



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Great Lakes UK Limited against Cherwell District Council's refusal to grant planning permission for the redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping at land to the east of M40 and south of A4095 Chesterton Bicester Oxfordshire

Appellant	:	Great Lakes UK Limited
Appeal Site	:	Land to east of the M40 and south of the A4095, Chesterton, Bicester, Oxfordshire, OX26 1TH
Appellant's Agent	:	DP9 Limited
LPA Reference	:	19/02550/F
Planning Inspectorate Reference	:	APP/C3105/W/20/3259189

PROOF OF EVIDENCE

of

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Contents Page

1 Introduction	3
2 Purpose and Scope of Proof	4
3 Appeal Site Location and Proposal	5
4 Relevant Site History	7
5 Preliminary Policy Consideration	9
6 Reasons for Refusal	11
7 The Council's Case	14
8 Overall Planning Balance & Sustainable Development	28
9 Conclusions	39
Appendices	[Separate Volume]
Summary Proof	[Separate Volume]

1. INTRODUCTION

- 1.1 My name is Andrew Kevin Bateson. I hold a BSc (Hons) degree in Town and Regional Planning and I have been a full Member of The Royal Town Planning Institute since October 1998. I am employed by Cherwell District Council as Team Leader for Major Developments in the Council's Development Management team, although I have only been in this post since November 2020. Prior to my appointment, I was Planning Partner at West Waddy ADP for three years, I ran my own AB Planning & Development consultancy for six years before that, I worked in various Directorial roles at RPS for nine years between 2002 and 2011, and I worked for the first eighteen years of my professional career in the public sector, working for the Property Services Agency, York City Council, Richmondshire District Council and Aylesbury Vale District Council, in a variety of development control and plan policy roles.

2. PURPOSE AND SCOPE OF PROOF

- 2.1 In this proof of evidence, I deal with the general planning and sustainability considerations that arise in this appeal. I explain why the proposal does not accord with development plan or national planning policy, with a focus on the weight of planning policies that the Council seeks to rely on, as well as providing a contextual view of other relevant planning decisions. I conclude by setting out why I and the Council consider the appeal proposal to be unacceptable and the adverse impacts would significantly and demonstrably outweigh any benefits.
- 2.2 Although I mention the golfing, transport, landscape and visual, and drainage impacts of the proposals in general terms (Refusal Reasons 1, 3, 4 and 5), detailed evidence on these issues is provided by the District and County Council experts (or their appointed representatives) on those matters. Thomas Darlington and Paul Almond of the District Council – address golfing matters (the need issues and suggested re-provision matters, respectively – Refusal reason 1 : Issue a); Alan DeVenny of Systra Limited deals with highway matters on behalf of Oxfordshire County Council (Refusal reason 3 : Issue b); David Huskisson of Huskisson Brown Associates deals with landscape and visual impacts (Refusal reason 4 : Issue c); and Richard Bennett of the County Council deals with drainage matters (Refusal reason 5 : Issue d).
- 2.3 This Proof of mine therefore focusses on Refusal Reason 2 : Issue g – i.e. the unsustainability of location and the failure to comply with the Development Plan and national planning guidance; plus Reason 6 – s.106 issues (which potentially could be addressed through a Statement of Common Ground and the Appellant’s signing of an agreed Deed of planning obligations).
- 2.4 I also deal in part with Refusal Reason 4 : Issue c – insofar as this relates to impacts due to the size, scale and massing of the proposed development and its location in the open countryside.

3. APPEAL SITE LOCATION AND PROPOSAL

Appeal Site Location

- 3.1 The appeal site extends to 18.6 hectares (186,000m²) and comprises the western nine holes of an existing 18-hole golf course that forms part of Bicester Hotel, Golf and Spa (BHGS) near Chesterton, a village located to the southwest of Bicester.
- 3.2 The appeal site is located immediately to the east of the M40 (which runs south to north) and to the southwest of the A4095 (which runs roughly east to west). M40 Junctions 9 and 10 are located about 1km and 2.3km to the south and north, respectively. The BHGS site is located beyond the western developed edge of Chesterton, in open countryside, with the appeal site comprising the westernmost part of the BHGS site. The centre of the appeal site is located approximately 950m due west of Chesterton Primary School, 1,230m west of St Mary's Church and 1,215m northwest of Chesterton's new Community Centre. Little Chesterton is located approximately 1.3km to the south of the site. The eastern edge of the appeal site is approximately 1.3km from the edge of the westernmost part of Bicester and approximately 3km from Bicester town centre.
- 3.3 Two residential properties, 'Stableford House' and 'Vicarage Farm' lie adjacent to a secondary access to BHGS on the A4095 leading to the current golf course site (which is mainly used for deliveries). Another dwelling, 'Tanora Cottage' sits further east along the A4095 towards Chesterton, with 'Corner Cottage' (the westernmost house on the edge of Chesterton) lying further east along the A4095. To the north of the site and north of the A4095 is a mix of agricultural land and 'Bignell Park Barns' (which provides office accommodation) plus two residential properties – 'Bignell Park Farm House' and 'Park House'. Beyond the M40 to the west is agricultural land with associated agricultural and residential properties. Middleton Stoney is the closest village to the north west, approximately 1.8km away. The site and its surrounding are shown on the annotated aerial location plan drawing attached at Appendix A.
- 3.4 The appeal site contains a variety of habitat types of ecological value including ponds, plantation and semi-natural woodland and species-rich hedgerow (some of which forms the site boundaries). There are also a variety of mature trees, shrubs, grasslands, dense scrub and tall wasteland plants throughout the wider BHGS site. Most of the tree groups form part of the golf course whose purpose is to delineate fairways or to provide a degree of low-level screening within and around the site.

- 3.5 The ponds are mostly located in a cluster to the northern part of the appeal site and have been engineered as part of the design of the golf course landscape. A shallow ditch (3-4m wide, narrowing to 2m in places) runs southeast from the central woodland block towards the Hotel and Spa, roughly lying parallel to the A4095. A dry ditch (of similar dimension) crosses the central part of the site.
- 3.6 The landform of the BHGS site is characterised by the engineered undulations of the golf course. The site has a gentle fall from the northwest corner towards the south-eastern boundary, generating a change in level of approximately 6-7m. The site's topography is set within the wider context of a transition between broadly undulating but gently rising valley slopes to the northwest and a relatively level and flat landscape to the southeast.
- 3.7 A public right of way (Ref 161/6/10) runs through the site entering the golf course off the A4095 to the north and crossing the site in a south-easterly direction before exiting through the BHGS car park. The alignment of this footpath route was not previously clearly signed but has now been waymarked across the course.

The Appeal Proposal

- 3.8 The appeal relates to a refused planning application (CDC Ref: 19/02550/F) which sought planning permission for a leisure resort consisting of:
- A 498-bed Hotel (27,250m²) of 3 and 4-stories;
 - An Indoor Water Park (8,340m²) with external slide tower (height 22.5m);
 - A Family Entertainment Centre (12,350m²) including an adventure park, food and beverage and merchandise retail facilities, plus Conferencing (comprising 550m²) and back of house facilities;
 - An Adventure Park providing rope course, climbing wall, miniature golf, family bowling, arcade games and an interactive role-playing game;
 - Associated access and landscaping;
 - 902 new parking spaces; and
 - Public parkland (6 hectares) including nature trails and play spaces.
- 3.9 Paragraphs 3.1 to 3.8 of the Council's Planning Committee report of 12th March 2020 [CD3-3] provide further summarised detail of the proposal.

4. RELEVANT PLANNING HISTORY

- 4.1 These details have been provided in section 2 of the Council's Rule 6 Statement [CD13-2]. Copies of the relevant Decision Notices from the BHGS are included at Appendix B in the Appendices [CD13-20], along with a Screening Opinion (reference 19/01255/SCOP) was provided and issued on 30 August 2019 determining that an Environmental Impact Assessment was required for the proposed development.
- 4.2 Nearby, a decision of particular relevance from 2015/16 is an outline application made on land at the junction of Green Lane and The Hale, at Chesterton (CDC application reference 15/00454/OUT). It proposed a development of 51 new dwellings with access, open space and a surface water retention pond, as a planned urban extension on the southwest edge of Chesterton village, just south of the allotments and immediately east of BHGS. The application was refused planning permission in June 2015 on three grounds and was subsequently dismissed at appeal in February 2016 under PINS appeal reference APP/C3105/W/15/3130576 [CD8-1]. Apart from a lack of an acceptable s.106 POA to make appropriate provision for affordable housing, education, community and transport infrastructure (refusal reason 3) which was subsequently satisfactorily addressed at the appeal, the proposal was refused on grounds of unsustainability, non-compliance with the adopted Development Plan and harm to the setting of Chesterton village and the character and appearance of the surrounding rural area. At the subsequent appeal, the Appellants also sought to argue that the Council could not demonstrate a deliverable housing land supply, but the Inspector was satisfied at the time that a 5.1-year supply of land existed. Details are attached at Appendix C.
- 4.3 Notwithstanding significant growth in the village in the period at the time of this appeal decision, the Inspector concluded that "*Chesterton would not be a sustainable location for the scale of development proposed*" and "*would conflict with the overall strategy of the 2015 Local Plan*" (paras.25-26). In terms of the character and appearance of the appeal site and its immediate surroundings, including The Hale and the BHGS site opposite, the Inspector concluded (para.30) that "*The Hale is, in character, very rural despite the amount of traffic using it at present. On the other side of The Hale is a golf course, but that is itself rural in character despite its somewhat manicured appearance.*" At paragraph 31, the Inspector went on to say that "*However carefully the development was designed and landscaped, its appearance would be suburban*" and "*the part that openness plays in the setting of Chesterton would also be lost*". At paragraph 32, the

Inspector went on to add “*The site access needed to provide safe access to the development would also have a visually suburbanising effect, as would the new footway along The Hale required by the highways authority to provide a safe pedestrian access to the village. The lane would no longer provide a rural approach to the village. The existing pleasant rural character of the village, would be lost.*”

- 4.4 Another appeal decision of relevance to this case (also attached at Appendix C) is one that is more recent, though not in Oxfordshire. The appeal (PINS reference APP/V0728/W/19/3243156) [CD8-2] relates to a development proposal of 170 camping and caravanning pitches, two amenity blocks, a reception/shop/café building, recycling area, children’s play area, waste and water points, a site manager’s pitch, tractor shed, parking provision, site access and internal access roads, pedestrian footpath link, landscaping and associated works all on land east of Saltburn Lane, near Saltburn, in Redcar and Cleveland Borough. The appeal was dismissed on 2nd October 2020, following a previous application refusal by the LPA (reference R/2019/0259/FFM) on 28th November 2019.
- 4.5 Whilst not directly comparable to this appeal near Chesterton in terms of the types of leisure uses proposed and in terms of ecological and heritage issues that were considered at Saltburn, the relative scale of leisure/tourism development proposed in a rural area and its impact on the character and appearance of its surroundings are nevertheless similar to the refusal reason 4 issues and therefore, in my opinion, relevant to this appeal (paragraphs 14-27).

5. PRELIMINARY POLICY CONSIDERATIONS

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”), states that applications for development must be determined in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in paragraph 11 of the National Planning Policy Framework (“NPPF”) [CD5-1]. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that the NPPF does not change the statutory status of the Development Plan as the starting point for decision making.
- 5.2 The Development Plan consists of The Cherwell Local Plan 2011-2031 - Part 1 [CD5-3], which was formally adopted by Cherwell District Council on 20 July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced numerous previously ‘saved’ policies in the adopted Cherwell Local Plan 1996 [CD5-5], though many of its policies are retained and remain part of the Development Plan. On the 7th September 2020, the Council adopted The Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need and it too now forms part of the Development Plan [CD5-4]. The Development Plan policies that are relevant to this appeal are detailed in section 3 of the Council’s Rule 6 Statement [CD13-2]. The amount of weight that can be attributed to those saved policies from the 1996 Local Plan depends on their consistency with the NPPF, in accordance with paragraph 215. A table setting out the consistency of those policies with the NPPF is attached at Appendix D [CD13-20] and explained further throughout this proof of evidence.
- 5.3 At the end of July 2020, the Council published a Community Involvement Consultation Paper as the first stage in its review of the Local Plan, in preparation for a new Local Plan to 2040 [CD6-1]. The Council also made a ‘call for sites’ and invited comments on a Sustainability Appraisal Scoping Report. The Paper did not contain any proposals or policy options but highlighted needs and issues to stimulate discussion. The consultation marked the commencement of a likely 3-year process with further stages of consultation to follow where the Council will review the policies in the existing adopted Local Plan, the relationship to the emerging Oxfordshire Plan 2050 and the replacement of the remaining saved policies of the 1996 Local Plan.

- 5.4 Given delays in the advancement of the draft Oxfordshire Plan 2050, no Reg.18 consultation on the 2040 review Local Plan is expected until June 2021. Since this new plan is only at a preliminary stage in its evolution, it carries no material weight in the determination of this appeal but is referenced for completeness.
- 5.5 All policies referred to in my proof of evidence are attached as Appendix E [CD13-20].
- 5.6 Both the NPPF (National Planning Policy Framework) [CD5-1] and PPG (Planning Practice Guidance) [CD5-2] form National guidance and carry full weight as material considerations in the assessment of this appeal.

6. REASONS FOR REFUSAL

6.1 The Council's Planning Committee resolved to refuse the application on 12th March 2020. The six reasons for refusal [CD3-1] for the application are as follows:

1. The proposed development by reason of its location would result in the loss of an 18-hole golf course when the Local Planning Authority's evidence indicates the course is not surplus to requirements and there is a need for more provision for golf courses in the Bicester sub-area over the plan period. The evidence and proposals for alternative sports and recreation provision included with the application is not considered sufficient to make the loss of the golf course acceptable. The development is contrary to Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 which seeks to protect existing sport and recreation provision and enhance the existing provision. It is also contrary to Government guidance contained within the National Planning Policy Framework.
2. The proposed development would result in the creation of a substantial leisure and hospitality destination in a geographically unsustainable location on a site largely devoid of built structures and beyond the built limits of the nearest settlement. It has no access via public transport and would not reduce the need to travel or offer a genuine choice of alternative travel modes over the private motor vehicle. Given the predominant guest dynamic (families with children) the majority of trips are likely to be made via private motor vehicle, utilising minor rural roads. Furthermore, the proposal is for retail and leisure development in an out-of-centre location and no impact assessment has been provided as required by Policy SLE2. The Council do not consider that exceptional circumstances have been demonstrated to justify the development in this location, and as such the proposal is contrary to Policies SLE1, SLE2, SLE3, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies T5, TR7 and C8 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
3. The proposed development fails to demonstrate that traffic impacts of the development are, or can be made acceptable, particularly in relation to additional congestion at the Middleton Stoney signalised junction of the B4030 and B430.

As such the proposal is contrary to Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 2011-2031 Part 1, Policy 17 of the Oxfordshire Local Transport Plan 4 and Government guidance contained within the National Planning Policy Framework.

4. The development proposed, by virtue of its considerable size, scale and massing and its location in the open countryside beyond the built limits of the village of Chesterton, along with its institutional appearance, incongruous design, and associated levels of activity including regular comings and goings, will cause significant urbanisation and unacceptable harm to the character and appearance of the area, including the rural setting of the village and the amenities enjoyed by users of the public right of way, and would fail to reinforce local distinctiveness. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
5. The submitted drainage information is inadequate due to contradictions in the calculations and methodology, lack of robust justification for the use of tanking and buried attenuation in place of preferred SuDS and surface management, and therefore fails to provide sufficient and coherent information to demonstrate that the proposal is acceptable in terms of flood risk and drainage. The proposal is therefore contrary to Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
6. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure (including highway infrastructure) directly required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies SLE4, INF1, and PSD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government Guidance contained within the National Planning Policy Framework.

- 6.2 Reason for Refusal No.6 is the subject of ongoing negotiation with the Appellant to agree financial obligations sought by Oxfordshire County Council and Cherwell District Council. Should a satisfactory planning obligation be completed, as we would hope [CD11-6], the Council would then withdraw the sixth reason.
- 6.3 Discussions have also been on-going with respect to technical highway and drainage matters (Refusal Reasons 3 and 5). Whilst those discussions have been entered into in good faith, the parties still remain far apart in their respective positions, so at the time of writing this proof, those two reasons for refusal remain.

7. THE COUNCIL'S CASE

7.1 Whilst I deal primarily with refusal reason 2 and, in part, with refusal reasons 4 and 6 as relevant, it is necessary to refer to all reasons in this Proof due to the need to assess all matters in the round as part of the 'planning balance' consideration. Planning permission for the proposed development was refused at the Planning Committee meeting on 12 March 2020 for the reasons detailed at paragraph 6.1 above. The Officer and Supplementary Late Agenda reports are both attached at Appendix E [CD3-2 & CD3-3].

Golfing Impacts – Refusal Reason 1

7.2 The LPA's first reason for refusal is primarily addressed in the Proofs of evidence from Thomas Darlington (loss of golfing facilities) [CD13-3] and Paul Almond (the Appellant's suggested re-provision proposals) [CD13-6]. In this Proof, I merely summarise the LPA's principal concerns in advance of my Planning Balance considerations and judgement.

7.3 The proposed development would result in the substantive loss of half of an 18-hole golf course, with the land to remain for Bicester Hotel, Golf and Spa, reconfigured to provide either (as originally proposed) just a 9-hole golf course, which would therefore result in the loss of 9 holes from the golf course; or alternatively (as proposed immediately prior to the refusal decision) provide a much smaller 18-hole facility in a poor and potentially unsafe layout, with two holes sharing each fairway.

7.4 Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031 [CD5-3], states that the Council will ensure sufficient quantity and quality of open space, sport and recreation provision by protecting existing sites and enhancing existing provision. Supporting paragraph B.159 explains that development proposals that would result in the loss of sites will be assessed in accordance with guidance in the NPPF and the PPG.

7.5 The Council's adopted Open Space, Sport and Recreation Assessment and Strategy (produced on its behalf by Nortoft in October 2018) [CD7-2] identifies that there is likely to be a need for more provision of golf courses in the Bicester sub-area due to the level of housing growth (a virtual doubling in the size of the town) and that existing golf courses should be protected. It forecasts a long term and currently unresolved need for an additional 18-hole golf course or two 9-hole courses plus 8 driving range bays in the Bicester sub-area by 2031.

- 7.6 The assessment advanced by the Appellant and referred to inter alia at para.5.4 of its Statement of Case [CD12-2] is not accepted by the LPA and is addressed in the Proof of Mr Darlington [CD13-3].
- 7.7 As the proposal will result in the reduction of the golf course provision at this site, the Council then has to consider the proposal against paragraph 97 of the NPPF [CD5-1]. This states that existing open space, sports and recreation buildings and land should not be built on unless:
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements, or
 - b) the loss resulting from the proposed development 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 needs for which clearly outweigh the loss.
- 7.8 The tests set out at paragraph 97 of the NPPF would not be met. There is no evidence produced to demonstrate that the land occupied by the back-nine holes at BHGS are surplus to the needs of the golf course. The current membership is almost universally of the contrary view. It is not intended that the loss of nine holes would be replaced by even equivalent or better provision, since the original proposal was to simply lose the nine holes and even the revised proposals only intend re-providing the lost holes by simply squeezing two holes into each of the front-nine fairways, which is neither equivalent nor better. The loss of half of the existing golf course would result in a worsening in the established shortage of golf provision in the Bicester sub-area, an area where deficiencies are already forecast in the Council's Open Space, Sport and Recreation Assessment and Strategy (October 2018) [CD7-2]. The further loss which would arise as a result of the proposed development would result in reduced opportunities for improved health and wellbeing and result in a loss of active engagement in sport in this part of Cherwell district. Notwithstanding the recent 'Facility Planning Report' for Bicester Hotel, Golf & Spa from England Golf (December 2020) [CD16B-1], whose conclusions we maintain are based on erroneous assumptions, the Council's evidence demonstrates that this development would conflict with the policies quoted in reason for refusal one.

- 7.9 The Appellants claim in this respect seems to be founded wholly on alleged compliance with sub-paragraph c) to NPPF paragraph 97. However, the alternative tourism leisure resort proposals would either not provide alternative sports at all, so would fail to adhere to the first part of criteria c) to para.97 or would re-provide the lost facilities in a wholly unacceptable, inappropriate and likely unsafe manner. Accordingly, the only realistic basis upon which this particular proposal could be argued to be potentially compliant with national policy guidance would be in terms of providing alternative recreational provision whose needs clearly outweighed the consequent losses, which I and the Council argue has not been demonstrated.
- 7.10 To be potentially compliant with NPPF para.97 sub-paragraph c), the development needs to make both “*alternative sports and recreational provision*” [my emphasis]; so as originally proposed the application was deficient. It was only as belatedly suggested just one day before Committee determination, when perhaps the applicant’s agents reviewed their case and the Committee report, that the applicant chose to submit a short 1-page statement that claimed to be a ‘business case’ and a small A4 plan showing how 18 golf holes could possibly be accommodated on the front-nine holes of the BHGS course.
- 7.11 The assertion by the Appellant (at Para.5.4 of its Statement of Case) [CD12-2] that the Council’s first reason for refusal is “misconceived” and could be appropriately addressed through a re-provision of 18 holes on a suggested redesign of the retained 9-hole course (as referenced at Para.9.5 of its Statement of Case) is contested by the Council in Mr Almond’s Proof [CD13-7] as unfeasible, impractical and unsafe and therefore could not be relied upon. The Council maintains, and its evidence demonstrates, that the resultant substantial harm caused by this proposal would not be outweighed by any benefits accruing from the general leisure and recreational activities proposed.
- 7.12 One-day before application Ref: 19/02550/F was refused on 12th March 2020, the Appellant’s representatives suggested that the nine golf holes to be lost as a consequence of their redevelopment proposals for the land to provide a new leisure resort incorporating waterpark, family entertainment centre, hotel, conference and restaurant facilities and car park could potentially be re-provided through a

reconfiguration of the remaining 9-hole course to provide a smaller 18-hole facility [CD2-8 & CD2-9]. In this scenario, two holes would share each fairway, with some revised tee-box positions. In addition, the Appellant also suggested s106 obligations to provide enhanced practice facilities and a new scholarship scheme for up to twenty under-16 golfers.

- 7.13 At the time, such a belated suggested alteration to an application proposal that was already deemed unacceptable on several grounds, which had been the subject of pre-application discussions and guidance over many months and then had been considered through the application process over four more months without such revision, was deemed inappropriate for consideration, contrary to the Council's adopted Negotiating Protocol and was therefore declined consideration.
- 7.14 The Appellant's suggestion as to how eighteen holes could be accommodated within the space currently occupied by the existing back-nine holes has been reproduced in the annotated aerial image drawing attached at Appendix F. The blue lines indicate the alignment and length of the existing holes and the yellow lines indicate the suggested positioning, alignment and length of what the Appellant now proposes could be a potentially viable alternative re-provision for the nine holes that would be lost as a consequence of development.
- 7.15 With the exception of the No.2/11 holes, which would share the same tee position, the eight other proposed holes would feature new tee positions set forward of the existing hole tees, where golfers would be at risk from stray golf balls being hit from existing tee positions sharing the same fairways. All nine new holes (six of which would be par-3 holes) would share fairways and greens with the existing nine holes. In some instances, to walk between greens and tees would involve long distances (holes 8 to 9, 9 to 10, 11 to 12, 12 to 13, 14 to 15 and 16 to 17) and would involve crossing the fairways of other holes (8 to 9, 9 to 10, 11 to 12, 12 to 13, 14 to 15 and 16 to 17). That would significantly slow play on the suggested redesigned course, make it potentially unsafe and make it a less attractive facility to play.

7.16 Subsequently, the Council's Street Scene & Landscape Manager – Paul Almond, who has extensive golf course management and design experience prior to his employment with the LPA, was consulted on the Appellant's suggested golf course redesign proposals and commented as follows:

1. *This option does not address the loss of the par 36, 3228 yards front nine holes, the additional holes will have to be significantly reduced, meaning it could not be classed as a course suitable for competition as 18-hole courses should have a Par between 69 and 74.*
2. *The addition of second tee boxes on the same hole will slow play down, meaning the time needed to play a round will significantly increase above the average 4 hours to play a normal 18-hole course.*
3. *There seems to be no design in the proposal as to where the additional tee positions have been proposed, Golfers not only have long walks between greens to the next tees, but also have to cross fairways where other golfers will be teeing off or playing.*
4. *Due to the positioning of the additional tee boxes, I feel that Health and Safety is a concern, as golfers could be hit by golf balls being played by the other golfers on the same hole.*

7.17 More recently, the Appellants liaised further with England Golf and encouraged them to produce an updated 'Facility Planning Report' for the Bicester Hotel Golf & Spa site and the ten other golfing facilities, which it claimed were within a '20-minute drive-time' of Chesterton [CD16B-1]. That update report, which made no reference to the Council's own golfing need report of 2018, concludes that: "*within the identified region there is a relatively low demand for golf when compared to the average for the South East region*" and also: "*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*". The report asserted that there were nine other 18-hole courses all within a 20-minute drive time of the appeal site, which is not correct. Based on that erroneous assumption, the England Golf report concluded that the local area was sufficiently provided for should the loss of 9 holes be agreed on this site. The Council's evidence is that only three of the nine 18-hole courses referenced are within a 20-minute drive time of BHGS. Also, from a sustainability perspective it would be wrong to seek to satisfy golf demand from the Bicester area in locations remote from Bicester, as that would inevitably encourage travelling, most often by private car, to facilities more than 20 minutes drive time of BHGS and Bicester. In

light of all the above, this development proposals would be contrary to Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 and not in accordance with the potential exceptions to general presumption against development listed in NPPF, para.97.

Sustainable Development – Refusal Reason 2

7.18 National Policy forms a key material planning consideration. At the heart of the NPPF [CD5-1] is the presumption in favour of sustainable development, which should be seen as a golden thread running through both planning making and decision taking. This is set out at paragraph 14, which confirms that for decision taking this means¹:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted ”².

7.19 Paragraph 7 of the NPPF explains that there are three dimensions (economic, social and environmental) to sustainable development. The three roles are stated below:

- Economic – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- Social – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

¹ Unless material considerations indicate otherwise

² For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/ or designated Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

- Environmental - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

7.20 Paragraph 8 of the NPPF states these roles should not be undertaken in isolation, because they are mutually dependent; *“to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system”*.

7.21 At paragraph 5.9 of the Appellant’s Rule 6 appeal statement [CD12-2], it is argued that the Council did not address in the assessment of planning merits of the proposals the sustainability evidence presented at paragraphs 6.58-6.63 of the application Planning Statement. Also, that the Council improperly assessed issues of sustainability of location and potential impact on the vitality and viability of Bicester town centre, such that the conclusions reached in respect to Refusal Reason 2 were inappropriately derived, contrary to NPPF guidance in paragraphs 80-87.

7.22 The Appellant’s contentions are refuted, since extensive reference to the relevant evidence and guidance was contained in the main Committee report of 12th March 2020 at paragraphs 9.9 - 9.10, 9.17 - 9.20 and 9.29 - 9.51 [DCD3-3]. Subsequently, in light of the Appellant’s contentions, the Council considered an update report on the proposals and the Appellants claims, in December 2020. The Council reaffirmed its earlier decisions without modification. The appeal site lies in open countryside and is currently used for sport and recreation as part of a golf course, which is an acceptable form of development use in a rural location. The site is not previously developed ‘brownfield’ land and notwithstanding the loss of golf facility previously referenced, if such a leisure destination resort of this nature and scale was required it should look to be accommodated first on previously developed land in or on the edge of towns or other sustainable settlements. Only if those more sustainable locations do not exist and a need for such facilities has been demonstrated should one consider providing for such a need in a rural location such as this. The Appellant has failed to demonstrate that the need it believes exists could only be provided in this particular rural location.

- 7.23 When the Appellant's criticisms were taken back to Planning Committee on 10 December 2020 for further consideration, Council Members reaffirmed their decision to refuse planning permission for all six reasons, including planning and sustainability.
- 7.24 The Appellants have chosen a site that was available to them; happens to be quite close to a growth town – Bicester; and that is located beside a motorway – the M40. Beyond that, there is little evidence of a robust assessment of needs in the local area or any examination of potential alternatives. The facts that the appeal site: is located beyond the developed limits of both Bicester and Chesterton village in an open countryside setting; is not presently connected to either the town or village by public transport services or cycling and walking routes; is served by only poor quality rural roads and junctions, whereby the traffic volumes generated by this development could not be adequately served at the nearby Middleton Stoney crossroad junction; would result in a detrimental impact to golf provision in an area of established local need; and that the site is poorly drained appear to have either been initially ignored or addressed inadequately, with mitigation measures often only belatedly suggested to vainly attempt to address identified harm caused.
- 7.25 At the time of the Council's decision to refuse planning permission, the Appellant had not secured any agreement with the Highway Authority to either implement or fund improvements to mitigate wider traffic impacts and enhance public transport, cycling or walking sufficient to improve the sustainability of the site, nor signed any planning obligation agreement to guarantee delivery of any such improvement. The District Council acknowledge that various improvement works have subsequently been agreed with the County Council that will ensure that the site is accessible by a range of transport modes and not wholly dependent on the private car. Public transport, cycling and pedestrian improvement measures that are now referenced in the draft s.106 Deed presented at this Inquiry [CD11-1] appear to have satisfied the Local Highway Authority in respect to transport sustainability. However, the District Council note that the public transport funding is time limited to ten years and the cycle lane and pedestrian footpath improvement works now proposed would only facilitate safe access between the village of Chesterton and the appeal site, not to Bicester or its town centre.

- 7.26 The LPA remains concerned that the appeal proposals will not provide continuous safe, segregated pedestrian and cycle connectivity with Bicester, public transport subsidies will be time limited and address the transport needs of only a small proportion of likely visitors to such a facility. The proposed leisure resort is designed as a destination facility intended to serve a national and regional clientele, who will primarily arrive and depart by private car; hence the 902 car parking spaces for the projected 1,250 daily visitors. Notwithstanding the relative geographic proximity to Bicester and the motorway system (with junctions approximately 2-3km from the BHGS site) the rural roads that immediately serve the site and provide connections to Bicester and the M40 are not suitable for such massive increases in daily traffic generation. The LPA considers that the appeal proposals would neither help reduce nor even maintain travel desires or distances travelled. On the contrary, the appeal proposals would substantively increase traffic demands (primarily by car) and encourage travel over potentially long distances to attend the resort facilities, which cannot be deemed sustainable.
- 7.27 Combining those transport impacts with the specific harm caused at the Middleton Stoney crossroad junction, plus the harm caused to golfing facilities locally, the harm caused to the rural character and appearance of the area, and the potential increased risk of flooding renders this an unsustainable development proposal contrary to policies SLE1, SLE2, SLE3, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1, saved policies T5, TR7 and C8 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Highway Matters – Refusal Reason 3

- 7.28 At paragraph 5.14 of the Appellant's Rule 6 appeal statement, it is argued that the Appellant's latest suggested highway mitigation works for the B430/B4030 cross-road junction in the centre of Middleton Stoney (which were presented to OCC on 27th February 2020 on behalf of the Appellant by Motion) ought to have overcome the County Council's highway objection referenced at Refusal Reason 3 with respect to traffic impacts. The proposed mitigation works comprised an additional northbound left turn lane at the junction, with widened carriageway kerb lines to either side but especially on the southeast side of the junction, and modified road markings. However, the County Council confirmed in its objection in respect to (but

limited to) the traffic impact of the development at the Middleton Stoney junction. This was because existing severe congestion at the Middleton Stoney signalised junction would inevitably be exacerbated by the large quantum of additional trips generated by the proposed development, contrary to paragraphs 103, 108 and 109 of the NPPF, Cherwell Local Plan Policy SLE4 and Oxfordshire Local Transport Plan 4 Policy 17. That objection was confirmed in the Supplementary Agenda Papers presented to Committee prior to determination. OCC as Highway Authority instructed Systra to refute the Appellant's claims at this Inquiry in the separate evidence presented by Alan DeVenny. His evidence demonstrates that the Appellant's proposed junction works would not result in no material impact in the operation of that junction, as claimed by the Appellant.

7.29 On the contrary, Mr DeVenny's evidence demonstrates that the Appellant acknowledges in Para.6.3.6 of its Statement of Case evidence that *'the signalised junction is likely to operate in excess of its theoretical capacity in the 2026 scenario'*. The LPA case in this regard from Mr DeVenny is that the evidence from Table 6.11 of the Appellant's Transport Assessment (TA) demonstrates that the B430/B4030 Middleton Stoney junction is shown to be critically over capacity on all arms for the 2026 baseline scenario. Those values relate to a scenario which did not include trips associated with the approved Heyford Park (Phase 2) development, or any additional activity associated with the Great Wolf proposal. Therefore, the junction is already under considerable pressure before any committed development is added and before any Appeal Development traffic is added. The Appellants own evidence (at Table 6.12 of the TA) demonstrates a deterioration in overall B430/B4030 junction performance as a result of the additional demands placed upon it. Levels of queueing on all arms are expected to increase substantially. Overall, the junction is expected to perform much less effectively when compared to the 2026 Baseline scenario, which in its own right shows the junction to be over capacity.

7.30 Once committed development at Heyford Park and the proposed development at BHGS is added, the Appellants own evidence at Table 6.13 of the TA demonstrates that queue lengths generally increase as additional trips are added to the junction through planned and then proposed development. Mr DeVenny's evidence concludes that the resultant impact of proposed development would be "severe". Those impacts are further compounded in the LPA's opinion and evidence by the

cumulative impacts introduced by the Heyford Park Phase 1 development and the recently consented Heyford Park phase 2 development. Those proposals are part of a strategic Local Plan allocation on previously developed land and when the proposed development flows are added to the Heyford Park flows, it results in significant problems at the B430/B4030 Middleton Stoney junction that are very difficult to mitigate as a result of the existing tight geometry and adjacent constraints, which prevent any easy fixes with regard to the provision of additional road space.

7.31 A scheme of mitigation was suggested by the Appellant for the B430/B4030 Middleton Stoney junction in order to try to address the “severe” traffic impacts identified. The County Council’s traffic witness examined the proposed scheme and found it to fall short of design standards and that its implementation would introduce significant and unacceptable road safety matters, particularly around pedestrian safety. The Appellant also failed to demonstrate that the mitigation scheme would provide a no net detriment solution at the crossroad junction.

7.32 Accordingly, the Council’s third reason for refusal is sustained, substantive harm would be caused to the operation of the junction and the safety of pedestrians alongside by the development proposals. This would be contrary to paragraphs 103, 108 and 109 of the NPPF, Cherwell Local Plan policy SLE4 and Oxfordshire Local Transport Plan 4 policy 17.

Landscape Matters – Refusal Reason 4

7.33 The landscape objections of the Local Planning Authority are dealt with separately by David Huskisson of Huskisson Brown Associates. His evidence demonstrates that the development proposed, by virtue of its considerable size, scale and massing and its location in the open countryside beyond the built limits of the village of Chesterton, along with its institutional appearance, incongruous design, and associated levels of activity including regular comings and goings, would cause significant urbanisation and unacceptable harm to the character and appearance of the surrounding rural area, including the setting of Chesterton and the amenities enjoyed by users of the public right of way that passes through the site.

- 7.34 The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and the NPPF.
- 7.35 Mr Huskisson's assessment shows that there would be a range of receptors that would be exposed to adverse effects, which would be significant and would not be materially reduced by year 15, contrary to the findings of the Appellant's LVIA.
- 7.36 The LPA's principal concern relates to the changes to visual amenity for all users of the A4095, where the views would be harmed by an obvious urbanisation of the road corridor reinforced by the looming presence of the hotel element seen across the extensive car park. These effects will also impact on the appreciation of the setting of Chesterton village when approaching from the west and Bignell Park, which lies on the opposite side of the road. Other significant visual intrusion would be noticeable from Green Lane and the Public Right of Way (PRoW) footpath through the site. Such urbanisation and landscape harm would be contrary to adopted Development Plan policies ESD13 and ESD15 and saved policies C8 and C28 in the 1996 Local Plan.
- 7.37 In addition, the Appellant's intended highway mitigation proposals that are intended to overcome the Council's concerns with respect to the B430/B4030 Middleton Stoney crossroad junction, which would involve a considerable widening of the northbound approach to the junction would be damaging visually to the rural character and appearance of that village, contrary to policy ESD15.
- 7.38 As Mr Huskisson's evidence demonstrates, the Appellant has clearly not adopted a landscape first approach in these proposals. Rather, the Appellant has sought first to accommodate the business plans of the client organisation from what appears a largely standard template design and then sought to mitigate as far as possible the various harmful impacts that such a development with massive built form and large car parks alongside inevitably brings.

- 7.39 The Appellants proposals would create both an alien landform and a form of 3 and 4-storey built development whose scale and monolithic and institutional appearance would be alien to the established rural character of the surrounding countryside and the character and appearance of the nearby Chesterton village.

Drainage Matters – Refusal Reason 5

- 7.40 At paragraph 5.35 of the Appellant’s Rule 6 appeal statement, it is argued that the supplemental drainage evidence submitted by Curtins on 9th March 2020 on the Appellant’s behalf, in response to a critique of its drainage submission undertaken on behalf of OCC by Tyréns, was not considered by the Council in either the main Committee report or the supplementary report, when it resolved to refuse planning permission and included a specific drainage reason at Refusal Reason 5. In fact, on page 2 of the Supplemental Report, Committee Members were advised about the receipt of additional drainage submissions, and the report suggested that in the absence of an updated further written response from OCC, that compliance with relevant drainage policies could potentially be achieved by conditions.
- 7.41 However, it was reported to Members at the Committee meeting that despite the latest submissions made on behalf of the Appellants, OCC had confirmed no substantive change had been made to the drainage proposals since its concerns were originally highlighted at pre-application stage. Rather than accept the guidance issued to utilise more substantive SuDS methods with ponds and swales, which would take account of high groundwater levels across large parts of the site, the Appellant chose to maintain its original drainage design methodology, incorporating a 2,000m³ underground storage tank and extensive culverted connection pipes.
- 7.42 Throughout the course of the pre-application discussions and subsequent consideration of the full application only a small section of original culverting was removed from the Appellant’s initial designs. Notwithstanding the advice given, the drainage proposals have remained largely as originally proposed at pre-application stage, despite the County Council’s consistent repeated confirmed objections. Since refusal, the Appellant’s agents have continued to liaise with the County Council on drainage matters. However, despite repeated promises that they would provide some amended drainage details to reflect the County Council’s concerns and despite

numerous deadlines having been set for submission of such amended proposals, nothing has been received from the Appellants other than reiteration of the claims made in support of their original designs. Accordingly, OCC still maintain their drainage objections to the proposals and detailed evidence to substantiate their case is provided in the Proof of Richard Bennett. The proposals remain contrary to policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the NPPF.

s.106 Matters – Refusal Reason 6

- 7.43 Since the application was originally refused, significant progress has been made in respect to potential planning obligation commitments and those are reflected in the draft s.106 agreement presented to this Inquiry. In the event that this appeal is allowed and planning permission is granted, subject to the Deed being completed and signed, the LPA would be agreeable to dropping its sixth reason for refusal.

8. OVERALL PLANNING BALANCE & SUSTAINABLE DEVELOPMENT

Over-arching Issues – The Principle of Development

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.
- 8.2 As previously referenced, the Development Plan for Cherwell District includes the Cherwell Local Plan 2011-2031 (adopted in July 2015) and saved policies from the Cherwell Local Plan 1996. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. Also, it is not previously developed land, although it is currently used as a golf course. The site sits outside the built-up limits of the nearby village of Chesterton, in open countryside. Great weight is afforded to this non-compliance with the Development Plan. Accordingly, as a development that is not in accord with the adopted Development Plan, if this proposal were to be accepted, it would need to be justified as an exception to policy on the grounds that its benefits would outweigh its policy conflicts and its other harmful impacts as described in the Council's six refusal reasons.
- 8.3 The proposal is for tourism development as a leisure destination, so Policy SLE3 of the Cherwell Local Plan 2011-2031 Part 1, along with saved policies T5, TR7 and C8 of the Cherwell Local Plan 1996, are relevant. Insofar as Policy SLE3 is concerned, the proposal would undoubtedly help to increase visitor accommodation in the district. However, there are significant concerns regarding the geographical sustainability of the site, due to its open countryside location, the existing lack of sustainable transport links and other sustainability credentials of the proposal. Whilst relatively near to the strategic growth location of Bicester town, the appeal site is neither within or on the edge of Bicester or its allocated urban edge growth areas, nor is it within the Category A village of Chesterton. Instead, the site is in open countryside outside of the built environs of any settlement. It currently has non-existent public transport links as well as poor links by cycle and foot, due to lack of

pavements on rural roads and the busy nature of the A4095, which runs between Bicester and Witney. Therefore, and considering the intended guest demographic being families with children aged 2-12 years and the expected catchment (at least up to 125 miles radius), the reliance on the private motor vehicle for access to the site will be high and the predominant means of transport.

8.4 Whilst it is acknowledged that the use proposed is 'Sui Generis' given that it is to act as a single resort, the LPA nevertheless consider the proposal to be in part a main town centre use. The Glossary to the NPPF provides a description of main town centre uses, which include leisure, entertainment and more intensive recreation uses and which I consider to be an appropriate description for the intended use of this site. There is clearly potential for the proposed development to harm the vitality and viability of Bicester town centre (3km away) contrary to Local Plan Policy SLE2. The level of floor space proposed in the appeal is well above the Local Plan threshold of 350m² for the rural areas in the Local Plan, meaning an impact assessment would be required. The Appellant contends that the offer, experience and target audience to all parts of the resort, is different and generally complementary to that of other hotels and/or resorts and therefore suggests that there would be negligible or nil impact on Bicester town. The Appellant also contends that very few resorts, resort hotels or conference facilities are located within designated town centres and there would therefore be no diversion of expenditure away from centres.

8.5 Local Plan policy SLE2 and paragraph 89 of the NPPF require impact assessments for leisure developments over 350m² that are not located in central locations. In this instance, the Appellant did provide an economic statement, which suggested there would be a net gain in income to the area, which is relevant, but no impact assessment to consider quantitative impacts on Bicester town or any other centres in line with government guidance was provided. The appeal proposals are outside Bicester town centre and the 'area of search' in an out of centre location and therefore in principle are inconsistent with adopted Development Plan policy in terms of the strategy for accommodating town centre uses and supporting the growth, vitality and viability of central Bicester.

8.6 The Appellant did provide a sequential test that considered locations in and outside of the District and sets out their requirements, which they contend led to the selection of the application site. NPPG paragraph 011 Reference ID: 2b-011-20190722 [CD5-2] states that the application of the test needs to be proportionate and appropriate for the given proposal. Also, for the sequential test, the NPPF requires that Applicants/Appellants and LPAs demonstrate flexibility on issues such as format and scale. NPPG paragraph 012 Reference ID: 2b-012-20190722 goes on to state that the use of a sequential test should recognise that certain main town centre uses have particular market and locational requirements that mean that they may only be accommodated in specific locations. The Appellant highlights that other similar leisure resort developments are often located away from settlements and it is relevant to consider the particular nature and requirements of the business/proposal, including how different uses proposed may operate together and the land required in considering the sequential test and application.

8.7 Having considered that guidance, it is acknowledged that the sites within Cherwell District considered in the Appellant's sequential test were appropriate and the LPA and I are persuaded that it shows that the development could not be accommodated within Bicester town. However, that does not negate the need for an impact assessment, and it does not follow that the proposal is acceptable in this particular location. In my considered opinion, the information submitted has not demonstrated that the appeal site is an appropriate or sustainable location for this type/scale of development. Whilst client base, travel time, and location suitability for a business model are all considerations of the Appellant that is not to say that the current proposed location is the best and only location for such a development in planning and sustainable development terms. As a development that is clearly contrary to the Development Plan, the onus is upon the Appellant to demonstrate that this is a sustainable location for such a development, having regard to the anticipated catchment area of the proposal and its expected impacts. The Appellant has failed to provide a substantive argument that there are sound and convincing reasons to justify the proposal in this particular rural location, which amounts to significant built development attracting substantial visitor numbers and which is heavily car reliant and accessed by minor roads. This weighs heavily against the proposal.

- 8.8 Chesterton village is served by minor roads, including the 4095, Alchester Road and Green Lane. Saved Policy TR7 states that development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted. Policy SLE4 states that financial and/or in-kind contributions will be required to mitigate the transport impacts of development. It also clarifies that development that is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported. Policy ESD1 sets a general context to mitigate and adapt to climate change and it reiterates the importance of locating development in sustainable locations.
- 8.9 The appeal proposal will inevitably attract both large numbers of commercial vehicles to service its extensive leisure offer and large numbers of private cars notwithstanding that a small proportion of visitors could potentially arrive by non-car modes. The local roads are unsuitable for such large numbers of additional trips and, as such, the proposals are clearly contrary to saved policy TR7. The sheer volume of traffic generated to a rural countryside location would not be sustainable and would conflict with policy ESD1. Whilst the Appellant is prepared to make contributions to mitigate the transport impacts of the proposal, in accordance with policy SLE4 requirements, the level of mitigation proposed will not
- 8.10 The application was accompanied by an Environmental Statement (ES) in fulfilment of the EIA regulations. The ES covered landscape and visual impacts, ecology, transport, air quality, noise and vibration, water management, ground conditions and contamination, agriculture and soils, built heritage, archaeology, construction and demolition phases, impact upon the climate, socio economics, human health, waste and cumulative effects. The ES identified significant impacts of the development suggested mitigation to try to make the development acceptable.
- 8.11 As the Council's Committee report pointed out, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 require that LPAs should not grant planning permission or subsequent consent pursuant to an application to which these regulations apply unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so. The information in the ES and the consultation responses received were all taken into account in considering the application and determining to refuse permission.

- 8.12 In essence the appeal proposal is for tourism development, so Policy SLE3 of the Cherwell Local Plan 2011-2031 Part 1, together with saved policies T5, TR7 and C8 of the Cherwell Local Plan 1996, are relevant. Insofar as saved policies T5 and C8 are concerned, the proposals are clearly in conflict with these, as the development proposed is for a substantial new 3 and 4-storey hotel with associated conference and leisure facilities, on a site that is largely devoid of built structures and is beyond the built limits of the nearest settlement. The accompanying text for Saved Policy C8 includes that development in the countryside must be resisted if its attractive, open, rural character is to be maintained. This weighs against the proposal.
- 8.13 Insofar as Policy SLE3 is concerned, the proposal would certainly help to increase visitor accommodation in the district but there are significant concerns regarding the geographic sustainability of the site due to the lack of sustainable transport links and other sustainability credentials of the proposal, such as the open countryside setting and the sheer scale of development proposed. Although fairly close to Bicester, the appeal site is at least 1.3km from its nearest developed edge and it is about 400m beyond the developed edge of Chesterton. Chesterton village is identified as a Category A Village (Policy Villages 1) which would be suitable only for minor development, infilling and conversions. The village is served by only minor roads, including Alchester Road and Green Lane. Saved Policy TR7 states that development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted. Policy SLE4 states that financial and/or in-kind contributions will be required to mitigate the transport impacts of development. It also clarifies that development that is not suitable for the roads that serve it and which would have a severe traffic impact will not be supported. Policy ESD1 sets a general context to mitigate and adapt to climate change and it reiterates the importance of locating development in sustainable locations.
- 8.14 The appeal site represents open countryside outside of the built environs of any settlement. It currently has non-existent public transport services and poor links by cycle and foot, due to a lack of pavements along rural roads and the busy A4095. Bearing in mind the guest demographic of the projected 1,250 daily visitors would be families with children aged 2-12 years and the expected 125-mile radius catchment

area, the inevitable reliance on the private cars for access to the site will be high and the predominant means of transport, as reflected in the proposed 902-space car park.

Assessment of Economic Impacts

- 8.15 The proposal has the potential to generate economic benefits for the local economy and wider region through investment, job creation and local/national tourism. The proposed development would lead to benefits in terms of jobs and expenditure in the local area during both the construction (temporary) and operation of the site. Its location near to Bicester may also assist in securing some benefit in Bicester through linked trips to its town centre and edge of centre facilities and with other tourist attractions such places as Bicester Heritage, on the former RAF base. The Appellant claims that the equivalent of 460 full-time jobs would be created, with further jobs during the construction phase.
- 8.16 The primary objective of the Local Plan (SO1) is to facilitate economic growth and employment in the District, with a particular emphasis given to attracting higher technologies. The proposal would be unlikely to produce many permanent high tech/skilled jobs, although some could potentially be created in the short-term during planning and construction phases. Some of the permanent, longer-term roles will be in professional and managerial roles but the majority would be in lower-skilled occupations, which would not reflect the desired direction suggested in either the Oxfordshire Industrial Strategy or Cherwell's own emerging Industrial Strategy. In addition, there is an issue relating to the supply of labour. Latest figures suggest that within the local workforce (those aged 16-64) 12,700 people are economically inactive and 9,300 more do not want/are unable to take a job (ONS population survey Oct.'18-Sept.'19 data). Therefore, only about 3,400 people living in the district may be expected to be seeking work, but the proposed development does not indicate how workforce skill sets or ambitions would match the work available at Great Wolf resort. It is nevertheless accepted that for people seeking leisure and hospitality roles the proposed development would offer opportunities for employment which is a benefit.

- 8.17 The proposal would contribute towards reducing out-commuting, by generating new jobs near to Bicester, which is one of the main aims of the Local Plan and the NPPF (at para.80) states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 8.18 The proposal will provide leisure facilities that would be available for Bicester and the wider area, which is an expanding population. However, the spin-off economic benefits to the wider economy may well be limited as Great Wolf Lodges are known and are marketed in North America as offering “*everything under one roof*”, i.e. a destination resort.
- 8.19 Notwithstanding that there would be economic benefits associated with the proposed scheme, these are likely to be mostly low-skilled positions, which does not reflect the desired direction suggested in either Cherwell District nor Oxfordshire County policies. Whilst there would be provision of employment and some other economic benefits, it is not accepted that this would in itself outweigh the in-principle objections and no evidence has been presented that this site is the most sustainable location at which to accommodate such a facility.

Assessment of Social Impacts

- 8.20 From a social perspective, the creation of a large, stand-alone resort destination could be argued to help support community health, social and cultural well-being, which is a benefit, but it would do little to support building strong, vibrant and healthy communities, would not foster the creation of well-designed and safe built environments and would not be particularly accessible, which are all dis-benefits.
- 8.21 The loss of golf facilities in an area of established local need, which could not be adequately re-provided for, would also be a significant social dis-benefit.
- 8.22 Whilst highway improvements could be provided locally to enhance connectivity by non-car modes between the BHGS site and Chesterton village (a small benefit), little benefit would accrue for Bicester and the traffic volumes generated by the proposals would be harmful to the character of the local rural lanes and the setting, character

and appearance of both Chesterton and Middleton Stoney villages in particular, which would be a significant dis-benefit.

- 8.23 The massive scale of development proposed, featuring large areas of 3 and 4-storey proportioned buildings, with extensive façades and a large car park would not represent the creation of a well-designed and safe built environment.

Assessment of Environmental Impacts

- 8.24 Environmentally, the appeal proposals would have significant dis-benefits. Local Plan Policy ESD15 specifically states that new development proposals should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness as well as being designed to deliver high quality safe, attractive, durable and healthy places to live and work in. This site near Chesterton is an open countryside location and the development proposed is of such a size and prominence, particularly when viewed from the A4095 and the PRoW that it would serve to significantly urbanise the character and appearance of the locality. The development proposed would amount to a substantial overdevelopment of the site, especially when compared to the adjacent Bicester Hotel Golf and Spa.
- 8.25 Whilst the Appellant claims to have located the built form and car park hardstanding as far away from the site edges as practicable to try to maximise retention of boundary vegetation and allow for new planting to reduce impact, the proposals are of such a substantial large scale that their urbanising effect upon the surrounding rural landscape simply cannot be adequately screened or mitigated.
- 8.26 The proposed site is currently devoid of buildings or built structures. The existing use of the site as a golf course has clearly led to the land being managed and has changed the character of the land from its former agricultural use. However, the site maintains an open and green rural character and appearance, with an absence of built form.
- 8.27 Therefore, it still contributes to the rural character and appearance of the area and the boundary planting and planting throughout the site appears harmonious with its open countryside setting.

- 8.28 The existing Bicester Hotel Golf and Spa complex is not comparable to the proposal in terms of scale, size nor massing and is more appropriate in all respects to its rural context and setting and its low-key leisure use. The proposed buildings, containing indoor waterpark, hotel and conference facilities would introduce a substantial amount of built form to the site where none currently exists with the provision of very significant buildings both in terms of footprint and scale and with extensive areas of parking and hardstanding around the building. The water slides tower would be 22.5m tall and the highest sections of the 498-bed hotel accommodating the guest bedrooms would be between 18-20m in height. The proposed buildings would be significantly taller and larger than any buildings in the surrounding area and would not relate to the scale and size of other buildings in the locality, which are generally 2-storey and with far more modest footprints. As such, the proposed development would appear incongruous and alien to its surroundings when viewed in particular from the A4095 and from the PRow footpath that cross the site.
- 8.29 I therefore consider the proposal to be contrary to policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved policies TR7, C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF, which weighs significantly against the proposals.
- 8.30 The proposals have the potential to cause light and noise pollution to the surroundings and nearby residential neighbours. The separation distances to neighbours, combined with existing and proposed landscaping and careful building design, should mitigate most of the light spillage and the Appellant acknowledges that there will be residual skyglow. It is considered that this could be controlled by condition and there ought not to be any significant adverse impact in this regard, i.e. a minor impact.
- 8.31 With respect to drainage matters and despite repeated attempts to negotiate in a positive and proactive manner with the Appellant at pre-application, application and post-application stages, the Appellant has consistently refused to fundamentally modify the drainage proposals for this site. From a positive perspective, the Appellant has sought to include rainwater harvesting within the proposals and has deleted a small section of originally proposed culverting. However, notwithstanding the high groundwater water table and known severe surface water drainage

problems at nearby Wendlebury, where waters from this site and its surroundings largely drain, the Appellant has maintained its original large underground storage tank and buried pipework proposals, which the County Council's drainage engineers have consistently advised would be unsustainable and ineffective.

- 8.32 Information has not been submitted which demonstrates to the satisfaction of the County Council as local lead flood authority (LLFA) that opportunities for groundwater abstraction and SuDS have been fully explored. In terms of the sustainability measures employed for reducing water consumption further information was requested to ensure the methods proposed were the most appropriate. On balance, the opinion of the LLFA is that the proposals would not adequately drain the site and would increase flood risk downstream contrary to Local Plan policies ESD1, ESD2, ESD3, ESD4, ESD5 & ESD15 – a significant disbenefit.
- 8.33 Insofar as transport considerations are concerned, whilst the access and car parking proposals (in terms of required numbers against standards) are satisfactory there are fundamental issues regarding the site's location, sustainability and the resulting dependency on the private car to access this proposed facility. The development is not planned for and would not be making best use of infrastructure given the need to accommodate the planned growth allocated within the Development Plan.
- 8.34 The facility is designed to serve a clientele within a 125-mile radius of the site and is planned to cater for up to 1,250 guest visitors each day plus the anticipated 460 FTE workforce. Attracting such large volumes of traffic, over such considerable distances and along narrow rural lanes between the site and the strategic highway network would not be sustainable. Despite the Appellant's claims in respect to local public transport, cycle and pedestrian enhancements, the great majority of visitors to this open countryside site would access the facilities inevitably by private car and that could not be achieved in a sustainable manner.
- 8.35 The A4095 is already a busy rural cut-through between Bicester and Witney and the B430/B4030 signalised junction at nearby Middleton Stoney is already congested. The additional traffic generated by this proposal will only exacerbate congestion along routes unsuited to such large traffic volumes.

8.36 Accordingly, the proposed development would have a materially adverse impact upon the local highway network by virtue of significantly increased traffic from an unplanned development and increased congestion on an already congested network. The impacts would be particularly severe in terms of the Middleton Stoney signalised junction, which is operating in excess of its design capacity.

9 CONCLUSIONS

- 9.1 The National Planning Policy Framework (NPPF) at paragraph 14 states that, at its heart, is “a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking”. The three dimensions of sustainable development – economic, social and environmental, must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 9.2 The Council’s evidence in this Proof of mine, along with that of its other witnesses – Thomas Darlington, Paul Almond, Alan DeVenny, David Huskisson and Richard Bennet demonstrates that the development of the appeal site would fail to deliver a sustainable development. Both the principle of development and the harm which would be caused would be contrary to adopted Development Plan policies and national policy as set out in the NPPF.
- 9.3 Notwithstanding the economic benefits of the proposals and the fact that some of the likely impacts of development could be mitigated and controlled by condition, the substantial conflict with Development Plan policies, the harmful impacts of development in respect to golfing provision locally, the unsustainable location of the appeal site, the attraction of large volumes of traffic movements primarily by private car along unsuitable rural lanes and through a particularly congested junction at Middleton Stoney, combined with significantly harmful landscape and visual and drainage impacts all combine to render the appeal proposals unsustainable and unacceptable.
- 9.4 For these reasons, the Inspector is respectfully requested to dismiss this appeal. Without prejudice to this request, a set of draft conditions, which are to be agreed with the Appellant, are suggested to be imposed on any potential approval that the Inspector might be minded to grant.