site would not fall to be considered as parkland. Rather, given the heavily managed and manicured appearance of the golf course, the most that can be said is that it has some limited parkland characteristics.
26. It is accepted, for the purposes of Framework paragraph 170, the site does not form part of a valued landscape and I have no reason to disagree with that conclusion. Whilst the public right of way (PROW) across the site and the golf course may be valued locally, there is nothing out of the ordinary to elevate the site to be a valued landscape. Traffic noise from the M40, has a

material impact on the level of tranquillity enjoyed by users of the PROW and the course. Drawing this together, the site has a medium landscape value.

27. The site is visually and physically enclosed by dense mixed tree groups and hedgerows of varying quality and maturity. As such, even in winter there is little or no appreciation of the site from public vantage points in the area. At most, in winter, there are glimpsed views of the course the from the A4095 and in summer views are all but obscured. The proposed building is large with the building and car park having an extensive footprint. In terms of its height, the 3 and 4-storey hotel wings would range from 16.3m at the eaves to 19.3m to the ridge. The family entertainment centre would be some 7.1m high with a high point at some 12.5 m. Whilst the water park has a ridge height of some 18.8m, the tower supporting the waterslides would have a ridge height of some 22.4m. Notwithstanding the substantial mass and scale of the building, the scheme's architects and landscape architects, have, whilst working to a template of the elements required, produced a design using a variety of building forms and styles, a varied palette of materials and landscaping and external lighting that produces a building that is neither institutional nor monolithic in its appearance in this rural setting. The landscaping proposed would be substantial including a 1.6ha increase in woodland cover, a 0.45ha increase in native shrub planting introducing some 660 extra-heavy standard or semi-mature trees and some 16,000 trees and shrubs and over 2.5km of new hedgerows.
28. Although there is nothing of a similar nature or scale in the wider area, there are significant nods to local character in terms of the palette of materials and design e.g. stone cladding and detailing (quoins and coping), painted render, red and grey roof tiles and metal cladding to the water park area. In the design, I recognise, strong cues to the grand country house characteristic of the Cotswolds. Thus, in terms of LP Policy EDS 15, the scheme would contribute positively, by creating its own local distinctiveness. In terms of design and execution, the outcome of the design process cannot be described as the "tail wagging the dog".
29. Whilst a large part of the NCA includes the AONB, the site is located some 13km to the west and there would be no material effect on that landscape. The landscape of the site, albeit it displays limited parkland characteristics, and its surrounds, given that it is an area of transition does not reflect the high susceptibility and value of NCA 107 in general. The landscape character of the appeal site itself would experience significant change and permanent transformation. However, given the scale of physical enclosure, the site and its landscape setting have a low susceptibility to change.
30. Drawing this together, the site has a medium landscape value and a low susceptibility to change resulting in a medium sensitivity to landscape change. Given the landscape effects would be highly localised, the magnitude of change to the landscape character of the Wooded Estate lands LT and Middleton Stoney LoCA would be low to negligible. The change to landscape character would not be significant and at Year 15 would be negligible.

#### Visual Impact

31. Given the limited number of viewpoints the development would be seen from, it is accepted that the visual impact of the development would be localised. The ES provides baseline and anticipated views from agreed

representative viewpoints. Given that in most of these views the development would be completely obscured by existing vegetation, I have concentrated on those from where in Year 1 the development might be seen. In addition, the ES provides 5 baseline and potential views from the south and northbound carriageways of the M40.

32. Dealing first with the A4095, the 2 key changes are the introduction of a pedestrian footway from the M40 overbridge to the site access, a pedestrian footway/cycle path from the site access to the junction of the A4095 and The Hale and the vehicular access to the site. The A4095 is an A Class road and the approach to Chesterton from the M40 overbridge is dominated by mature tree and hedgerow planting on both sides (Viewpoint 1a). The proposed off-site works would have no impact on the existing vegetation to the north. The proposed footpath works are relatively minor features and no more than is found on many rural roads. With some long overdue hedgerow maintenance and very limited removal of poor-quality hedgerow trees, the verge on the site side would be more than wide enough to accommodate both the pedestrian path and the shared cycleway/footpath. It is the verdant setting of this stretch of the A4095, that provides its rural appearance/character and the proposed footway/cycleway works would have no material impact on this element. Moreover, the proposed landscaping scheme proposes to strengthen the existing hedge along the whole length of the site boundary with additional woodland planting, parkland trees and native hedgerow. In winter there are very limited views through the existing hedge and in summer these would be significantly reduced. With the addition of the proposed planting there and the setback of the building from the boundary (between some 98m and 202m) there would, apart from the main access be no views of the building from the A4095.
33. The proposed vehicular access would create an opening in the existing hedgerow of some 40m and the creation of a right-turn lane for vehicles approaching from the west. Again, this type of access on a rural A Class road is not unusual. It would appear from the submitted plans that the access can be achieved without removing any of the verge on the norther side of the road. New hedgerows would be planted behind the visibility splays and the access road up to the landscaped turning area would be set out in a boulevard style with trees on either side and single species hedgerow to screen the car parking areas. Drivers, their passengers, and pedestrians would be receptors of low/medium and high sensitivity. In my view the combination of these features would materially narrow the field of view of drivers and their passengers passing on the A4095 and any views would fleeting glimpses. For pedestrians, the views obtained would be longer and more concentrated. However, the combination of the setback of the building (between 156m and 202m) from the access, the design of the front façade and the landscaping within the car park and to the front of the hotel entrance would acceptably mitigate the visual impact of the development.
34. Drawing this together, overall, the proposal would have at Year 1 a moderate adverse effect and by Year 15 this would reduce to minor adverse. On this basis, the proposal would not have an unacceptable visual impact on the verdant appearance and rural character of the A4095 approach to Chesterton or, given the degree of separation, the setting of the village.

35. Turning now to other views, drivers, their passengers, and pedestrians crossing the M40 on the A4095 bridge (Viewpoint 2) would in Year 1 would catch glimpses of parts of the upper floor of the hotel and its roof resulting in a moderate adverse effect on this view. However, by Year 15 with further growth of planting on the M40 boundary and the reinforcement proposed through the landscaping scheme, views from this location would be almost obscured and the resulting impact would be negligible.
36. From Viewpoint 4 from the M40 overbridge on Green Lane at Year 1 the uppermost parts of the southern elevation including the slide tower and waterslides would be visible to driver's their passengers and pedestrians would be apparent. Whilst the appearance of the water slides could be muted through careful choice of colour, I disagree with the appellant's assessment of effect at Year 1. Here, although for drivers/passengers' views would be fleeting the views obtained by pedestrians would be experienced for longer and given their high sensitivity, I consider the overall effect in Year 1 would be major adverse. That said, there is extensive woodland planting on this boundary and the landscape proposals show substantial woodland planting to reinforce this. At Year 15 the main elements of the building would be largely obscured, and the visual effect would be minor-moderate adverse. As with all the views discussed, Year 15 is taken as a snapshot in time to judge effect and the existing and proposed planting will continue to mature reducing the ability to see any of the proposed buildings.
37. From Viewpoint 13 on the road from Little Chesterton to Chesterton, the site is well screened by existing mature planting. From here, only limited glimpses of the building might be obtained and again by Year 15, with the maturing of existing and proposed planting, the building would be obscured and there would be no change to the view.
38. For drivers and their passengers on the northbound carriageway of the M40 the development would come into view at the Green Lane overbridge. In Year 1 glimpses of the roofline, the upper part of the waterslide tower and parts of the waterslides would be obtained. However, by Year 15 these features would be largely obscured. Drivers and their passengers on the southbound carriageway would have no views of the development.
39. Public Footpath 161/6/10 runs almost diagonally across the site from the club car park and exits onto the A4095. Users of the path have generally open views across the landscape of the golf course and of the sky providing the appreciation of a wider open aspect. The footpath would diverted where it fronts the clubhouse, to run north-eastwards and then run parallel to the hotel service yard and car park through a heavily landscaped strip of varying width containing 3.5 m high mounds topped by woodland planting and retained planting. For the most part, the boundary between the landscaped area and the car park would be a 1.8m high weldmesh fence with single species hedging behind. However, close to the exit onto the A4095 there would be a 2m high acoustic fence with single species hedging on the car park side and a single-storey utility building.
40. The proposed landscaping and retention of trees would, over time, largely obscure, views of the building and car park. Whilst for a significant length the path would be enclosed by woodland, where it would join the A4095 a substantial length would be dominated by a harsh acoustic fence. Users of



the PROW would have a high sensitivity and at Year 1 there would be a major deterioration in the amenity of the footpath resulting in a major adverse effect. By Year 15, the substantial planting would mitigate the impact of the building. However, where the path approaches the A4095 the effect would be major/moderate adverse i.e. a significant effect.

41. Vicarage Farm and Stableford House, are 2 substantial detached residences located on the opposite side of the service road to the existing hotel. The rear elevation of Vicarage Farm is oriented to the south-west towards the proposed hotel and would have views over the site on an arc between north-west and south-west. The gap between the main rear elevation and the nearest 3-storey wing of the hotel would be around 210m and some 250m to the nearest 4-storey wing. The front elevation of Stableford House is orientated to the north-west with an oblique view towards the hotel building. The gap between the front elevation and the nearest 3-storey wing of the hotel would be around 180m and some 220m to the nearest 4-storey wing. The 3-storey wing would have an eaves height of some 11.5m and a ridge height of some 14.6m. The 4-storey wing would have an eaves height of some 15m and a ridge height of some 19.7m.
42. Here, I deal with the visual component of the development on these properties and will deal with the overall effect on living conditions later. Some existing trees would be retained on the boundary and within the car park. The landscaping scheme proposes substantial mounding and tree planting in the intervening space between the car park and the eastern boundary of the development. At Year 1, given the retained trees/hedgerow and the bunding there would be restricted and filtered views of the lower and upper floors of the hotel building. Given the high sensitivity of these receptors, the effect would be major/moderate adverse. At Year 15 as the woodland planting on the mounds matures, the view would be materially softened and filtered, particularly from the ground floor of these properties. That said, I consider there would be a clear deterioration in the view and the effect would be moderate adverse and the effect would be significant.
43. Drawing all the above together, on this issue, I conclude that on balance the proposal would not have a significant or adverse effect on the landscape character of the area contrary to LP Policies ESD 13 and 15. The proposal would not have a significant or material impact on visual amenity other than for users of the diverted public footpath and the occupants of Vicarage Farm and Stableford House where the effect would be significant adverse.

#### Issue 3 – Sport & Recreation

44. Bicester Golf Club is an 18-hole course with a driving range, a practice green and bunkers. Although the development would involve the loss of the back 9-holes, the front 9-holes would be reconfigured by inserting a second tee at each hole, the driving range would be upgraded, the outfield of which would be shared with a 9-hole Par 3 Academy Course for beginners and family play and a short-game practice area. The S106 Agreement provides that these works would be undertaken before the commencement of construction.
45. LP Policy BSC 10 seeks to ensure that sufficient quantity and quality of, and convenient access to outdoor sport and recreation provision is secured through, amongst other things, protecting existing sites. The supporting text indicates that proposals that would result in the loss of a site will be assessed

having regard to the Framework. Development will not be permitted unless the proposal would not result in (1) the loss of an open space of importance to the character or amenity of the surrounding area, (2) an assessment has been undertaken which demonstrates that the site is surplus to requirements including consideration of all functions that the open space can perform, or (3) a suitable alternative site of at least equivalent community benefit in terms of quantity and quality is provided.

46. Framework paragraph 97 says that existing sports and recreational facilities should not be built on unless: (a) it is clearly shown the facility is surplus to requirements; or (b) the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or (c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. The Ipa acknowledges that the objective of national policy in Framework paragraph 97 would be met, and, in my view, by definition, LP Policy BSC 10, if any one of the 3 sub-paragraphs are met.
47. The appellant suggests that Framework paragraph 97 is not intended to restrict or prohibit the building of sports and recreational buildings on open space, sports, and recreational land. Whilst superficially an attractive argument, a fair reading of paragraph 97, particularly (b) refers to equivalent or better provision. In my view, in that test, the provision in terms of whether it is equivalent or better relates to what is being lost.
48. Tests 2 and 3 set out in the supporting text of LP Policy BSC 10 are broadly similar to the Framework paragraph 97 tests. However, Test 1 refers to a loss of open space important to the character and amenity of the area, which does not feature in any of the Framework tests. Although, the development would not result in harm to landscape character and most aspects of visual amenity, I acknowledge that there would be adverse effects in relation to the use of the diverted public footpath and the visual amenity of 2 adjacent residential properties. Thus, in terms of the LP Policy BSC 10 Test 1, the matter is not clear cut and is to be weighed in the balance.

#### Framework 97 (a)

49. This seeks a clear demonstration that a facility is surplus to requirements. The Ipa's position is based on a study commissioned in 2018 to forecast future needs for sport and recreation up to 2031 and inform development management decisions. On golf, one thing that is abundantly clear is that its conclusions are heavily qualified.
50. In relation to the supply/demand for golf facilities, key messages of the study are, the spread of provision means that everyone with access to a car can reach a course within 20-minutes drivetime<sup>2</sup>; it is not possible to accurately assess the current balance in supply/demand as membership figures and pay and play usage is commercially sensitive information; there may be a slight excess of supply over demand; latent demand analysis suggests there may be there may be potential for more demand although in Cherwell the current 18-hole dominant format may be hindering that potential; although average membership in Cherwell is below the national average there may be some spare capacity; England Golf identified that although there was good access to

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<sup>2</sup> England Golf drive time catchment.

golf there are no Par 3 courses or other shorter formats that are more suitable for beginners or younger people; adjacent lpa's show a similar pattern to golf in Cherwell with capacity at most sites and little demand for new facilities.

51. The study sought to assess future demand with 3 approaches to modelling, although the report notes that none, "*provide a complete "answer" to the assessment of future need... but taken together they paint a similar picture*". Again, the modelling exercise is qualified in that it only included sites within Cherwell and the import/export of golf demand is balanced. The first 2 approaches modelled need based on current provision across the district and in sub-areas: the third considered the likely growth in membership in sub-areas using England Golf average club membership.
52. Approach 1, based on the average rate of provision across the district, estimates a need for 2, 18-hole courses or as an alternative 4, 9-hole courses and 8 driving bays. That said, the study concludes that Approach 1 is not, "*...sound basis for future ...planning*". Approach 2 takes the current rate of provision within sub-areas and estimates a need for one 18-hole course or as an alternative 2, 9-hole courses and 13 driving range bays. Although the study suggests that Approach 2 is, "*...probably more realistic...*" than Approach 1, it uses the same approach but on a smaller scale with the import/export of demand balanced. On this basis, the realism of this model must be approached with caution. Approach 3 forecasts the expected membership of clubs in Cherwell based on England Golf membership figures for local clubs and estimates an average rate of membership per 1,000 head of population, again assuming the import/export of demand is balanced. For Bicester, the output was a need for one new club with a standard course(s) and driving ranges. Again, the modelling approach is qualified by indicating that its outcome could only be used, "*indicatively*". Prefacing the overall conclusion with the important qualification that there are no robust mechanisms for assessing supply/demand and that within the 20-minute drive time catchment, there are courses within easy reach, the study, without apparent explanation, plumped for a need based on Approach 2 i.e. one 18-hole course or alternatively 2, 9-hole courses and 13 driving range bays.
53. At the inquiry, the lpa updated Approach 3 using figures for average club membership derived from an England Golf Facility Planning Report dated December 2020. Using a national average of 484 members, Version A indicates a deficit in membership by 2031 for Bicester of some 40% of a club. However, using a national average of 341 members, Version B indicates a deficit for Bicester by 2031 of 1.4 new clubs. However, I find this approach just as unrealistic as Approaches 1 and 2 in that average club membership does not represent the capacity of the available clubs and appears counter intuitive. Version B shows that if average membership declines, the estimated need for new clubs increases. However, if membership declines, a fact that England Golf records in its December 2020 report, the capacity for a club to accept members does not change, rather it increases. Effectively the model is understating capacity and the ability of existing facilities to absorb increased demand generated by population growth. Moreover, the approach of balancing the import/export of demand is a closed system, which ignores the drivetime element used by England Golf and does not adequately reflect reality. This is particularly important here as the catchment area includes facilities outside of Bicester. Given all the qualifications discussed above, I

consider the lpa's conclusions on supply/demand for golf provision must be viewed with extreme caution.

54. The appellant's golf needs study recognised the problem of equating average membership with capacity and sought to address this using the Approach 3 method but using a higher average membership, 600, from the early 2000's. This is based on an assumption that whilst over the ensuing years membership has declined, the capacity of clubs would not have materially changed. This is a more realistic approach. This study concludes that there is sufficient local golf club provision and a strong case to suggest there is an oversupply. England Golf in its December 2020 report concluded, (a) that within the identified region there is a relatively low demand for golf when compared to the average for the South East region and (b) there is a high level of golf provision within the area in comparison to the demand, with a good number of traditional 18-hole courses.
55. Drawing the above together, there are significant issues associated with the lpa's modelling of demand and supply for golf facilities and the conclusion that there is a shortfall is unreliable. Whilst the appellant's conclusion on supply does not amount to a ringing endorsement, it does, tally with the conclusions of England Golf in its December 2020 Facility Planning Report, which together points to an existing oversupply of golf facilities. This, in my view, points to a conclusion that this facility is surplus to requirements. To comply with Framework paragraph 97 and, by definition, LP Policy BSC 10, the appellant only must show compliance with any one of the 3 exceptions. That said, I have gone on to consider the remaining exceptions (b) and (c).

Framework 97 (b)

56. This test requires equivalent or better provision. Whilst the club includes a driving range, it is no more than a platform overlooking a field. Golfers must provide and retrieve their own balls, which seriously limits its utility. The upgrading of the driving range, and the provision of a Par 3 Academy Course are positive benefits. The Academy Course has the potential, as demonstrated elsewhere, to widen the appeal of the sport. On their own, given the driving range and the Academy Course cannot be used at the same time, they cannot make up for the loss of the full 18-hole golf course.
57. It is acknowledged that the demographics of and participation in golf is changing. Given competing demands of work, family, and the availability of other leisure/recreational activities, the attraction of the shorter format is growing. In this context, the reconfiguration of the front 9 holes could contribute to increased participation in the sport. That said, the appellant's own research indicates that, amongst other things, the ability to play on an 18-hole golf course is still one of the most popular and enjoyable aspect of the sport. In this regard the configuration of the existing course where the front and back 9-holes start and finish at the clubhouse and the ability to play 18-holes continues to meet that demand i.e. it provides a facility for those who want to play 9-holes and those who want to play 18.
58. With the course reconfigured, those who wish to play an 18-hole round, would play the 9 holes twice. Whilst the same greens would be used, the tee position and its orientation would be different as would the playing length of the hole. Safety concerns about potential conflict with players playing overlapping holes can be addressed through scheduling of tee times.

59. Variety in stroke play is a fundamental part of the game particularly determining where to place the ball in relation to hazards and the approach to the green. I accept, based on the illustrative design submitted to the inquiry, the drive from the second tee would appear to be only marginally different to the first. Moreover, after the first or second shot, the approach to the green and the green itself would be the same. However, from my detailed inspection of the front 9 holes, it appears to me that apart from one or 2 holes, there is the potential to position the second tee in such a way to produce a materially different direction of drive and to introduce additional hazards through new planting and/or sand/water features. In this way and with careful design, the placement of the ball and, in most cases, the approach to the green would be materially varied. In this situation, second time around the experience of playing the hole would be materially different. The S106 Agreement requires the details of the reconfigured course to be agreed with the lpa and the works completed before the commencement of construction. These provisions would enable the lpa to ensure that the reconfiguration was provided to a high standard.
60. Along with the benefits of the upgraded driving range and the introduction of the Academy Course, the reconfiguration of the front 9 holes, would, on-balance, provide at least equivalent provision in terms of quality and quantity.
- Framework paragraph 97 (c)
61. This test seeks to assess whether the benefits of alternative sports and recreational provision clearly outweigh the loss of the current use. The Draft Operational Management Plan provides a flavour of what might be expected at this resort, with the focus on recreational activities for families with children aged 2 to 12. The centrepiece of the experience is the indoor water park, which generally includes water play structures, slide and tube rides, wave pools and lazy rivers. Out of the water, the Family Entertainment Centre would provide a variety of activities, including live shows, junior yoga, dance, story-times; arcade games; a rope course; mini 10-pin bowling or golf. Outdoor provision would include a playground and the nature walk.
62. Although the definition of what constitutes sporting provision is very wide, given the context and nature of the activities to be provided, defining them as sports provision would be a stretch. The proposed offer falls squarely under the heading of leisure, entertainment, and recreational provision. The lpa's and PAW's submissions refer to the appellant failing to submit an assessment of need for the proposal contrary to the expectation of Framework paragraph 97. The planning system does not in general require an applicant to demonstrate a need for their proposal and there is not in Framework paragraph 97 (c) or LP Policy BSC 10 an explicit or implicit reference to demonstrating need. Moreover, Framework paragraph 97 (c) does not constrain what is to be considered as benefits. Albeit contained within the section on Historic Environment, PPG refers to a public benefit as "*...anything that delivers economic, social or environmental progress*"<sup>3</sup>. This definition has wider applicability, particularly where a measure of benefit is sought by policy. That said, given the nature of the offer and the nature of the existing sport/recreational activity, how to strike the balance is difficult. In the

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<sup>3</sup> Planning Practice Guidance, Paragraph 020 Reference ID:18a-020-20140306.

absence of any guidance within the Framework and PPG, in undertaking this balance, I have fallen back on my experience and professional judgement.

63. Benefits include up to 945 construction jobs over the 2-year build period, contributing some £1.3m to the local economy. The estimated annual number of visitors to the resort would significantly stimulate local tourism (500,000+ visitors a year) and enhance the attractiveness of this part of Oxfordshire as a tourist destination. During the operational phase, the development would provide up to 600 jobs (460 full-time equivalents) contributing up to £157,000 to the local economy and the potential to support some 700 additional jobs (540 full-time equivalents) in the wider Oxfordshire economy. In terms of the nature of the jobs, many of those on offer would meet the growing demand for part-time and flexible employment. Overall, it is estimated that that the development would contribute up to £23m GVA per annum to the local economy. Whilst the proposal is a, "everything under one roof" offer, there is potential for some £4.9m per year on spin-off expenditure from those coming to and going from the resort and whilst in the area.
64. On social benefits, the resort offer would focus on families with children aged 2 to 12. The concept provides for families and extended families to undertake short breaks where a variety of activities is provided on-tap. Whilst it might appear trite, the value of this, albeit it is unquantifiable and in a commercial setting, should not be underestimated. Moreover, whilst several of the benefits listed by the appellant arise out of the need for the development to mitigate its effect, these would provide wider benefits to the local community. Based on the above, the proposal would provide alternative recreational provision, the benefits of which would clearly outweigh the loss of 9 holes.
65. Drawing the above together, the nature of the reconfigured golf course and the benefits that would flow from it means that the proposal would accord with LP Policy BSC 10 and Framework paragraph 97.

#### Locational Sustainability

66. Recognising the value of tourism to the local economy through increasing overnight stays and visitor numbers, LP Policy SLE 3 indicates that new tourist proposals, in sustainable locations, will be supported. The LP identifies sites in and around Bicester and Banbury as being amongst the most sustainable locations. LP Policy SLE 2 seeks to direct leisure and tourism uses to, amongst other places, Bicester town centre, and proposals should be assessed against the sequential test set out in Framework paragraphs 86 and 87. The Framework indicates that tourism and leisure uses, which are defined as main town centre uses should be located in town centres, then in edge-of-centre locations and only if suitable sites are not available or may become available should out-of-centre sites be considered. When edge-of or out-of-centre sites are being considered, preference should be given to accessible sites that are well connected to the town centre. That said, PPG recognises that certain main town centre uses have market and locational requirements which mean that they may only be accommodated in specific locations.
67. The appellant's stated requirements are for a site located 90 minutes' drive time from London and Birmingham, approximately 12ha with a relatively level topography, reasonably well concealed with no nearby sensitive receptors, proximity to and ability to connect to public transport infrastructure, main road proximity and visibility and ease of access, M40 corridor location and

proximity to a population of 30,000 plus to provide a local workforce. Notwithstanding, these requirements the appellant undertook a sequential assessment based on, amongst other things, a much larger catchment area and a smaller site. The assessment looked at the relevant Development Plan document(s) and identification of allocated sites in the Vale of White Horse; Aylesbury Vale; Central Bedfordshire Council, Milton Keynes; Oxford City and South Northamptonshire areas.

68. In terms of the sequential approach, it is common ground that there are no town centre sites or edge-of-centre sites within Cherwell that are suitable and available. Whilst an interested party highlights the potential of a 16ha site on the edge of Bicester at Graven Hill, the Ipa acknowledged that the site was not suitable or acceptable for planning policy reasons.
69. Criticism is levelled at the appellant's approach of only looking at allocated sites. However, given the requirement of the sequential test is to look at town centre sites and then edge-of-centre sites it would be unusual that sites of the scale appropriate to accommodate the development, were not included in a relevant development plan. In that context the approach adopted by the appellant is reasonable and has demonstrated there are no sequentially preferable sites available. Moreover, there is, as far as I am aware, no requirement for the appellant to undertake an assessment of every piece of land within its likely catchment area on the basis that the development is essentially footloose and could go anywhere. Given the scale of the search area, that, in my view, would be manifestly unreasonable.
70. Framework paragraph 103 indicates that significant development should be focused on locations that are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. However, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be factored into any assessment. Thus, Framework paragraph 103 is not a bar to out-of-centre development and it is in this context the Framework reference to limiting the need to travel must be considered. Whilst the proposal does not provide a breakdown of likely mode share, other similar large-scale, tourism and leisure facilities, e.g. Center Parcs, Alton Towers and Legoland, have been permitted in out-of-centre recognising that trips for holiday and leisure are discretionary and that they generate a need to travel, mostly by car. In this context, the essence of the Framework test is whether a genuine choice of transport modes is on offer.
71. A package of measures is proposed including, the provision of footpath and cycleway links to Chesterton and a financial contribution to upgrade where possible cycle links between Chesterton and Bicester. Whilst the site is not currently served by public transport, a financial contribution for 10 years would be made to provide a public bus service between Bicester and the site capable of offering a half-hourly improvement to the existing Chesterton bus service. In addition, the appellant would provide a dedicated Shuttle Bus service for visitors and staff, which would link the resort with the 2 railway stations and selected locations in Bicester. In addition, the car park would, on opening, provide a material number of spaces dedicated for electric vehicles and constructed in a way that the number of charging points could be increased as the switch to low and ultra-low emission vehicles increases.

72. Whilst, the number day-visitor passes would be linked to hotel occupancy, the package of measures would provide residents with a genuine alternative to the private car. I have no doubt that Cherwell residents travel to existing similar tourist leisure destinations and the resort would provide an attractive local alternative, that would result in a reduction in the overall length of leisure journeys undertaken. The cost/time differential between public transport and the private car is real. However, the number of families, particularly in the larger conurbations that would be served by the resort, who choose to dispense with the private car is increasing, driven by the cost of car ownership and the availability of public transport discounts, particularly for families. The proposed package of measures represents genuine alternatives.
73. Taken in the round, with the package of transport measure proposed, the proposed development would, given its nature, be in a location that can be made locationally sustainable. In this context the proposal would not conflict with the objectives of Policy SLE 3 or the Framework.

#### Other Considerations

##### Drainage & Water Supplies

74. The Framework<sup>4</sup> seeks to direct development to areas with the least risk of flooding and to ensure that the risk of flooding is not increased elsewhere. LP Policies ESD 6 and 7 require all developments to use Sustainable Drainage Systems (SuDS) to manage surface water run-off. Residents downstream of the site are concerned that the development could exacerbate flood events.
75. The site is in Flood Zone 1, an area with a low risk of flooding, and as such the Framework requirement is met. Here, groundwater levels are shallow and infiltration to address surface water run-off is not appropriate. To mitigate the effects of the development, the proposed SuDS provides for green roofs, rainwater harvesting, underground storage, swales, detention basins and permeable pavements to control the peak flow and volume of run-off to QBar<sup>5</sup> so as to maintain the status quo. The SuDS would cap the rate of surface water run-off to a QBar level of 31.3 litres per second compared to the 1 in 100-Year run-off rate of some 99 litres per second. Not only would the status quo be maintained, there is the potential for a material benefit to down-stream communities through a reduction in the rate of run-off.
76. Providing capacity within the water supply/drainage system is the responsibility of the relevant water and sewerage undertakers and Thames Water have no objections. Ensuring that the system has sufficient capacity to accept development could be dealt with by condition.

##### Biodiversity

77. Consistent with the Framework, LP Policy ESD 10 seeks biodiversity net gain (BNG). The policy indicates that BNG will be achieved by protecting, managing, enhancing/extending existing resources, and by creating new resources. The protection of trees will be encouraged, with an aim to increase the number of trees. Development will not be permitted, if significant harm cannot be avoided, adequately mitigated, or compensated for. Neither the LP

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<sup>4</sup> Paragraphs 158 & 163.

<sup>5</sup> The peak rate of flow from a site for the mean annual flood (a return rate of 1:2.3 years).



nor the Framework sets a minimum level of or a specific methodology for measuring BNG. That said, the lpa has resolved to seek a minimum of 10% BNG and the Environment Bill includes a requirement for all new development to deliver a mandatory 10% BNG.

78. Based on a baseline habitat survey undertaken in October 2019 and using the 2012 DEFRA Metric supplemented by best practice<sup>6</sup>, the appellant's assessment identifies a BNG of some +27% in area-based biodiversity and +117% in linear units. Notwithstanding that in July 2019 DEFRA published a beta test version of the Biodiversity Metric 2.0, there is no single mandated methodology to calculate BNG and there is no reason to conclude that the appellant's methodology, which was clearly routed in best practice and acceptable to the lpa is inappropriate. Similarly, there is nothing to suggest that the lpa's detailed scrutiny of the evidence, was deficient. Notwithstanding the acceptability of the original BNG calculation, the appellant has produced a further assessment using the Biodiversity Metric 2.0. This shows a BNG of some +17% in area-based biodiversity and +157% in linear units. The difference is largely due to changes in how the Metric is run.
79. One of PAW's concerns relates to the baseline classification of most of the site (68%), as amenity grassland habitat in poor condition and the effect this has on the BNG calculation. PAW submits that areas of rough should be classified as being of moderate condition on the basis there is a diversity of species present. This approach would result in a biodiversity net loss of some 6%<sup>7</sup>.
80. Fundamental to the DEFRA Metric is the classification of habitat condition. The approach suggested by DEFRA is contained in Natural England's Farm Environment Plan (FEP) manual at Table 2 – Habitat Condition Bands and Scores and Table 3 – Commonly Used Habitat Condition Assessment Criteria. Whilst amenity grassland is not a habitat referred to in the FEP, the guidance is that the Table 3 criteria can be used to grade its condition. The FEP defines poor condition as any habitat which fails 2 or more FEP criteria and moderate as any habitat that fails one of the criteria. Table 3 lists 6 criteria, a diverse age range; a diverse species mix; a diverse structure/form; the presence of protected species; no presence or a limited presence of invasive species and no or limited damage.
81. Here, there is a qualitative difference between the rough areas and the extensively managed and closely mown fairways. However, evidenced in several photographs and confirmed by my walk of the site, some of the rough areas are managed and regularly mown. Moreover, even if the roughs are classed as containing a diverse species mix, these areas would still not fall within the moderate band in that they fail 2 or more of the Table 3 criteria. These areas do not display, a diverse age, a diverse variety/form nor they do not show the presence of protected species. This conclusion is reinforced by applying the Condition Assessment Criteria set out in the Biodiversity Metric 2.0 Technical Supplement<sup>8</sup>.

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<sup>6</sup> Defra (2012b). Biodiversity Offsetting Pilots: Technical Paper- the Metric for the Biodiversity Offsetting Pilots in England. Natural England (2010). Higher Stewardship, Farm Environment Plan (FEP) Manual, 3rd Edition. BRE (2018). GN36 - BREEAM, CEEQUAL and HQM Ecology Calculation Methodology – Route 2. CIEEM, IEMA & CIRIA (2016). Biodiversity Net Gain: Good Practice Principles for Development.

<sup>7</sup> Percentage rounded up.

<sup>8</sup> Grassland Habitat Types Page 19.

82. Other areas i.e. classed as amenity grassland in the Phase 1 survey are, PAW submits mapping errors, and these should have been graded as higher quality areas of semi-improved grassland i.e. pond margins or plantation woodland with grassland beneath. However, several of these areas are either to be retained as part of the scheme or they are outside the site boundary. Moreover, an examination of the Phase 1 Habitat Survey<sup>12</sup> indicates that the surveyors were conscious of pond margins exhibiting higher value habitats and mapped these. Ponds SW2, 4, 5, 7, 8, 9 and 10 show the margins as, amongst other things, semi-improved grassland, scattered scrub, and broadleaved woodland. Thus, if ponds SW11 and 13 were areas of higher value, it is inconceivable that they were not mapped properly. In addition, in some cases these areas have at different times been managed differently. In several instances, photographs show the same pond margin either being left unmanaged or mown short down to the water's edge. Moreover, where there are overlapping habitats with different habitat values i.e. ponds and their edges, the assessment uses the higher value classification<sup>9</sup>.
83. There is concern about the treatment of individual trees and the impact of their loss in terms of the habitat value of their canopy in the calculation of BNG. As I understand it, although individual trees are shown on the Phase 1 Habitat maps<sup>10</sup>, these are not, for the purposes of the Metric, classed as area habitats, as opposed to blocks of trees. Even if cumulative canopy area is calculated there is no habitat equivalent within the Metric that allows it to be entered into the calculation. Drawing this together, the Phase 1 Habitat Survey carried out for the Environmental Statement is, on balance, an adequate basis for undertaking the BNG calculation.
84. Turning now, to the features that would contribute to BNG, these are shown on the Landscape Masterplan, building plans and in the Arboricultural Impact Assessment. There would be an overall increase in woodland cover from 2.07ha to 3.67ha and an increase in native shrub planting from 0.03ha to 0.48ha. This would involve the establishment of some 660 extra-heavy standard or semi-mature trees and some 16,000 trees and shrubs<sup>11</sup>; an increase the amount of semi-improved grassland from 0.46ha to 3.07ha; an increase in hedgerow from 182m (of which only 8.5m is species-rich) to 812m of which some 655m would be species-rich; some 2km of new single species native hedgerow in the car park, enhancement of existing ponds with marginal and aquatic planting, along with creation of 0.63ha of marsh grassland. Although not featured in the BNG calculation, but which could make a material contribution to biodiversity is the use of a green roof over the Family Entertainment Centre.
85. Specific criticism is directed towards the potential quality of the grassland areas next to the hotel area/bedroom wings and under the external waterslides, and the car park planting. However, none of these areas are unique and while each may present individual challenges in terms of establishment and maintenance, none of these issues would be insurmountable. The ethos of this development is to create an external environment to reflect the high quality of the leisure offer. In this context, it

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<sup>9</sup> CD 2-1 Biodiversity Net gain Assessment Report December 2019.

<sup>10</sup> Environmental Statement Volume 2 Appendix 9.1, Figure 4.

<sup>11</sup> Arboricultural Impact Assessment November 2019, Page 12 paragraph 5.5.2 (CD1.3)

is highly unlikely that the external areas would not receive the attention required to maintain both their quality and contribution to biodiversity.

86. The planted areas either side of the hotel entrance, the area to the front of the Porte Cochere and the area underneath the external water slides are designed to host meadow grass or a mix of meadow grass and wet meadow. Substantially enclosed by the bedroom wings, public access to these areas would be limited and most likely discouraged. This would significantly aid their establishment and biodiversity contribution. Hedgerow and tree planting with car park areas is not unique and whilst in the early days, establishment, particularly between rows of parking bays, can be challenging it is not insurmountable.
87. Drawing all the above together, the appellant's submissions on BNG are robust and the measures proposed, all of which would be covered by planning conditions, would achieve a BNG consistent with the objectives of development plan and Framework policy.

#### Living Conditions

88. Concern has been expressed by PAW and the occupiers of Vicarage Farm and Stableford House about the impact the scheme would have on their living conditions. Paragraphs 41 and 42 describe the visual effects of the proposal on these dwellings, concluding that at Year 1 the effect would be major/moderate adverse and at Year 15 moderate adverse and that overall, the effects would be significant.
89. PPG<sup>12</sup> reiterates the long-standing tenet that the planning system does not exist to protect the private interests of one person against the activities of another. However, there are some situations where the protection of private interests may coincide with the public interest. Thus, whilst no individual has the right to a particular view there comes a point when, by reason of the proximity, size and scale of a development, a dwelling would become a so unattractive place to live that planning permission should be refused.
90. PAW acknowledges that the proposal would not fail the public interest. Moreover, given the degree of separation and the filtered views, notwithstanding the conclusion on the visual component, the proposal would, on balance, not materially affect the living conditions of the residents at Vicarage Farm and Stableford House through a loss of light, privacy or the building being dominant and overbearing to justify dismissing the appeal.

#### Impact Assessment

91. Both the Framework and LP Policy SLE 2 require an impact assessment. PPG advises that the impact assessment should be undertaken in a proportionate and locally appropriate way on a like-for-like basis of that sector. That said, unlike retail developments there is no established methodology for a quantitative impact assessment of a leisure/recreation development.
92. The proposal is for a substantial water-based resort where the hotel is largely designed to serve the users of the resort. What is proposed, is unique locally and there is nothing comparable within Cherwell's town centres or other town

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<sup>12</sup> Determining a Planning Application - Paragraph 008 Reference ID 21B-008-20140306.

centres within the substantial catchment area. On this basis, I am confident in concluding that there would not be adverse impact on any town centre.

#### Benefits of the Scheme

93. Although the benefits of the scheme are referred to when dealing with the effect on sporting facilities, for the sake of completeness they are briefly repeated here. These include the contribution of construction jobs to the local economy. The stimulus to local tourism and the profile of Cherwell as a major tourist attraction through linking with Bicester Heritage, Bicester Village and the Upper Heyford Heritage proposals. During the operational phase, there would be a direct contribution of up to 600 jobs (460 full-time equivalents) and up to 700 additional jobs (540 full-time equivalents) in the wider Oxfordshire economy. Many of the jobs on offer would service the growing demand for part-time and flexible employment. A contribution of up to £23m GVA per annum to the local economy and the potential for some £4.9m per year of spin-off expenditure whilst in the area. In terms of social benefits, the resort would provide families with children and extended families the ability to undertake short breaks.

#### Public Consultation

94. The application was accompanied by a comprehensive and robust Statement of Community Involvement. A criticism of this exercise is that following consultation there was little or no change to the plans. I understand residents' frustration, as evidenced by the scale of representations received at the time of the appeal. However, the objections to the scheme are largely fundamental. In this context, short of abandoning the proposal, there are few changes that would have altered residents' opinions. The appellant engaged in appropriate public consultation.

#### S106 Agreement

95. In coming to my conclusion on the merits of this proposal, I have had regard to the covenants and obligations contained within the S106 Agreement. The S106 Agreement includes a clause which identifies that if an obligation or covenant does not meet the policy and statutory tests<sup>13</sup> it will be deemed to have been discharged except for the obligations relating to the provision of a Shuttle Bus Service and the provision of Visitor Day Passes.
96. The Agreement provides for:
- a. development would not commence until a Golf Course Scheme comprising the reconfiguration of the retained 9-holes to provide 18 playable tees, the provision of a driving range with a minimum of 12 mats/bays with laser tracking, the provision of an Academy Par 3 short course, a golf practice area and a Golf Scholarship providing for a minimum of 20 young persons (16 years and under) per annum with free course/driving range membership for 10 years has been agreed with the lpa and implemented;
  - b. agree a management plan for the provision and distribution of up to 450 Day Passes, Discounted Day Passes and Discounted Sustainable Day Passes with the lpa. The Discounted Day Passes would be available to residents of post codes covering the District Council area and Discounted

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<sup>13</sup> Framework Paragraph 56 and R122 of the Community Infrastructure Levy Requirements 2010.

- Sustainable Day passes would be available to the same residents but limited to those who use the Staff/Visitors' Shuttle Bus service;
- c. not to commence development until the implementation of a Training and Employment Plan to provide minimum of 150 construction and related trade apprenticeships has been agreed with the District Council;
  - d. pay the District Council £75,000 as a Cultural Well-Being contribution to support strategic public events in the area e.g. the Bicester Festival and other local initiatives at or around Chesterton that would be attractive for both staff and guests of the development so as to enhance their leisure experience and the tourism potential of the resort and local area;
  - e. agree the details of a Shuttle Bus Service for staff and visitors between the development and Bicester with the lpa and to submit a Travel Plan;
  - f. to undertake highway works to include construction of the access to the A4095, a shared use footway/cycleway along the A4095 to Chesterton, 2 lengths of footway on the A4095 either side of the M40 bridge to connect Public footpaths 161/6 with 161/11, a ramped access to Pubic Footpath 161/1 located on the northern edge of Chesterton and 2 lengths of footway either side of The Hale to connect Public Footpath 161/6 to Chesterton;
  - g. pay OCC £70,000 towards the improvement of cycle routes between Chesterton and Bicester, £10,000 for traffic calming in Middleton Stoney, £2,105 for bus stop improvements in Chesterton, £1.6m towards a new public bus service linking the site to Bicester town centre and railway stations for up to 10 years and £2,040 for Travel Plan Monitoring;
  - h. provide a bond for £1.8m as surety and a pay contribution of £6,250 for implementation and monitoring by OCC and the District Council.
97. Having regard to the submitted CIL compliance schedules, other than the Cultural Wellbeing Contribution, the balance of the S106 Agreement is consistent with the requirements of Framework paragraph 56 and CIL R122 and has been taken into account in coming to a conclusion.
98. The justification for the Cultural Wellbeing Contribution is that access to the development by any transport mode would have a significant environmental and social impact on residents. The lpa maintain that the cultural well-being of communities would need to be mitigated to make development acceptable. A financial contribution to the Bicester Festival is one of the elements suggested as being necessary to mitigate the alleged environmental and social impact of the development on the local community. The 2-week festival is an annual event to celebrate arts and creativity in all its forms. Whilst this and similar events are something a major local employer might seek to support voluntarily, the link between the end purpose of the contribution and the alleged harm that the development would cause is tenuous. This contribution fails the tests of being necessary to make the development acceptable in planning terms and would not be directly related to the development. Accordingly, no weight has been attached to this element of the S106 Agreement when concluding on the proposal.

## Development Plan

99. The proposal would not conflict with LP Policies SLE 5: BSC 10, ESD 13, ESD 15; SLE 2 and SLE 3 and SLP Policy TR 7. The proposal would have an impact on the outlook of nearby residents and users of the diverted public footpath. The amenity of a short stretch of the public footpath would change. Whilst nearby residents would experience a significant change in their outlook, on balance the proposal would not materially affect the living conditions of the residents at Vicarage Farm and Stableford House through a loss of light, privacy or the building being dominant and overbearing to justify, on its own, a reason to dismiss the appeal. Moreover, the impact on the PROW and residents would be significantly and materially outweighed by the acknowledged benefits of the development, particularly the economic and social benefits that would accrue in the local area. For these reasons, the proposal would accord with the development plan when read as a whole.

## Conclusion

100. For the above reasons and having taken all other matters into account, the appeal is allowed subject to the conditions contained in the attached Schedule.

## Conditions

101. Following discussion at the inquiry, a list of agreed planning conditions including pre-commencement conditions and the reasons<sup>14</sup> for them were submitted. In the interests of providing certainty, a condition specifying the approved plans is necessary (2)<sup>15</sup>. In the interests of the appearance of the area, conditions relating to: details of finished floor levels (3 & 6); finishing materials (4); architectural detailing and services (5 & 8); landscaping including maintenance and the protection of landscape features to be retained (9, 10 & 11) and details of the construction and finish of the diverted Public Right of Way (24) are reasonable and necessary.
102. In the interests of biodiversity, conditions relating to the submission of: a Landscape and Ecological Management Plan (12); tree, shrub and scrub removal (22); the protection of great crested newts (23, 27, 28 & 29) and the provision of the green roof (33) are reasonable and necessary. In the interests of safety, including highway safety, conditions relating to: the provision of fire hydrants (7); access to the A4095 (15) and the achievement of Secure by Design principles (26) are reasonable and necessary. In the interests of protection of neighbours' living conditions and guest comfort conditions relating to: ventilation of cooking odours (18); the timing of construction works (19); soundproofing (20) and external lighting (21) are reasonable and necessary.
103. In the interest of ensuring the maintenance of water supplies, adequate surface and foul water drainage and mitigating flooding, conditions relating to: details of surface water drainage (16); hard surfacing materials (17); waste and water network upgrades (35) and timing of swimming pool drainage (36) are reasonable and necessary. In the interests of mitigating the impact of the development on the highway network: the implementation of approved parking including cycle parking and servicing features (13 & 14);

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<sup>14</sup> Where necessary, I have accounted for the misnumbering of the reasons.

<sup>15</sup> The figure in brackets relates to the condition in the attached Schedule of Conditions.

the submission of a Construction Traffic Management Plan (25); the provision of on-site bus turning facilities (30); the provision of a signage strategy (31); the submission of a Travel Plan (32) and restriction on guest check-in times (34) are reasonable and necessary. Where necessary and in the interests of precision and enforceability, I have amended the suggested conditions.

*George Baird*

Inspector

## SCHEDULE OF CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
  
- 2 The development shall be carried in accordance with the approved plans (all are Rev 3, except 0102 and 0402, which are both Rev 4) Refs:  
Site Plan drawings 10875-EPR-00-ZZ-DR-A-TP-0100; 10875-EPR-00-ZZ-DR-A-TP-0101; 10875-EPR-00-ZZ-DR-A-TP-0102; 10875-EPR-00-ZZ-DR-A-TP-0103;  
Floor Plan drawings 10875-EPR-00-B1-DR-A-TP-0199; 10875-EPR-00-GF-DR-A-TP-0200; 10875-EPR-00-01-DR-A-TP-0201; 10875-EPR-00-02-DR-A-TP-0202; 10875-EPR-00-GF-DR-A-TP-0203; 10875-EPR-00-05-DR-A-TP-0204; 10875-EPR-00-GF-DR-A-TP-0300; 10875-EPR-00-GF-DR-A-TP-0311; 10875-EPR-00-GF-DR-A-TP-0312; 10875-EPR-00-GF-DR-A-TP-0313; 10875-EPR-00-GF-DR-A-TP-0314; 10875-EPR-00-GF-DR-A-TP-0315; 10875-EPR-00-GF-DR-A-TP-0316; 10875-EPR-00-GF-DR-A-TP-0317; 10875-EPR-00-GF-DR-A-TP-0318; 10875-EPR-00-GF-DR-A-TP-0319; 10875-EPR-00-GF-DR-A-TP-0320; 10875-EPR-00-GF-DR-A-TP-0321; 10875-EPR-00-GF-DR-A-TP-0322; 10875-EPR-00-GF-DR-A-TP-0323; 10875-EPR-00-01-DR-A-TP-0324; 10875-EPR-00-01-DR-A-TP-0325; 10875-EPR-00-01-DR-A-TP-0326; 10875-EPR-00-01-DR-A-TP-0327; 10875-EPR-00-01-DR-A-TP-0328; 10875-EPR-00-01-DR-A-TP-0329; 10875-EPR-00-01-DR-A-TP-0330; 10875-EPR-00-01-DR-A-TP-0331; 10875-EPR-00-02-DR-A-TP-0332; 10875-EPR-00-02-DR-A-TP-0333; 10875-EPR-00-02-DR-A-TP-0334; 10875-EPR-00-02-DR-A-TP-0335; 10875-EPR-00-02-DR-A-TP-0336; 10875-EPR-00-02-DR-A-TP-0337; 10875-EPR-00-02-DR-A-TP-0338; 10875-EPR-00-03-DR-A-TP-0339; 10875-EPR-00-03-DR-A-TP-0340; 10875-EPR-00-03-DR-A-TP-0341; 10875-EPR-00-03-DR-A-TP-0342; 10875-EPR-00-03-DR-A-TP-0343; 10875-EPR-00-03-DR-A-TP-0344; 10875-EPR-00-03-DR-A-TP-0345; 10875-EPR-00-RF-DR-A-TP-0346; 10875-EPR-00-RF-DR-A-TP-0347; 10875-EPR-00-RF-DR-A-TP-0348; 10875-EPR-00-RF-DR-A-TP-0349; 10875-EPR-00-RF-DR-A-TP-0350; 10875-EPR-00-RF-DR-A-TP-0351; 10875-EPR-00-RF-DR-A-TP-0352; 10875-EPR-00-RF-DR-A-TP-0353; 10875-EPR-00-RF-DR-A-TP-0354; 10875-EPR-00-RF-DR-A-TP-0355; 10875-EPR-00-RF-DR-A-TP-0356; 10875-EPR-00-RF-DR-A-TP-0357; 10875-EPR-00-RF-DR-A-TP-0358; 10875-EPR-00-B1-DR-A-TP-0359;  
Elevation drawings 10875-EPR-00-XX-EL-A-TP-0401; 10875-EPR-00-XX-EL-A-TP-0402; 10875-EPR-00-XX-DR-A-TP-4201; 10875-EPR-00-XX-DR-A-TP-4203; 10875-EPR-00-XX-DR-A-TP-4204; 10875-EPR-00-XX-DR-A-TP-4205; 10875-EPR-00-XX-DR-A-TP-4206; 10875-EPR-00-XX-DR-A-TP-4207; 10875-EPR-00-XX-DR-A-TP-4208;  
Section drawing 10875-EPR-00-XX-GS-A-TP-0501;  
Typical Bay Study drawings 10875-EPR-00-XX-DR-A-TP-4101; 10875-EPR-00-XX-DR-A-TP-4102; 10875-EPR-00-XX-DR-A-TP-4103; 10875-EPR-00-XX-DR-A-TP-4104; 10875-EPR-00-XX-DR-A-TP-4105; 10875-EPR-00-XX-DR-A-TP-4106; 10875-EPR-00-XX-DR-A-TP-4107;  
Ancillary Buildings drawing 10875-EPR-00-GF-DR-A-TP-7701;  
all received by the LPA on 08 November 2019;  
and Additional Elevation drawing 10875-EPR-00-XX-DR-A-TP-4202 received by the LPA on 25 November 2019; additional Highway mitigation works drawings prepared by Motion Refs: 1803047-02 Rev A; 1803047-03 Rev F; 1803047-08; and 1803047-15; Landscape drawings prepared by BMD Refs:



BMD.19.010.DR.P001E, BMD.19.010.DR.P101B, BMD.19.010.DR.P102B, BMD.19.010.DR.P103B, BMD.19.010.DR.P104B, BMD.19.010.DR.P301A, BMD.19.010.DR.P302A, BMD.19.010.DR.P303A, BMD.19.010.DR.P304A and BMD.19.010.DR.P305A;

- 3 No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved levels.
- 4 Notwithstanding the materials shown on the submitted plans, a detailed schedule of materials and finishes to be used in the external walls and roofs of the buildings shall be submitted to and approved in writing by the local planning authority prior to commencement of those works. Development shall carried out in accordance with the approved details.
- 5 Notwithstanding the details shown on the approved plans, details of the architectural detailing of the exterior of the buildings, including the windows and doors (and their surrounds), together with the eaves and verge treatment shall be submitted to and approved in writing by the local planning authority prior to the construction of the buildings above slab level. Development shall carried out in accordance with the approved details.
- 6 Prior to commencement of development, details of the colours and materials of any water slide, wolf, or other external built feature beyond the main building(s) shall be submitted to and approved in writing by the local planning authority. Development shall carried out in accordance with the approved details.
- 7 Prior to the commencement of any above ground works, full details of the fire hydrants to be provided on the site shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development, the fire hydrants shall be provided in accordance with the approved details and retained thereafter.
- 8 Prior to commencement of development, all details relating to services serving the development shall be submitted to and approved in writing by the local planning authority, including underground services, unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development Order) 1995 (as amended), have been agreed. Development shall carried out in accordance with the approved details
- 9 Prior to commencement of development, precise details of a scheme for enhanced landscaping along the north-eastern boundary hedgerow of the site with the A4095, along the south/south-eastern boundary with the Bicester Hotel, Golf and Spa, the Public Right of Way and the neighbouring properties of Stableford Cottage and Vicarage Farm and within the nature trail area shall be submitted to and approved in writing by the local planning authority, which shall include details relating to:-

- a) the proposed additional tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc);
- b) the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation;
- c) the hard and soft landscaping including hard surface areas, pavements, pedestrian areas and steps and the proposed screen bunding mounds.

The approved scheme shall be implemented by the end of the first planting season following occupation of the development and shall thereafter be maintained. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent for any variation.

- 10 All planting, seeding or turfing of grassland comprised in the approved details of landscaping shown in the BDM drawings BMD.19.010.DR.P001E, P301A, P302A, P3033A and P304A and in the details to be implemented in accordance with Condition 9 shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, or in accordance with any other program of landscaping works previously approved in writing by the local planning authority and thereafter shall be maintained. Any grassland planting which within a period of 5 years from the completion of the development dies or becomes seriously damaged or diseased shall be replaced in the next planting season unless the local planning authority gives written consent for any variation.
- 11 No development shall take place until the existing trees to be retained have been protected in accordance with an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), to be agreed in writing by the local planning authority, to include:
  - a. protective barriers around the trees, to a distance specified in the AMS and illustrated on the TPP;
  - b. the barriers shall comply with the specification set out in the AMS, with specific reference and regard to British Standard BS5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations';
  - c. the barriers shall be erected and removed in accordance with a programme to be agreed with the LPA, installed before works commence in the respective areas of the site and removed only on completion of works in that area of the site; and

- d. nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local planning authority.
- 12 Prior to commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include:
- a) description and evolution of landscape and ecological features to be managed, including locations shown on a site map;
  - b) site constraints that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives;
  - e) prescriptions of management actions;
  - f) Preparation of a work schedule (including annual work plan capable of being rolled forward over a 5-year period);
  - g) details of the body or organisation responsible for implementation of the plan;
  - h) on-going monitoring and remedial measures;
  - i) the LEMP shall include details of the legal and funding mechanism(s) by which long term implementation of the plan will be secured by the developer with the management body responsible for its delivery; and
  - j) the plan shall set out (where the results of monitoring show that the conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented.

The LEMP shall be implemented in full in accordance with the approved details and ensure delivery of a net biodiversity gain which shall be provided/created prior to the first occupation of the development (and shall thereafter be maintained in accordance with the approved LEMP).

- 13 The approved parking, turning, and loading/unloading facilities shall be laid out and completed in accordance with the approved details shown on drawing 10875-EPR-00-ZZ-DR-A-TP-0102 Rev 4 before the first occupation of the buildings. The car parking, turning, and loading/unloading spaces shall be retained for the parking, turning and loading/unloading of vehicles at all times thereafter.
- 14 Prior to the first occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the local planning

authority. The covered cycle parking facilities so provided shall thereafter be permanently retained for the parking of cycles in connection with the development.

- 15 Details of the proposed construction, materials and surfacing of the access road and its junction with the A4095 shall be submitted to and approved in writing by the local planning authority prior to commencement of those works. The development shall be carried out in accordance with the approved details before first occupation of the building(s) and thereafter permanently retained.
- 16 No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- a) a compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
  - b) full micro-drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
  - c) a Flood Exceedance Conveyance Plan;
  - d) comprehensive groundwater monitoring and modelling to understand the groundwater flows across the site;
  - e) detailed design drainage layout drawings of the SuDS proposals including cross-section details;
  - f) detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element; and
  - g) details of how water quality will be managed during construction.

The scheme shall also include the following details of the tank proposed for the storage of surface water:

- h) full details of the design and proposed location of the tank and the pipes and the conduits to be installed to convey water to and from the tank, such details to include the materials from which the tank, pipes and conduits are to be made;
- i) full details of the proposals for the installation of the tank, including the means by which the tank will be anchored;
- j) full details of the proposed means of operation of the tank, including the control of discharge;
- k) full details of on-going maintenance of the tank and the pipes and

conduits to be installed to convey water to and from the tank and a scheme for on-going monitoring of its operation.

Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local planning authority for deposit with the Lead Local Flood Authority in its Asset Register. The details shall include:

- l) as built plans in both .pdf and .shp file format;
  - m) photographs to document each key stage of the drainage system when installed on site;
  - n) photographs to document the completed installation of the drainage structures on site; and
  - o) the name and contact details of any appointed management company information.
- 17 No construction of any hard surfacing as shown on the approved plans shall commence until details of its method of construction, including any porous materials or provision to direct surface water to a permeable or porous area within the site, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details before the development is brought into use.
- 18 A scheme for the ventilation and extraction of cooking fumes shall be submitted to and approved in writing by the local planning authority prior to the commencement of the use of the kitchen, restaurant, and café facilities at the new leisure resort. The approved system(s) shall be installed and operated in accordance with the approved scheme at all times the building is in use for the purposes hereby permitted.
- 19 No external construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays, Bank and Public Holidays.
- 20 Prior to commencement of development, a scheme for the soundproofing of the buildings shall be submitted to and approved in writing by the local planning authority. Thereafter, the measures shall be implemented in strict accordance with the approved details prior to occupation of the development and shall be retained as such.
- 21 Details of the external lighting/security lighting/floodlighting within the site including the design, position, orientation, and any screening of the lighting shall be submitted to and approved in writing by the local planning authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

- 22 All removal of trees, hedgerows, shrubs, scrub, or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present, then the vegetation shall not be removed until the fledglings have left the nest. The ecologist shall certify this in writing to the Local planning authority.
- 23 Prior to the commencement of the development hereby approved, including any works of site clearance, a mitigation strategy for great crested newts, which shall include timing of works, exclusion fencing, the location and design of alternative ponds/habitats together with the timing of their provision, shall be submitted to and approved in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved details.
- 24 Prior to the first use of any new public footpath, the new footpath shall be formed, constructed, surfaced, laid and marked out, drained and completed in accordance with specification details which shall be firstly submitted to and approved in writing by the local planning authority.
- 25 Prior to commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local planning authority, in conjunction with the Local Highway Authorities. The CTMP shall provide for:
- a) the routing of construction vehicles and Construction Plan Directional signage (on and off site);
  - b) the parking of vehicles of site operatives and visitors;
  - c) loading and unloading of plant and materials;
  - d) storage of plant and materials used in constructing the development;
  - e) operating hours and details of deliveries;
  - f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - g) wheel washing facilities;
  - h) measures to control the emission of dust and dirt during construction;
  - i) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - j) overall strategy for managing environmental impacts which arise during construction;
  - k) procedures for maintaining good public relations including complaint management, public consultation and liaison;
  - l) control of noise emanating from the site during the construction period;
  - m) details of construction access(s); and
  - n) provision for emergency vehicles.

- 26 Prior to first occupation of the development, a '*Secured by Design*' (SBD) accreditation shall be obtained, and then presented to the local planning authority. Development will thereafter be required to proceed in accordance with the layout plan accompanying that accreditation.
- 27 No development hereby permitted shall take place except in accordance with the terms and conditions of this Council's organisational licence (WML-OR48-2019-01) and with the proposals detailed on plan '201908002 -Bicester Golf Course Impact Map', dated 29th November 2019.
- 28 No development hereby permitted shall take place unless and until a certificate (as set out in the District Licence WML-OR48-2019-01), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the Local planning authority and the local authority has provided authorisation for the development to proceed under the district newt licence.
- 29 No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR48-2019-01 and in addition in compliance with the following:
- a) works to existing ponds onsite may only be undertaken during autumn/winter, unless otherwise in accordance with the GCN Mitigation Principles;
  - b) works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians;
  - c) capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development);
  - d) amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of works;
  - e) the recommendations in report 'Great Wolf Resorts Bicester golf course Habitat Management and Monitoring Plan (Revision 1)', dated November 2019, provided as part of the planning application must be complied with.
- 30 Prior to the commencement of the development, full details shall be submitted to and approved in writing by the local planning authority of bus facilities within the site including a turning loop suitable for a 12m long single-deck bus, bus shelter, seating, flagpole and timetable case. Thereafter, the facilities shall be provided in accordance with the approved details and shall be maintained and retained unobstructed for the purpose of facilitating a public bus service to the site.
- 31 The development shall not be occupied until a signage strategy for the site including a scheme for its implementation has been submitted to and

approved in writing by the local planning authority. The Signage Strategy is to be delivered prior to first occupation.

- 32 Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans", shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.
- 33 The development shall not be commenced until full details of the green roof to be installed in accordance with the following submitted plans 10875-EPR-00-03-DR-A-TP-0203 and 10875-EPR-00-05-DR-A-TP-0204 have been submitted to and approved in writing by the local planning authority. Those details shall include the precise extent of green roof proposed, the form of design including waterproofing and moisture retention layers, the planting scheme and how the green roof will be maintained for the lifetime of the development. The development shall be carried out in accordance with the approved green roof design and details.
- 34 No hotel or day visitor guests shall be permitted to check in to the resort prior to 10:00am on Mondays to Fridays (excluding bank holidays and public holidays). This shall apply for the life of the development.
- 35 The development shall not be occupied until written confirmation has been provided by the sewerage and water undertaker, that:
- a) wastewater network upgrades required to accommodate the additional flows from the development have been completed; and
  - b) all water network upgrades required to accommodate the additional flows to serve the development have been completed.
- 36 With regard to the emptying of swimming pools forming part of the development into a public sewer:
- a) the pool to be emptied overnight and in dry periods; and
  - b) the discharge rate is controlled such that it does not exceed a flow rate of 5 litres/second into the public sewer network.



## **APPEARANCES**

### **FOR THE APPELLANT**

James Strachan QC instructed by Great Lakes UK Limited

He called:

Chris Goddard BA(Hons) BPL MRTPI MRICS.  
Board Director, DP9 Ltd.

Richard Bettridge BSc (Hons) BA CEng CEnv MICE FCIHT MCIWEM  
Director, Motion Consultants Limited.

Philip Bell BEng(Hons) MCIT MILT MCIHT.  
Managing Director, Motion Consultants Limited.

James Patmore CEng CEnv MCIEEM BSc Hons.  
Director of Ecology, Bradley Murphy Design Limited.

Richard Waddell.  
Senior Associate, Bradley Murphy Design Limited.

Nick Rayner BA(Hons) DipArch RIBA.  
Director, EPR Architects.

John Ashworth.  
Principal, John Ashworth Associates.

Howard Swan.  
Principal Architect & Director Swan Golf Designs Limited.

Conditions & S106 Round Table Session

S Wooton.  
P Twemlow.

### **FOR THE LOCAL PLANNING AUTHORITY**

Douglas Edwards QC and Annabel Graham Paul of Counsel, instructed by Matthew Barrett LLB, Planning Solicitor, Cherwell District Council.

They called:

Thomas Darlington, BA (Hons).  
Senior Community Infrastructure Officer, Cherwell District Council.

Paul Almond.  
Street Scene & Landscape Manager, Cherwell District Council.

Alan DeVenny, BEng (Hons), PhD, MICE.  
Projects Director, Systra Limited.

David Huskisson, Dip LA, CMLI.  
Director, Huskisson Brown Associates.

Richard Bennett, BSc (Hons), MICE.  
Flood Risk Engineer, Oxfordshire County Council.

Andrew Bateson, BSc (Hons), MRTPI.  
Team Leader – Major Developments, Cherwell District Council.

Conditions & S106 Round Table Session

Mr M Barrett.  
Ms J White.

**FOR PARISHES AGAINST WOLF**

Sasha White QC and Anjoli Foster instructed by Tom Brewerton & Stephen Webster of Parishes Against Wolf.

They called:

Andrew Cook BA (Hons) MLD CMLI MIEMA CENV.  
Executive Director, Pegasus Group.

Rupert Lyons MSc CMILT MIOD  
Director, Transport Planning Associates Limited.

Steven J Sensecall BA (Hons) DIP. T.P. MRTPI.  
Partner, Carter Jonas.

Dominic Woodfield CEcol CEnv MCIEEM.  
Director, Bioscan (UK) Ltd.

Conditions & S106 Round Table Session

T Brewerton

**INTERESTED PERSONS**

Ms D Bohm.  
Mr S Webster.  
Mr T Brewerton.  
Mr P Clarke.  
Mr R Jones.  
Mr R Cornford.  
Ms K Jones.  
Mr A Banks.  
Professor A Fitt.  
Mr J Reese.  
Mr N Mullane.  
Mr P Stoddart.  
Mr Hugh Williams  
Ms I Newton.  
Mr N Dolden.  
Ms N Bohm.  
Ms F Boyer-Warland.  
Mr D Jones.  
Mr T Hibbert.  
Mr P Brain.  
Ms R Miles.  
Mr M Horseman  
Ms J Keeling.  
Mr J Martin.  
Ms D Messum.

Reverend G Miller.  
Mr J Floyd.  
Ms R Hucker.  
Mr K Moore.  
Mr I Corkin.  
Ms C Chipperfield-Twiddy.

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- Doc 1 - Agreed Summary Traffic Modelling Tables Scenarios 1 to 10.
- Doc 2 - Landscape Value and Valued Landscapes – Draft Technical Note (February 2021).
- Doc 3 - 18 Hole Golf Course Layout (Swan Golf Designs).
- Doc 4 - Annotated Site Location Plan – Dimensioned (EPR Architects).
- Doc 5 - Appellant’s (Motion) Technical Note: Summary of Discussions with OCC N10 (September 2020).
- Doc 6 - OCC Pre-App Response on Middleton Stoney Junction (September 2020).
- Doc 7 - Note re Potential Cycle Improvements S106 Contribution.
- Doc 8 - OCC Correspondence - Heyford Park Phase 2 mitigation.
- Doc 9 - Officer’s Report - Heyford Park Phase 2.
- Doc 10 - OCC Drainage Note 8/2/2021.
- Doc 11 - Evening Session List of Speakers & Statements.
- Doc 12 - LPA Update to OSSRS Figure 61.
- Doc 13 - England Golf Strategy 2017-2021.
- Doc 14 - Note re Middleton Stoney Pedestrian Refuge.
- Doc 15 - Email re Guest Occupancy & Servicing Details.
- Doc 16 - Table of Day Passes US Properties.
- Doc 17 - Technical Note Trip Comparison 11/02/2021.
- Doc 18 - Scenario 10 Additional transport information.
- Doc 19 - Alternative sites with plans.
- Doc 20 - Distances between greens and tees.
- Doc 21 - Great Wolf Pre-application presentation.
- Doc 22 - Transport Statements of Common Ground (OCC & CDC).
- Doc 23 - OCC R122 Compliance Statement.
- Doc 24 - Golf Participation 2016-2020.
- Doc 25 - S106 requests on behalf of PAW.
- Doc 26 - Request for Traffic Flow Bond (PAW).
- Doc 27 - Drainage Statement of Common Ground.
- Doc 28 - Statement of Common Ground Ecology.
- Doc 28 - Statement of Common Ground Ecology.
- Doc 29 - Email from D Messum re Flooding.
- Doc 30 - Email Mr Hucker re Flooding.
- Doc 31 - Email L Beaver re Flooding.
- Doc 32 - Email from Mr Woodfield seeking to agree measurements.
- Doc 33 - Consultation response from Natural England.
- Doc 34 - Two photographs of pond margins and amenity grassland, Mr Patmore.
- Doc 35 - Landscape Officer comments.
- Doc 36 - Joint Statement on Middleton Stoney Junction. 25/2/21.
- Doc 37 - Heyford Park Development & Planned Highway Improvements.
- Doc 38 - Bundle of Emails re Sterling Golf Course.
- Doc 39 - Clarification Note on Sport England & England Golf involvement in the Open Space, Sport & Recreation Assessments.
- Doc 40 - Addendum to Clarification Note – Doc 39.
- Doc 41 - Appellant’s Note on S106 & Land Registry Details.
- Doc 42 - Car Park Landscape Images - Mr Waddell.
- Doc 43 - No Document.

- Doc 44 - PAW, S106 Comments 1/3/2021.
- Doc 45 - PAW, Note on Remaining Flooding & Drainage Concerns.
- Doc 46 - Clarification of Golf Round Timings, Mr Swann.
- Doc 47 - Appellant's Notes of Online Meeting with Members of the Parishes on Drainage 2/3/2021.
- Doc 48 - Lpa clarification of number of bedrooms at Bicester Heritage Hotel.
- Doc 49 - Additional conditions suggested by PAW & the Appellant (Green Roof & Check-In Times).
- Doc 50 - Appellant's response to PAW s.106 comments.
- Doc 54 - Landscape of Statement of Common Ground.
- Doc 55 - CDC R122 Statement.
- Doc 56 - Certified Copy of S106 Agreement Part 1.
- Doc 57 - Certified Copy of S106 Agreement Part 2.
- Doc 58 - Main Statement of Common Ground.
- Doc 59 - List of suggested conditions.
- Doc 60 - List of reason for the conditions.