



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

SUMMARY PROOF

of

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Team Leader, Major Developments, Cherwell District Council

1. INTRODUCTION

1.1 My name is Andrew Bateson. I hold a BSc (Hons) degree in Town and Regional Planning and have been a full Member of the RTPI since 1998. I am employed by Cherwell District Council as Team Leader for Major Developments.

2. PURPOSE AND SCOPE OF PROOF

2.1 My Proof deals with general planning and sustainability considerations, i.e. Refusal Reason 2 : Issue G – the unsustainability of location and failure to comply with Development Plan and national planning guidance; Reason 6 – s.106 issues (which could be addressed through a Statement of Common Ground and the signing of a s.106 Deed) plus, in part, Refusal Reason 4 : Issue C – in respect to size, scale and massing impacts on the surrounding open countryside.

2.2 Although I mention golfing, transport, landscape and visual, and drainage impacts in general terms as part of the planning balance consideration (Refusal Reasons 1, 3, 4 and 5), detailed evidence on these issues is provided by others.

3. APPEAL SITE LOCATION AND PROPOSAL

Appeal Site Location

3.1 The 18.6ha appeal site (refer Appendix A) comprises the western nine holes of an 18-hole golf course at Bicester Hotel, Golf and Spa (BHGS) near Chesterton, a village southwest of Bicester.

3.2 The site lies 400m west of the developed edge of Chesterton, in open countryside. Little Chesterton is 1.3km to the south and the site's eastern edge is 1.3km from the western edge of Bicester and 3km from the town centre.

3.3 The site contains a variety of ponds, plantation, woodland, hedgerow (some forming site boundaries) and individual tree groups, mostly delineating fairways or providing low-level screening. PRow 161/6/10 runs roughly north-south through the site.

The Appeal Proposal

3.4 The appeal concerns refused application 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.

4. RELEVANT PLANNING HISTORY

4.1 Detail is in section 2 of the Council's Rule 6 Statement [CD13-2] and Appendix B.

4.2 Reference is also made to an outline application at the junction of Green Lane/The Hale, Chesterton (15/00454/OUT) that proposed 51 dwellings with access, open space and surface water retention pond, on land on the southwest edge of Chesterton village, just east of BHGS (see Appendix C). The application was refused and subsequently dismissed at appeal (APP/C3105/W/15/3130576) [CD8-1] on grounds of unsustainability, non-compliance with the Development Plan and harm to the setting, character and appearance of Chesterton and surrounding rural area.

4.3 Another appeal decision of relevance is APP/V0728/W/19/3243156 [CD8-2] (also at Appendix C) which was a proposal for 170 camping and caravanning pitches, 2 amenity blocks, a reception/ shop/café building, recycling area, children's play area, waste and water points, site manager's pitch, tractor shed, parking provision, site access, internal access roads, footpath link, landscaping and associated works all on land east of Saltburn Lane, near Saltburn, in Redcar and Cleveland. It is relevant insofar as the scale of leisure/tourism development proposed in a rural area and its impact on the character and appearance of its surroundings are similar to refusal reason 4 at Chesterton.

5. PRELIMINARY POLICY CONSIDERATIONS

5.1 S.38(6) of the Planning & Compulsory Purchase Act 2004 states applications for development must be determined in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the NPPF.

- 5.2 The Development Plan consists of: Cherwell Local Plan 2011-2031 - Part 1 [CD5-3]; 'saved' policies in the Cherwell Local Plan 1996 [CD5-5] (see Appendix D); and the Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need [CD5-4]. Development Plan policies relevant to the appeal are noted in section 3 of the Council's Rule 6 Statement [CD13-2] and in Appendix E.
- 5.3 In July 2020, a Community Involvement Consultation Paper was published as the first stage in its Local Plan review to 2040 [CD6-1]. A 'call for sites' and Sustainability Appraisal Scoping Report were also published. Given delays with the draft Oxfordshire Plan 2050, no Reg.18 on the 2040 review Plan is expected until June 2021 and given its preliminary evolutionary stage, it carries no material weight for this appeal.
- 5.4 Both the NPPF [CD5-1] and Planning Practice Guidance [CD5-2] form national guidance and carry full weight as material considerations.

6. REASONS FOR REFUSAL

- 6.1 The Council's Planning Committee resolved to refuse the Appellants application on 12th March 2020, with six refusal reasons listed [CD3-1].
- 6.2 Reason 6 (lack of an s.106) is the subject of ongoing negotiation. Should a satisfactory planning obligation be completed [CD11-6 is a draft], the Council could withdraw this reason.
- 6.3 Discussions have also been on-going regarding highway and drainage matters (Reasons 3 & 5) but the parties remain far apart in their respective positions.

7. THE COUNCIL'S CASE

- 7.1 Whilst I deal primarily with refusal reason 2 and, in part, with refusal reasons 4 and 6, my full Proof refers to all six reasons as part of the 'planning balance' consideration. This summary only specifically references reasons 2, 4 and 6, other than in the final Planning Balance section.

Refusal Reason 2

- 7.2 National Policy forms a key material planning consideration and at the heart of the NPPF [CD5-1] is the presumption in favour of sustainable development. This is set out at paragraph 14.
- 7.3 NPPF paragraph 7 explains that there are three dimensions (economic, social and environmental) to sustainable development. Paragraph 8 states these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.4 The Appellant's Rule 6 statement [CD12-2] suggests that the Council did not address in its assessment of planning merits of the proposals the sustainability evidence of the Planning Statement. Also, that it improperly assessed issues of sustainability of location and potential impact on the vitality and viability of Bicester town centre, such that the conclusions reached were inappropriately derived, contrary to NPPF guidance.
- 7.5 The Appellant's contentions are refuted but in light of those contentions, an update report on the proposals and the claims was made in December 2020, when the Council reaffirmed its earlier decisions without modification.
- 7.6 The appeal site lies in open countryside and is not previously developed 'brownfield' land. If a leisure destination resort of this nature and scale was required it should look to be accommodated on previously developed land in or on the edge of towns or other sustainable settlements. Only if such locations do not exist and a need for a facility has been demonstrated should one consider any rural location. The Appellant failed to demonstrate that the need it believes exists could only be provided in this location.
- 7.7 At the time of refusal, the Appellant had not secured 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 site's sustainability, nor signed any s.106 to deliver such improvements. The LPA acknowledge that various works have subsequently been agreed with OCC that would ensure the site was made accessible by a range of transport modes and not

wholly dependent on the private car. However, public transport funding would be time limited and cycle and pedestrian improvement works now proposed would only facilitate safe access between Chesterton village and the appeal site, not to Bicester.

- 7.8 The proposed leisure resort is designed as a destination facility to serve a national and regional clientele, who will primarily travel by private car; hence the 902-space car park for the projected 1,250 daily visitors. The rural roads that serve the site and provide connections to Bicester and the M40 are not suitable for such massive increases in traffic. The proposals would substantively increase traffic demands (mostly by car) and encourage travel over long distances to attend the resort, which would not be sustainable.
- 7.9 Combining those wider transport impacts with specific harm caused at the Middleton Stoney crossroad junction, plus the harm caused to golf, the harm to the rural character and appearance of the area, and an increased risk of flooding renders this an unsustainable 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 in the NPPF.

Refusal Reason 4

- 7.10 Landscape objections are dealt with separately in David Huskisson's Proof. From a planning perspective, the considerable size, scale and massing of the proposal and its location in open countryside, along with its institutional appearance, incongruous design, and associated levels of activity, would cause significant urbanisation.
- 7.11 The principal concern relates to changes to visual amenity for all users of the A4095, where views would be harmed by obvious urbanisation of the road corridor reinforced by the looming presence of the hotel seen across the extensive car park. These effects will impact on the setting of Chesterton when approaching from the west and Bignell Park. Other significant intrusion would be noticeable from Green Lane and the PRoW through the site. Such urbanisation and landscape harm would be contrary to Development Plan policies ESD13 and ESD15, saved policies C8 and C28 in the 1996 Local Plan and the NPPF.

- 7.12 Also, highway mitigation proposals intended to overcome Highway Authority concerns regarding the B430/B4030 Middleton Stoney crossroad junction, would involve considerable widening of the northbound junction approach that would be damaging visually to the rural character and appearance of the village, contrary to policy ESD15.
- 7.13 The proposals are for 3 and 4-storey built development whose massive scale and appearance would be alien to the established rural character of the surrounding countryside and the character and appearance of nearby Chesterton village.

Refusal Reason 6

- 7.14 Since original refusal, significant progress has been made in respect to potential planning obligation commitments. Those are reflected in the draft s.106 presented to this Inquiry. If the appeal is allowed and planning permission granted, subject to the Deed being completed, the LPA would drop its sixth reason for refusal.

8. THE PLANNING BALANCE & SUSTAINABLE 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. The NPPF is also a significant material consideration.
- 8.2 The Development Plan for Cherwell District – the Cherwell Local Plan Part 1 2011-2031 as amended, together with saved policies from the Cherwell Local Plan 1996, do not allocate this site for development and it is not previously developed land. The site constitutes open countryside and great weight is afforded to non-compliance with the Development Plan. Accordingly, if this proposal were to be accepted, it would need to be justified as an exception to policy on grounds that its benefits would outweigh its policy conflicts and its other harmful impacts.
- 8.3 Considering the intended guest demographic for this leisure resort is for families with children aged 2-12 years and the expected catchment is up to 125 miles radius, the reliance on the private car will be high and the predominant means of transport.

- 8.4 Given the intended leisure, entertainment and intensive recreational uses are all town centre compatible uses, there is potential for this development to harm the vitality and viability of Bicester town centre contrary to Policy SLE2. The level of floor space proposed is well above the Local Plan acceptability threshold of 350m² for the rural areas. Policy SLE2 and NPPF para.89 require impact assessments for leisure developments over 350m² that are not located in central locations. The Appellant did provide an economic statement suggesting there would be a net gain in income to the area, which is relevant, but no impact assessment considering quantitative impacts on Bicester town or any other centres was provided.
- 8.6 The Appellant did provide a sequential test that considered locations in and outside the District and set out their requirements, which they contend led to the site selection. However, NPPG para.011 ID: 2b-011-20190722 [CD5-2] states that the application of the test needs to be proportionate and appropriate for the given proposal. NPPG para.012 ID: 2b-012-20190722 goes on to state that any sequential test should recognise that certain main town centre uses have particular market and locational requirements that mean they may only be accommodated in specific locations.
- 8.7 Having considered that guidance, I accept that sites within Cherwell considered in the Appellant's sequential test were appropriate and it also shows that 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. As a development that is clearly contrary to the Development Plan, the onus is upon the Appellant to demonstrate this is a sustainable location for such a proposal, having regard to the anticipated catchment area of the proposal and its expected impacts. The Appellant failed to provide a substantive argument that there are sound and convincing reasons to justify the proposal in this particular location, which weighs heavily against it.
- 8.8 Chesterton is served by only minor roads and saved Policy TR7 states 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 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 it is served by and which have severe traffic impacts will not be supported. Policy ESD1 reiterates the importance of locating development in sustainable locations.

- 8.9 The appeal proposal will attract both large commercial vehicles to service its leisure offer and large numbers of private cars. The local roads are unsuitable for such additional trips and, as such, the proposals are contrary to policies TR7 and ESD1. The Appellant's suggested contributions to help mitigate transport impacts would be insufficient to make the proposal acceptable, hence it would not satisfy policy SLE4 requirements.
- 8.10 The EIA Regulations require that LPAs should not grant planning permission to developments that the Regs apply to unless they have first taken the environmental information into consideration. The information in the ES and the consultation responses received were all taken into account in considering this application and determining to refuse permission.
- 8.11 In essence the appeal proposal is for tourism development, so Policies SLE3, T5, TR7 and C8 are relevant. The proposals are clearly in conflict with T5 and C8 as the development is for a substantial 3 and 4-storey hotel with associated conference and leisure facilities, on a site that is devoid of built structures and is beyond the built limits of any settlement. The accompanying text for 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. Insofar as SLE3 is concerned, the proposal would help increase District visitor accommodation, which is a positive but there are significant concerns regarding the geographic sustainability of this site due to its lack of transport links and other sustainability credentials, such as the open countryside setting and the sheer scale of development proposed.

Assessment of Economic Impacts

- 8.12 The proposal has potential to generate economic benefits for the local economy and wider region through investment, job creation (460 FTE) and local/national tourism. The proposed development would lead to benefits in terms of jobs and expenditure in the local area during both construction and operation. Its proximity to Bicester may

also assist in securing some benefit in the town through linked trips to its centre and edge of centre facilities and also with other tourist attractions.

- 8.13 It is accepted that for people seeking leisure and hospitality roles, the proposed development would offer opportunities for employment, which is a benefit. The proposal would also contribute towards reducing out-commuting, by generating new jobs near to Bicester, which is one of the main aims of the Local Plan.
- 8.14 The proposal will provide leisure facilities that would be available for Bicester and the wider area, which is an expanding population. However, suggested spin-off economic benefits to the wider economy may be limited as Great Wolf Lodges are marketed as offering “*everything under one roof*”, i.e. a destination resort.

Assessment of Social Impacts

- 8.15 Creation of a large, stand-alone resort destination could help support community health, social and cultural well-being, which is a benefit. However, 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.
- 8.16 Loss of golf facilities in an area of established local need, which could not be adequately re-provided, would also be a significant social dis-benefit.
- 8.17 Whilst highway improvements could be provided 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.
- 8.18 The scale of development proposed, with large areas of 3 and 4-storey proportioned buildings, with extensive façades and a large car park would not represent creation of a well-designed and safe built environment.

Assessment of Environmental Impacts

- 8.19 Environmentally, the appeal proposals would have significant dis-benefits. This site near Chesterton is an open countryside location and the proposal is of such a size and prominence, particularly when viewed from the A4095 and the footpath that it would serve to significantly urbanise the character and appearance of the locality. The proposal would amount to a substantial overdevelopment of the site.
- 8.20 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. The existing use of the site as a golf course has 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, with an absence of built form.
- 8.21 The existing BHGS 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 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 parking and hardstanding areas around the buildings. The water slides tower would be 22.5m tall and the highest parts of the 498-bed hotel would be 18-20m high. The buildings would be significantly taller and larger than any buildings in the surrounding area and would not relate to the scale and size of 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.
- 8.22 As such, the proposal is 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 within the NPPF, which weighs significantly against the proposals.
- 8.23 With respect to drainage matters the Appellant has consistently ignored guidance offered and refused to modify the drainage proposals for this site. The Appellant has sought to include rainwater harvesting and deleted a small section of proposed culverting, which are positives. However, notwithstanding the high groundwater water table and known surface water drainage problems at Wendlebury, where

water drains from this site, the Appellant maintains the original large underground storage tank and buried pipework proposals, which County Council drainage engineers have consistently advised would be unsustainable and ineffective.

8.24 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.

8.25 Insofar as transport considerations are concerned, whilst the access and car parking proposals satisfy adopted standards, there are fundamental issues regarding the site's location, sustainability and resulting dependency on the private car. The development is not planned for and would not make best use of infrastructure associated with the planned growth allocated within the Development Plan.

8.26 The A4095 is already a busy rural cut-through between Bicester and Witney and the B430/B4030 junction at Middleton Stoney is already congested. Additional traffic generated by this proposal would only exacerbate congestion along routes unsuited for such large traffic volumes. Accordingly, this 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.

9 CONCLUSIONS

9.1 The Council's evidence demonstrates that this proposal would fail to deliver a sustainable development. Both the principle of development and the harm that would be caused would be contrary to Development Plan policies and the NPPF.

9.2 Notwithstanding the economic benefits and that some impacts could be mitigated and controlled by condition, the substantial conflict with Development Plan policies combined with the harmful impacts in respect to golf provision, unsustainable location, traffic generation primarily by car along unsuitable rural lanes and through a particularly congested junction, together with harmful landscape and visual and drainage impacts all serve to render the appeal proposals unacceptable.