

DP4819

10<sup>th</sup> March 2020

Members of the Planning Committee  
Cherwell District Council  
Bodicote House  
Bodicote, Banbury  
Oxfordshire  
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**BY EMAIL**

Dear Planning Committee Member,

**Re: PLANNING REF: 19/02550/F. LAND TO THE EAST OF M40 AND SOUTH OF A4095 CHESTERTON BICESTER.**

1. We write on behalf of our client, Great Wolf Resorts (the applicant), in our role as planning agents with respect to the subject planning application. As you will be aware, this application is being taken to the Planning Committee on 12<sup>th</sup> March with a recommendation to refuse planning permission. This is disappointing as we have worked closely with officers at Cherwell District Council (CDC) and Oxfordshire County Council (OCC) for a long period of time and continue to do so. We are still working towards the resolution of all outstanding planning matters, as set out in the officer's report published in the afternoon of 4<sup>th</sup> March, with a view to securing a positive recommendation from planning officers at Planning Committee.
2. This letter sets out our concern that planning officers are prematurely pushing this application to this week's Planning Committee, whilst there are still matters of detail being discussed and resolved with CDC and OCC departments and with a number of factual errors in the officer's report. As such, the applicant is seeking a deferral of this item to be considered at a future Planning Committee, with the May Committee date being realistic. Great Wolf Resorts are happy to extend the determination period to cover an appropriate Planning Committee date.
3. This letter identifies the following important points for consideration by Members at this week's Planning Committee:
  - Materially important matters are still subject to ongoing discussions between the applicant and consultees, including but not limited to CDC Leisure and Recreation and OCC Highways. It is the applicant's view that a number of, if not all, matters can be progressed to a position where they are resolved and therefore are not reasons for refusal.
  - The officer's report is written using incomplete information and includes a series of factual errors including relying on out-of-date status reports on statutory consultee responses.
  - Some important consultee responses are outstanding (CDC Conservation) and others were provided on the day of the officer's report being published. The applicant is therefore still in the process of responding to questions raised in these responses, reinforcing that it is premature to progress to Planning Committee this week.
  - The duty of CDC as the decision-making authority, as prescribed in the NPPF, requires that the determination of this application is approached in a positive and creative way and that planning conditions and obligations should be considered as ways to make the application acceptable. The applicant is working with consultees (internally as part of CDC and otherwise) in this regard.



4. Our client is extremely disappointed in the apparent change in approach of CDC at officer and director level following initial and subsequent discussions, where there was a clear positive approach to working together to secure, if appropriate in planning terms, this significant investment in the district and wide-ranging benefits associated with this proposed family leisure resort. Great Wolf Resorts carefully selected this brownfield site, outside of the protected green belt and immediately adjacent to the M40, where leisure uses, development and activity is already established and where growth has also been accepted.
5. In January 2018, Great Wolf Resorts met with Adrian Colwell (former Executive Director for Place and Growth) and Bob Duxbury (former Major Projects Adviser and Development Control Team Leader), with the former writing to our client on 25<sup>th</sup> January 2018 expressing that *“Bob and I were very impressed with both your concept, its rationale, the nature of the development and the thinking that you have put into the site specific proposal”* and that, *“I look forwards [sic] to working with you to secure the investment in Bicester”*. Our client also had a positive discussion with Robert Jolley in February 2019 which again expressed that CDC welcomed the investment in the district, whilst recognising that this was separate to planning matters which would need to be worked through as part of the normal planning application process. As your planning officers will know we have sought to carefully scope, assess and demonstrate the acceptability of the proposed development in specific and technical planning terms.
6. Following a thorough pre-application process with officers and comprehensive local stakeholder engagement programme, including two public exhibitions, we submitted the planning application in November 2019. It was validated on 25<sup>th</sup> November 2019 and since this time we have received comments from a number of statutory and non-statutory consultees. We have worked diligently in order to respond to questions and / or concerns raised. This has included responses to OCC Archaeology, Thames Valley Police, CDC Ecology, CDC Recreation and Leisure and OCC Drainage / Flood Risk teams. OCC Archaeology and Thames Valley Police have now removed their holding objections (and we also have support or ‘no objection’ from a number of important stakeholders, including CDC Licensing, CDC Rights of Way, CDC Environmental Protection, CDC Public Art and CDC Arboriculture). CDC Ecology have been provided with responses to their questions and comments on 28<sup>th</sup> February and OCC Drainage / Flood Risk on 18<sup>th</sup> February. We are awaiting further responses from both of these stakeholders. We note that the status of discussions with consultees on these matters are reported incorrectly in the officer’s report, presumably as it was written prior to this information being submitted.
7. We have very recently received comments from Tyréns instructed by CDC to review the drainage / flood risk strategy and sustainability approach. This response note to us, dated 26<sup>th</sup> February, was uploaded onto the CDC website on 4<sup>th</sup> March (the day of the officer’s report being published) and seeks confirmation from the applicant on a series of points which we responded to on 9<sup>th</sup> March. The applicant was not notified of this review by Tyréns and was aware only when seeing it published on CDC’s website and therefore has not been able to respond any sooner. The nature of the response from Tyréns demonstrates that matters are still being actively discussed and resolved. The officer’s report cites the inadequacy of drainage information as reason for refusal number 5 and on this basis alone, deferral of the application to a future Planning Committee is critical. We note that the officer’s report also refers to outstanding information from Tyréns in relation to sustainable construction, which will only be available on or in the week preceding 12<sup>th</sup> March Planning Committee (see paragraph 9.172). This has been received on 9<sup>th</sup> March and sets out that the proposed development is consistent with planning policy requirements. We are in the process of preparing a formal response now that this has been received.



8. Your planning officers should have made you aware that Motion (the highways consultants instructed by the applicant) are engaged in ongoing discussions with OCC Highways and a contribution to public bus service provision has now been agreed. Further, OCC are not objecting on the grounds of the site not being sustainable (with this contribution plus an obligation to provide extensive footways and cycleways into Chesterton village and beyond). These points both seem to be missing from the officer's report, again likely due to it being written and published whilst such pertinent issues are still being discussed with a view to finding a resolution. There is a single outstanding point of objection on highways issues and cited reason for refusal (number 3), relating to the proposed highway mitigation works at the B430/B4030 junction in Middleton Stoney, identified as a requirement by OCC. Motion presented a proposed package of works on 6<sup>th</sup> March, with a view to agreeing this with OCC and securing removal of their objection. We are awaiting a response from OCC and expect to report to Members verbally at Planning Committee on 12<sup>th</sup> March. It is worth noting that the officer's report references that in CDC officer's opinion there is an unacceptable increase in traffic using local roads, although there is seemingly no evidence to support this with OCC highways not drawing this conclusion (see paragraphs 9.68 and 9.69).
9. Despite the application being submitted in November 2019, on the back of lengthy pre-application discussions, CDC's Planning Policy team only responded to the application on 24<sup>th</sup> February (uploaded onto the website and available to view on 28<sup>th</sup> February) and as such we have been given very little time to consider these and, given the timing, it is likely that the officer's report was essentially already complete at this point. Nevertheless, we have reviewed CDC Planning Policy team's response and note that this response concludes that they have an "*objection unless planning policy requirements are met*". Clearly this is not an *in principle* objection and something that can be overcome. Indeed, we continue to work with CDC and others to meet such requirements.
10. As a principal example, regarding land use and the acceptability of the proposed loss of an 18-hole golf course, planning officers are aware that we have been in discussions with England Golf and CDC's leisure and recreation team over the past few weeks and we have agreed with them an obligation to secure an 18-hole course on the remaining golf course site, combined with investment in the practice range and a scholarship fund to support youth golfers. This makes the proposals acceptable in planning policy terms. As agreed, we are working up a pack of information including a plan of the improvement works for the new course (provided) and a plan of the practice range and high level business plan (to be provided this week) in order to feed into Section 106 heads of terms in advance of determination. This will be sent to CDC's leisure and recreation team as well as planning officers and England Golf. Again, the officer's report does not reflect the status of these discussions at the time of the publication of the report. More importantly, your planning officers are reluctant to accept this additional information, which is material in the determination of this planning application, with no apparent reason. Subject to being agreed with officers, this would remove one of the reasons for refusal (number 1).
11. Due to the ongoing discussions and the encouraging progress being made on a number of matters, our concern is that this application is being taken to your Planning Committee prematurely citing 'in principle' objections. This approach is inconsistent with that of CDC's planning policy team and OCC's highways team (and others) who are both open to continuing dialogue to get to a position where the scheme can be recommended to you for approval. The two *in principle* reasons for refusal (numbers 2 and 4) are both unsubstantiated. The comments are those of the CDC planning officers, in the absence of expert design and conservation advice; contrary to the views of the highways authority, who are still engaged with the application; or based on items which consultees are asking for additional information and clarification, and therefore capable of being resolved through such information and / or planning conditions or obligations.



12. It is important to consider paragraph 38 of the NPPF, which states that the process of decision-making demands CDC as the LPA to “*approach decisions on proposed development in a positive and creative way... work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area... [and] ... at every level should seek to approve applications for sustainable development where possible.*” On the demonstrable basis that the statutory consultees are still working with the applicant to resolve matters, these conversations must be completed before the application can be determined at Planning Committee.
13. Furthermore, paragraph 54 of the NPPF, states that LPAs “*should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.*”. It is clear that this is happening, yet it is not being considered by your planning officers, contrary to the NPPF and accepted good practice, which you will be well aware of. The planning officer also cites the “*absence of a satisfactory S106 of [sic] unilateral undertaking*” as reason for refusal number 6. The Planning Statement which was submitted in support of the application included proposed heads of terms for a S106 agreement and, as outlined above, discussions are ongoing regarding the planning obligations to be secured. Further, it is open to the planning officer to identify within their report the planning obligations required, provided that these are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development (Regulation 122 of the Community Infrastructure Levy Regulations 2010). In any event, it is normal practice for a S106 agreement or unilateral undertaking to be completed after an application has been considered at Planning Committee and a resolution to grant made, subject to securing planning obligations. This is therefore not a valid reason for refusal.
14. If this application proceeds towards a 12<sup>th</sup> March Planning Committee, with CDC planning officers making a recommendation on an incomplete report and planning permission is refused on this basis, our client will have no option but to appeal such a decision. Even if your planning officers are minded to recommend refusal in a few months’ time, based on the two purported *in principle* reasons for refusal which they presumably feel cannot be resolved (despite asking for more information on some of these points), then Members should agree that it is in everyone’s interests that reasons for refusal which can be resolved are, thus removing any unnecessary reasons to be addressed on appeal. In the event of an appeal, we reserve the position to seek costs on the basis of undertaking completely unnecessary work.
15. We acknowledge that there have been local objections to the proposed development, with these largely focussing on the same few principal issues although, as we have stated in our comprehensive response to CDC, these are not points of objection by the expert statutory consultees. As a re-cap, local objectors are claiming an unacceptable increase in traffic in Chesterton (although OCC have not objected to this); that there will be a detrimental impact on air quality and noise (CDC Environmental team have raised no objection); that the proposed development results in an unacceptable visual and landscape impact (again, CDC Landscape team have not objected to this); and that there is no need or benefit (there is no CDC planning policy objection to this point). We reiterate that the proposed development comprises a significant investment in the local area, including local employment, wider economic benefits and a new family leisure resort. Great Wolf Resorts have also expanded the offer for local people to access the proposed resort, in a direct response to concerns raised by local residents. This includes providing two forms of day pass, available to local residents at discounted rates. It is worth noting that your planning officer’s report only reports one of these day passes (30 a day) and not the wider day pass offer where passes are available when the hotel is not at full occupancy (up to 450 a day). This is a material consideration to Members in the determination of this application, in terms of considering the benefits and wider planning balance.



16. In light of the above, we would urge Members to defer the application and instruct planning officers to work with the applicant to resolve all outstanding matters before the application is presented for a decision at a future Planning Committee. The resolution of the outstanding matters is possible and, based on discussions, probable. This would align with the clear direction of the NPPF and good practice.

17. Once the application is in a position to go to Planning Committee, officers will then, and only then, be able to accurately capture the status of and final assessment of these important and material planning matters for Members' consideration and to inform determination of the application. In summary, the outstanding information is:

- OCC Highways – Motion sent through a detailed B430/B4030 junction proposals to OCC last week to discuss and agree over the next few weeks.
- Land Use / re-provision of golf course – We are going to provide a pack of works to the remaining golf course to CDC and England Golf this week to agree as part of Section 106 planning obligations over the next few weeks.
- OCC Drainage / Flood Risk – We are waiting for OCC's comments on the material submitted in response to their questions raised and have recently submitted a response to the Tyréns / CDC review received on 4<sup>th</sup> March.
- CDC Sustainability / Sustainable construction – We submitted a response yesterday to the Tyréns review received on 4<sup>th</sup> March and will do the same for the additional assessment by Tyréns (of sustainable construction detail) which is alluded to in the officer's report, when this is published.
- CDC Ecology – We are waiting for CDC's comments on the material submitted in response to their questions raised.

18. Finally, we note that it was resolved by Members of the Planning Committee in February that there was no need to visit the site, prior to committee. If it is felt that this could be useful to understand any site-specific matters prior to a committee meeting, and if this is agreed, it can easily be arranged for a time convenient to Members. We would therefore urge Members to visit the site prior to the determination of the application and as such to defer the consideration of the proposed development, as is allowed under your Planning Committee procedural rules.

19. We trust that this letter is well received by Members and provides a useful update on this planning application and sets out the pertinent facts clearly to Members of Cherwell District Council's Planning Committee. Should you wish to discuss this further then please do not hesitate to contact Chris Goddard or Peter Twemlow at this office.

Yours sincerely,

**DP9 Ltd**

Encs.

CC:

Councillor Barry Wood – Leader of Cherwell District Council

David Peckford - Assistant Director - Planning and Development, CDC

Jeremie Babinet – Director of International Development, Great Wolf Resorts

Robert Moore – Vice President of Global Construction, Great Wolf Resorts

**Peter Twemlow**

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**From:** Adrian Colwell <Adrian.Colwell@cherwellandsouthnorthants.gov.uk>  
**Sent:** 25 January 2018 18:38  
**To:** Chris Goddard; Greg Miller; Jeremie Babinet; James Devitt Bt MA MRICS - Herald Hotels (james.devitt@heraldhotels.com)  
**Cc:** Bob Duxbury  
**Subject:** Welcome to Cherwell

Greg, Jeremie, james and Chris

It was a pleasure to meet with you this afternoon at Bodicote House to discuss the Great Wolf Lodge concept.

Bob and I were very impressed with both your concept, its rationale, the nature of the development and the thinking that you have put into the site specific proposal.

We are interested in positively exploring this with you and look forwards to the PPA being agreed and the consideration of the site issues commencing.

Once the PPA is in, I will make arrangements for you to meet the Leader of the Councillor - Councillor Wood and our Chief Executive - Yvonne Rees to present your proposal.

I look forwards to working with you to secure the investment in Bicester.

All best wishes

Adrian

**Adrian Colwell**  
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