

**Notes of Case Management Conference**

**10.30 a.m. Monday 14 December 2020**

**Appeal Re****f: APP/C3105/W/20/3259189**

1. Mr S R G Baird BA (Hons) MRTPI is the Inspector appointed to determine the appeal by Great Lakes UK Limited against the refusal of planning permission by Cherwell District Council for the redevelopment of part of a golf course to provide a new leisure resort incorporating a waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping on land to the east of the M40 and south of the A4095, Chesterton, Bicester.
2. James Strachan QC will appear for the appellant and will call 7 witnesses, who will give evidence on:

Planning – Chris Goddard;

Design/Architecture – Nick Rayner;

Transport and Highways – Philip Bell;

Drainage – Richard Bettridge;

Landscape/Visual impact – Richard Waddell;

Golf Provision – Mr Ashworth;

Biodiversity - to be advised.

1. Douglas Edwards QC will appear for the local planning authority (lpa) and will call 6 witnesses, who will give evidence on:

Planning & Sustainability - Andrew Bateson;

Golf Provision (Need) - Thomas Darlington;

Golf Provision (Appellant’s Scheme) - Paul Almond;

Highways - Alan DeVenny;

Character & Appearance - David Huskisson;

Drainage - Richard Bennett.

The lpa provided a note, Annex 1, setting out details of principal contacts.

4. Sasha White QC will appear for a consortium of Parish Councils [Parishes Against Wolf (PAW)], a Rule 6 Party, and will call 4 witnesses, who will give evidence on:

Planning - Steven Sensecall;

Highways - Rupert Lyons;

Landscape & Visual Impact - A Cook;

Biodversity - D Woodfield.

1. The parties agreed to exchange main contact details and contact details of the witnesses. Details copied to the Case Officer[[1]](#footnote-1).
2. In the pre-conference note, the Inspector identified 6 issues to be addressed:
3. the implications for sport and recreational facilities in the area, in particular golf;
4. the effect on the safety and free flow of traffic on the highway network;
5. the effect on the character and appearance of the area;
6. the implications for drainage and flooding;
7. whether the proposal makes appropriate provision for the necessary infrastructure to meet the needs of the development; and
8. 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.
9. On Issue 2, the lpa confirmed its concern related to the specific impact on the Middleton Stoney traffic light-controlled junction.
10. The Inspector considers that the matter of “locational sustainability” i.e. whether having regard to the contents of paragraph 108 (a) of the National Planning Policy Framework appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. The Inspector considers that these are matters that could be addressed either as an issue in it own right or as part of the highways or planning evidence.
11. PAW suggested that “need for the development” should be included as a main issue. The Inspector’s view is that normally there is no requirement for an applicant or appellant to demonstrate a need for the development and on his reading of the submitted material to date there is no indication that the Development Plan in this case requires the appellant to demonstrate need. Accordingly, the Inspector does not consider “need” would qualify as a main issue. However, that does not prevent PAW from including need as a consideration as part of its case.
12. The appellant’s evidence will need to address matters raised by residents at the time of the application and following the appeal that is not covered by the main issues.
13. The lpa has only very recently responded to the appellant’s first draft of the Statement of Common Ground (SoCG). The Inspector’s initial impression is that little if any progress had been made in narrowing the matters in dispute. The Inspector encourages continued active discussions and the appellants undertook to lead on providing a timetable for the early provision of topic based SoCGs on Drainage, Highways, Landscape/Visual Impacts (character & appearance) and an overarching Planning and Miscellaneous Matters SoCG.
14. The parties are encouraged to continue discussions throughout the preparation of their cases to narrow as far as possible the areas of dispute. The Inspector expects to be informed, at least weekly, by way of a Scott Schedule where the parties have reached on the matters in dispute.
15. The inquiry will open at 10 a.m. on Tuesday 9 February 2021. The parties may make Opening Statements of not more than 15 minutes duration starting with the appellant, followed by PAW and then the Council. Closing statements will be heard in reverse order.
16. Cases will be heard on a **Topic Basis**. Within each topic, the lpa will present first, followed by PAW and the evidence on that topic completed by the appellant.
17. There is no provision within the Inquiry Procedure Rules for accepting rebuttal proofs of evidence. The Inspector drew attention to the guidance contained at Annex F (F.11) of The Planning Inspectorate Procedural Guidance - Planning Appeals – England November 2020. Where a party can demonstrate that accepting rebuttal evidence would save inquiry time, the Inspector will consider all requests.
18. The number of interested persons or other groups who might wish to speak is not known[[2]](#footnote-2). Given the responses to the letter of notification exceeds 700, a specific slot for residents to make submissions will need to be included in the inquiry programme. The Inspector is not adverse to holding an evening session. Given the inquiry will be held online, the feasibility of an evening session will be investigated.
19. Given the level of public interest in the inquiry and the limits on Teams to cope with large numbers of participants, it is intended that the inquiry will be Livestreamed. During the inquiry if anyone watching the livestream decides they want to make representations they will have to contact the Case Officer to be able to access Teams.
20. The evidence will be followed by round table sessions on suggested planning conditions and the S106 Agreement.
21. The current allocation of 7 sitting days is likely to be insufficient and that 12 or 13 days would be required. Based on the availability of the parties the inquiry will sit on 9 – 12 February; 16 – 19 February and 2 – 5 March. Depending on progress during the first 2 weeks, there is the option to sit on Monday 1 March.
22. Following the receipt of time estimates from each of the parties[[3]](#footnote-3), the Inspector will issue an inquiry timetable. The appellant undertook to prepare a first draft following receipt of time estimates and witness availability from the other parties.
23. By **Tuesday 12 January 2021** the parties are to send to the Case Officer, electronic copies of:
24. proofs of evidence/appendices and where appropriate summary proofs;
25. an A3 booklet of application plans;
26. Core Documents. Core Documents should be kept to a minimum. The appellant undertook to circulate a list of the Core Documents that would be referred to for the lpa and PAW to add to if necessary.
27. The Inspector requires hard copies of the proofs of evidence, appendices and Core Documents. Following receipt of and review of the electronic copies of the evidence, the Inspector intends to undertake an unaccompanied pre-inquiry site visit. The parties will be advised of the date. At that time, the Inspector anticipates collecting the hard copies from an agreed location. The location is to be agreed by the parties and the Case Officer advised.
28. The lpa undertook to ensure that interested persons can examine the evidence submitted. This could be through a dedicated page on the Council’s website or by viewing the planning application on the online register. The lpa will advise which option will be available.
29. No later than **Tuesday 26 January 2021**, time estimates for the presentation of cases and details of witness availability are to be sent to the Case Officer. The appellant undertook to provide a first draft of an inquiry timetable to the Case Officer. The draft timetable should include the option of an evening session. Based on this the Inspector will issue an inquiry timetable.
30. By **Tuesday 2 February 2021**,alist of suggested conditions, a draft S106 Obligation and a CIL Compliance Schedule are to be provided. The Inspector is aware that PAW may have requests for obligations/contributions. Where these do not coincide with those requested by the lpa, a separate list should be provided supported a CIL Compliance Schedule. Details should be submitted no later than Tuesday 2 February.
31. If rebuttal proofs are accepted, these should be submitted no later than **Tuesday 2 February 2021**.
32. No later than **Friday 5 February 2021**, a final schedule identifying the remaining matters in dispute.
33. A separate note on document preparation is attached.

George Baird

Inspector 14 December 2020

Annex 1

*Principal LPA Inquiry Contacts*

CDC – Andy Bateson – T: 01295 221637; M: 07766 792961; E: [andy.bateson@cherwell-dc.gov.uk](mailto:andy.bateson@cherwell-dc.gov.uk)

OCC – Joy White, Principal Transport Officer – M: 07554 103522; E: joy.white@oxfordshire.gov.uk

*LPA S.106 Contacts:*

Matthew Barrett, CDC Solicitor – T: 01295 753798; M: 07939 118871; E: [matthew.barrett@cherwell-dc.gov.uk](mailto:matthew.barrett@cherwell-dc.gov.uk)

Nicole Olavesen, OCC Solicitor – M: 07393 001097; E: nicole.olavesen@oxfordshire.gov.uk

*List of Local Planning Authority Inquiry Appearances*

Counsel

Douglas Edwards QC, [E: douglas.edwards@ftbchambers.co.uk], instructed by Matthew Barrett LLB, Planning Solicitor, Cherwell District Council.

*Witnesses*

Andrew Bateson – Team Leader - Major Developments, Cherwell District Council (Planning, Locational Sustainability, SoCG and S106 matters – Refusal Reasons 2 & 6 and, in part, Reason 4 – Inspector’s Inquiry issues 5c, 5e, 5f and 5g) T: 01295 221637; M: 07766 792961; E: [andy.bateson@cherwell-dc.gov.uk](mailto:andy.bateson@cherwell-dc.gov.uk)

Thomas Darlington – Senior Community Infrastructure Officer, Cherwell District Council (Loss of golf facility matters – Refusal Reason 1 – Inspector’s Inquiry issue 5a) T: 01295 221693; E: [thomas.darlington@cherwell-dc.gov.uk](mailto:thomas.darlington@cherwell-dc.gov.uk)

Paul Almond – Street Scene & Landscape Manager, Cherwell District Council (Golfing re-provision matters – Refusal Reason 1 – Inspector’s Inquiry issue 5a) T: 01295 221705; E: [paul.almond@cherwell-dc.gov.uk](mailto:paul.almond@cherwell-dc.gov.uk)

Alan DeVenny – Projects Director, Systra – on behalf of Oxfordshire County Council (Highway matters – Refusal Reason 3 – Inspector’s Inquiry issue 5b) T: 01413 439636; M: 07973 987585; E: [adevenny@systra.com](mailto:adevenny@systra.com)

David Huskisson – Managing Director at Huskisson Brown Associates (Landscape matters – Refusal Reason 4 – Inspector’s Inquiry issue 5c) T: 01892 750572; E: [david@huskissonbrown.co.uk](mailto:david@huskissonbrown.co.uk)

Richard Bennett – Oxfordshire County Council (Drainage matters – Refusal Reason 5 – Inspector’s Inquiry issue 5d) M: 07841 829787; E: richard.bennett@oxfordshire.gov.uk

Annex 2



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

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

**GUIDANCE ON DOCUMENT PREPARATION**

OPENING & CLOSING SUBMISSIONS

1. Written copies of opening and closing statements are required and these will be shared electronically. If possible, opening statements should be provided to the Case Officer on Monday 8 February.
2. Closing statements should follow the issues addressed at the inquiry and should seek to provide a complete summary of the case put.

PROOFS-OF-EVIDENCE

1. Proofs of evidence should focus on the main issues identified and the areas of disagreement. Proofs should not duplicate information included in other inquiry documents e.g. site descriptions, planning history (these should be in a Statement of Common Ground) or recite the text of policies referred elsewhere (Core Documents).
2. Proofs of evidence should be concise, precise and proportionate to the complexity of issues and matters the witness is addressing. Duplication of material in other witnesses’ evidence should be avoided.
3. Where a document is being referred to this should be clearly referenced. Where Case Law is cited the full Court report/transcript reference should be cited and cross refer to a copy of the report/transcript in the Core Documents.
4. Where possible a proof of evidence should be no longer than 3,000 words. Where a proof-of-evidence is longer than 1,500 words a summary is to be submitted. Within a proof of evidence/summary proof each paragraph must be numbered. Avoid complicated numbering formats –stick to 1.1, 1.2 … 2.1, 2.2.
5. The Inspector will require hard copies of proof of evidence and the Core Documents. Arrangements will be made for these to be collected by the Inspector.
6. Proofs of evidence, summaries and appendices should be bound separately in a manner that can be easily opened and read. If rebuttal proofs of-evidence and appendices are accepted, they should have similar front pages. All documents should be paginated, and units of measurement should be in metric.

APPENDICES

1. Appendices must be bound separately from the proofs-of-evidence. Documents must be separated by dividers with numbered thumb tags (back and front). Where an appendix is an extract from another document only the cover page and date of publication, the extract being referred to and enough of the document to provide the context for the extract should be included. If the document is listed as a Core Document, there is no need to reproduce extracts from it in the appendices to a proof of evidence.

CORE DOCUMENTS

1. Core Documents should be kept to a minimum and filed in ring binders. Documents must be separated by dividers with numbered thumb tags (back and front). The front and spine of the binders should be labelled e.g. CDS 1 to 10. **Ring binders must not be overfilled** – invariably they are damaged in transit.

ADDITIONAL DOCUMENTS

1. If during the inquiry it becomes necessary to submit further documents, each document should have a cover page setting out the title of the document, and where appropriate the date of publication and an acknowledgement of the source. These will be shared electronically.

George Baird

Inspector

1. Alison Dyson - ALISON.DYSON@planninginspectorate.gov.uk [↑](#footnote-ref-1)
2. PAW subsequently advised that it was aware of at least 30 residents who wished to speak. [↑](#footnote-ref-2)
3. No later than Tuesday 26 January 2021. [↑](#footnote-ref-3)