

PLANNING APPLICATION REF. 19/02550/F

**APPEAL AGAINST THE DECISION OF CHERWELL DISTRICT COUNCIL TO REFUSE PLANNING
PERMISSION FOR THE PROPOSED DEVELOPMENT OF LAND TO THE EAST OF M40 AND
SOUTH OF A4095, CHESTERTON, BICESTER**

APPELLANT'S STATEMENT OF CASE

GREAT LAKES UK LIMITED

10 SEPTEMBER 2020

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1 INTRODUCTION

- 1.1 This Statement of Case has been prepared in support of a planning appeal under section 78 of the Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“the Appeal”).
- 1.2 The Appeal is against the refusal of Cherwell District Council (“CDC”) of an application for planning permission reference 19/02550/F submitted by Great Lakes UK Limited on 11 November 2019 (“the Application”) for the development of part of the existing golf course at Bicester Hotel, Golf and Spa on land to the east of M40 and south of A4095, Chesterton, Bicester (“the Appeal Site”) to provide a new leisure resort incorporating hotel, waterpark, family entertainment centre, conferencing facilities and restaurants with associated access, parking and landscaping (“the Proposed Development”). An Environmental Statement (“ES”) was submitted with the Application.
- 1.3 The Appellant is Great Lakes UK Limited (“the Appellant”), which is a company set up in the United Kingdom by Great Wolf Resorts for the provision of a new leisure resort under the Great Wolf Lodge brand. This would be the first Great Wolf resort in the UK, but the Appellant is the leading operator of waterpark resorts in North America where it operates 19 resorts.
- 1.4 The Application was considered and refused at CDC’s Planning Committee on 12 March 2020 for six reasons. A copy of the Committee Report is at Appendix 1 and Decision Notice at Appendix 2. This Statement of Case (“SoC”) sets out the case for the Proposed Development and a response to the reasons for refusal and it should be read in conjunction with the application documents, listed at Appendix 3 and the other Appendices submitted with this SoC.

2 THE PROPOSED DEVELOPMENT

- 2.1 The Proposed Development comprises an indoor, water themed family resort which would be developed and operated by Great Wolf Resorts. The main target market for a Great Wolf Lodge is families and they are designed primarily for children aged 2-12 and their parents, guardians, carers, grandparents and friends.
- 2.2 While the Great Wolf Lodge offer is new to the UK, the concept of destination leisure resorts and hotels in out of centre locations is well established and understood, as illustrated by Center Parcs, Warner Leisure Hotels etc. As leisure destinations, these inevitably serve wider national catchments, and many are in relatively remote locations in open countryside with limited or no access to public transport or local workforces and supply chains.
- 2.3 The Appeal Site has been chosen because of its strategic location on the M40 giving ready access to an extensive catchment which it would serve. However, a number of other attributes make the site particularly suitable and sustainable as a location for a destination leisure resort (as compared with other such destination resorts) and this has guided the Appellant's site selection process. These include:
- the close proximity to a number of other complementary tourist / visitor destinations in the area, such as Oxford, the Cotswolds and Bicester Village nearby, enabling 'linked trips';
 - the Appeal Site's long-established existing leisure use as a golf course and CDC's previous support for hotel development in this location;
 - the location of the Appeal Site close to the rapidly expanding settlement of Bicester (which it will serve) with the very good rail services at Bicester offering genuine alternative transport options;
 - other important sustainability benefits including easy access to a local workforce and supply chains that can access the site by means other than the private car;
 - the ability of the Appeal Site to accommodate the leisure resort without adverse impacts on the landscape or character of the area; and
 - the initial strong support and encouragement from senior CDC officers.
- 2.4 The design of the Proposed Development necessarily has to meet the relevant commercial and operational requirements of the proposed use and is a high-quality design response which has been tailored to the Site. The Proposed Development will sit within an enhanced high-quality landscaped setting, including a new nature walk. The Proposed Development has been carefully designed to sit within the Site contours and has no adverse impact on the setting or character of Chesterton Village or on any other key view.
- 2.5 The Proposed Development would be accessed off an existing A-road, will have no significant effects on the local or strategic road network, and includes provision for highway mitigation works where required. In contrast to many destination leisure resorts, the Site's proximity to Bicester's two railway stations and the Appellant's commitment to providing dedicated shuttle buses and improvements to local bus services offer viable alternative sustainable travel options for guests and employees, and for the benefit of Chesterton residents, which makes it an ideal location.
- 2.6 The Proposed Development will be located on an area currently occupied by 9 holes of an existing golf course, but where the demand for the existing golf course facilities is dwindling and there is no shortage of golf provision in the wider area. As originally proposed, the Proposed Development would

have retained a 9 hole golf course which is more in tune with the future demands for the game. However, in response to concerns about the loss of a 18 hole facility, the Proposed Development now offers reconfiguration and redesign the remaining 9 holes to provide an enhanced replacement 18 hole facility. Either option would safeguard the future of the golf club which it otherwise under threat as a matter viability. In addition, the Proposed Development will deliver a range of other enhanced facilities to the local community, including new high-quality open space and access to the facilities of the Great Wolf Lodge.

- 2.7 The Proposed Development will deliver significant economic and social benefits, along with environmental benefits. The significant economic and social benefits include substantial new and important investment in the area, creating a range of employment opportunities, generating local spin off jobs, and supporting district wide tourism initiatives. CDC has recently highlighted the future challenges of maintaining employment levels in Cherwell and that tourism is a vital component of the local economy, accounting for 11% of jobs in the District and generating £450 million to the local economy. In this regard, the Proposed Development will create up to 600 new permanent jobs in the tourism industry and will bring an additional £4.9 million of visitor spending into the local area. The Proposed Development represents an important demonstration of investor confidence in the UK and Cherwell economy at a particularly challenging time.
- 2.8 These important significant economic and social benefits, along with the environmental benefits, were afforded little, if any, proper consideration by CDC in reaching its decision and should weigh heavily in the overall planning balance.

3 APPEAL SITE AND SURROUNDINGS

- 3.1 The Appeal Site extends to 18.6 ha (186,000 sqm) and comprises the western nine holes of the existing 18-hole golf course forming part of the Bicester Hotel Golf and Spa (“BHGS”) near Chesterton, a village to the west of Bicester. The extent of the red line is defined in the Site Location Plan, prepared by EPR, submitted with the planning application and shown as an extract below.

Planning Application/Appeal Site:



- 3.2 If planning permission is granted for the Proposed Development, the area of the eastern nine holes will remain and there would be an obligation provided to secure reconfiguration to provide an 18-hole course (along with other enhancements). The hotel, fitness and spa facilities associated with BHGS will remain in situ and continue to operate alongside the Proposed Development during construction and operational phases.
- 3.3 The Appeal Site is located immediately to the east of the M40 (which runs south to north) and to the south of the A4095 (which runs east to west). The Appeal Site is located on the edge of Chesterton (approximately 500m from its centre), a village to the west of Bicester. The Site is approximately 1.3km from the edge of the westernmost part of Bicester and approximately 3km from Bicester town centre.
- 3.4 The Appeal Site is not subject to any specific planning designations or constraints. While the Appeal Site is already used for leisure/recreation purposes (in the form of its existing golf course use) it does not contain any buildings (and therefore no listed or locally listed buildings) and it is not located in a Conservation Area. The Site is not in the Green Belt, which covers an area to the south west of Bicester ending approximately 3km from the Site to the south of junction 9 of the M40 where it meets the A34 / A41. The proximity of the Site to the strategic road network makes it ideally located as a destination for its intended visitors.
- 3.5 Any interaction of the Proposed Development (and indeed the absence of any material harm) with relevant heritage assets, and landscape views has been assessed in detail in ES Chapter 10: Archaeology and Cultural Heritage and Chapter 13 Landscape Visual Impact Assessment (“LVIA”), with the landscape and visual context summarised in the Design and Access Statement.
- 3.6 To the north of the Appeal Site, north of the A4095, is a mix of agricultural land and Bignell Park Barns, which provides office accommodation, and a residential property. These land uses are accessed from the A4095 and the existing access arrangements have been carefully considered (with OCC input) as

part of the proposals and are not adversely affected. To the immediate east of the Site are buildings associated with BHGS (which will remain) as well as two residential properties, Stableford House and Vicarage Farm. Further east and along the A4095 is a further residential property, Tanora Cottage. To the south of the Site is car parking and other sports uses associated with and linked to BHGS. To the west of the Site is the M40 beyond which is a predominantly agricultural landscape with associated agricultural and residential properties.

- 3.7 The Appeal Site is located wholly within Flood Zone 1 (land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%)) and as such it has a low probability of flooding. The Appeal Site is also located outside the influence of any other local flood risk elements.
- 3.8 The Appeal Site is not within a specifically designated Archaeological Priority Area. A nearby (circa 2km from the Site) Alchester Roman Site has been identified and a comprehensive assessment of below ground assets was conducted pre-submission and supplemented by post submission field work assessment (in coordination with OCC officers) which was agreed by OCC on 21 January 2020. Further information is provided in Volume 1, Chapter 10 and Volume 2 of the ES. This demonstrates the absence of any material impact on that site or any other archaeological assets.
- 3.9 The Site is not within an Air Quality Management Area (AQMA).

Planning History

- 3.10 The Appeal Site itself has a limited planning history. As already noted, it is an established golf course and the most recent planning application relating to the Appeal Site dates from July 2003 when approval was granted for alterations to the existing golf course and landscaping (CDC Reference: 03/01050/F).
- 3.11 However, the adjacent site, comprising the other 9 holes and main buildings of BHGS, has been subject to a series of planning applications, including most recently the October 2013 approval of a two-storey extension to the existing BHGS hotel to provide 51 additional bedrooms (CDC Reference: 13/01102/F). This demonstrates the recognition on the part of CDC that the location is an appropriate one for additional hotel development

4 PLANNING CONSIDERATIONS

- 4.1 Planning policy considerations are dealt with in Section 5 and 6 of the Planning Statement submitted as part of the Application (“the Planning Statement”).
- 4.2 In summary, relevant national planning policies are contained within the National Planning Policy Framework (the "NPPF"). The NPPF was updated on 19 February 2019, replacing the previous NPPF as published in 2012 and revised in July 2018. The Development Plan for the Site comprises the Cherwell Local Plan Part 1 (2015) and the saved policies of the Local Plan (1996).
- 4.3 CDC is currently consulting on a ‘Community Involvement Paper’ as part of the Local Plan Review 2040. On the basis that this is still at the evidence preparation and information gathering stage, no material weight can be given to the content (namely questions for consideration) set out in this paper, although the Proposed Development would not be contrary to any of the strategic aims outlined in that paper, particularly in light of the challenges identified in the current situation.
- 4.4 The Oxfordshire Plan 2050 is also being prepared as a joint statutory spatial plan between CDC, OCC, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and West Oxfordshire District Council. A ‘call for ideas’ draft was published for consultation in March 2019 and a wider ‘Open Thought’ engagement project commenced in May 2020. It is intended that a public consultation on ‘spatial options’ is commenced in January 2021, with adoption now targeted in October 2022, following Examination. Given the stage it has reached, and for similar reasons in respect of the CDC Local Plan Review 2040, no material weight can be given to these policies.
- 4.5 The Appellant’s evidence will show that the Proposed Development complies with the Development Plan taken as a whole. On this basis, in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should be granted and there are no other material considerations indicating otherwise. In addition, the Appellant will demonstrate the ways in which the Proposed Development accords with the NPPF and all relevant supplementary planning guidance and documents published by CDC.
- 4.6 The Appellant will show not only that there are no material considerations which would justify refusal of the Proposed Development, but that there are significant economic, social and community benefits and environmental benefits which the Proposed Development would provide in what is a highly sustainable location for a destination leisure resort that strongly support the grant of permission. Amongst other things, the Proposed Development will support the development of tourism, which is vital to the national and local economy, and create generating significant new job opportunities for the local and wider community at a time when such opportunities should be welcomed with open arms.
- 4.7 Contrary to the assertions of CDC, the Appeal Site is in a sustainable location for the Proposed Development. CDC itself accepts (as set out in the Planning Policy Team’s memorandum dated 24 February 2020) that the sequential site assessment identifies no opportunities within or on the edge of Bicester or any other nearby town centre which could accommodate the Proposed Development. In such circumstances the NPPF supports the development of an ‘out of centre’ location in principle. In these circumstances there is no basis for an ‘in principle’ policy objection to the Proposed Development on sustainability grounds.
- 4.8 In addition, the Appellant’s evidence will describe the range of very significant public benefits which the Proposed Development will deliver, including:

- Significant direct **investment** in Cherwell of £200 million, reinforcing its position as an open and growing district and acting as a **positive catalyst for future investment** and development, particularly in the tourist sector.
- Provision of an exciting **new family leisure resort, waterpark and hotel** designed for young families, complementing the existing offer in the area.
- Provision of **discounted day passes**, designed to support local families in the wider Bicester area, including additional **sustainable day passes**, available to those using public transport to visit the resort.
- Delivery of a high-quality development including investment of over **£1 million in new tree planting** and landscaping.
- Delivery of new **local employment opportunities**, with up to 600 permanent Great Wolf Lodge jobs (460 FTEs) created with further jobs created during the construction and fit out period.
- **Supporting local young people** with 42% of jobs targeted at those under the age of 21 offering full lifeguard and hospitality training
- Creation of significant **additional local spin-off jobs and wider economic benefits** created through demand for local goods and services in the area associated with increased visitor numbers and £4.9 million of additional spend per year to the area.
- Commitment to working alongside and **supporting local and national charities** through partnerships, employment and apprenticeship opportunities and community events.
- Securing a **viable future for the BHGS golf club** and its members, including investment in the existing course and creation of a **golf scholarship programme** for young people local.
- Delivery of a **sustainable development**, incorporating sustainable design techniques and encouraging sustainable modes of travel, particularly for staff.
- Creation of a substantial new **public nature trail**, including educational and wayfinding material, expressly for local residents', workers' and visitors' benefit.
- Securing investment in a diverted and **improved a section of Public Right of Way**, increasing use and amenity compared to the existing underused and restricted route through an active golf course.
- Investment in the creation of **safe and secure off-road footways and crossings** in three places, along the A4095 to the west and north of Chesterton village and on Green Lane, to connect currently separate parts of the Public Right of Way network in the area.
- Delivery of a **new shared pedestrian footpath / cycleway** from the resort into Chesterton village aiding accessibility in the immediate area and providing a **contribution to wider cycle improvements** initiatives.
- Provision of **free-to-use shuttle bus services** for resort visitors, staff and Chesterton residents and making a £1.6 million **contribution to fund public bus services** to Bicester and Chesterton bus stop improvements.
- **Protecting and enhancing local biodiversity** through extensive greening and ecological works, including securing significant biodiversity net gain.

- Generation of **substantial business rates contributions**, for local and regional benefit.
- Provision of a **public art contribution** of £75,000 over three years to benefit the cultural well-being of the local population to support strategic public events such as the Bicester Festival and other initiatives.

4.9 In these circumstances the Appellant will contend that even if (contrary to the Appellant's own analysis) it were concluded that the Proposed Development involved any material conflict with any local or national policy, the public benefits which it will deliver would clearly and demonstrably outweigh any such conflict overall.

5 GROUNDS OF APPEAL

5.1 As set out in Section 6 of the Planning Statement, the Appellant's team has fully assessed the proposal against the relevant policy framework and has identified how the Proposed Development complies with the Development Plan when taken as a whole and is supported by significant and weighty public benefits.

5.2 By contrast, each of CDC's Reasons for Refusal is unsubstantiated, unjustified and, in any event, the alleged harm referred to in the reasons would clearly be outweighed by the benefits of the Proposed Development.

RfR1: 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.

5.3 There is no substance to this Reason for Refusal for two principal reasons.

5.4 First, as set out in Section 6 (paragraphs 6.13 to 6.32) and Appendix 2 of the Planning Statement, given the current under-utilisation of the existing golf course (and resultant lack of profitability and future threat to the viability of the use as a whole), coupled with the wider provision of 18-hole golf courses in the area (which satisfy a demonstrably low and falling demand) there is no basis for alleging that the loss of an 18 hole golf course on this site would have any material impact of the type claimed. The limited value to the public of the 9-holes to be lost in terms of amenity value and accessibility, along with the proposed creation of more inclusive and more in-demand 9-hole golf course would in fact result in the retention of golf on the site, whereas the current arrangements are likely to lead to the loss of the golf course as a whole. Moreover, the reason for refusal fails to recognise the net gain in recreation and leisure offer of the Proposed Development and waterpark resort and public nature trails offered alongside the delivery of a more appropriate and more in-demand 9-hole course.

5.5 Second, and without prejudice to that position, the Appellant had in fact put forward the offer of a planning obligation prior to the determination of the application to secure the provision of 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. The reason for refusal is therefore misconceived in principle in claiming there would be a loss of an 18-hole golf course. The evidence of that offer (which was not addressed by CDC in the determination of the application) is set out in the email and attachments from DP9 to CDC and England Golf, dated 11 March 2020 (included as part of the material submitted with this Appeal). A formal response was never received. This meant that CDC determined the planning application on an incorrect basis and on an assumption that clearly would have tainted their whole approach to the Proposed Development and its benefits.

5.6 The Appellant's evidence will refer to this material, as well as supplementary or additional material, as necessary, subject to CDC's case to be presented and response to material previously submitted, and demonstrate both:

(1) the acceptability of the exchange of 9 of the 18 holes of the golf course for the Proposed Development, with the enhancement and provision of the replacement 9 holes course, and how this would accord with the Development Plan and the NPPF; and

(2) in the alternative, the offer secured by the proposed planning obligation securing works to the remaining golf course to maintain an 18 hole golf course in this location, along with a scholarship scheme for young golfers, and the extent of the significant public benefits associated with this.

RfR2: 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

- 5.7 The Planning Statement demonstrates, at paragraphs 6.36 to 6.40, that the Proposed Development is not sited in an unsustainable location, contrary to what is alleged in this Reason for Refusal. There is in fact no clear CDC definition of what it regards as a sustainable or unsustainable location for such a land use in the Development Plan, so the Reason for Refusal lacks the requisite clarity. However, judged by reference to basic attributes of sustainability, the Planning Statement sets out why the Appeal site is manifestly a sustainable location for the proposed use. Moreover, it is noted that CDC's planning policy team accept that in terms of sequential assessment, there is no suitable, available or viable site in Bicester for such a use.
- 5.8 Reason for Refusal 2 refers to the Site being "largely devoid of built structures" but does not explain why this makes the site unsustainable for such a use, particularly given its existing use. It also refers to the Site being beyond the built limits of the nearest settlement but fails to explain why this makes it an unsustainable location for such a use. Indeed, the absence of built structures and its location not in the built limits of the nearest settlement are positive attributes of this particular Appeal Site which make it eminently suitable for the Proposed Development, as it ensures that there are no significant impacts on existing buildings, landscape or visual amenity from what is proposed. The sustainability of the Site will be addressed in detailed evidence as necessary by the Appellant's expert planning witness and expert transport and highway witness.
- 5.9 The allegation of the absence of any impact assessment referred to in Policy SLE2 is also misconceived. This is dealt with in paragraphs 6.58 to 6.63 of the Planning Statement. The relevant policy requirements in the Development Plan and NPPF are identified. An assessment was provided. Neither CDC's Planning Policy team, nor the Committee addressed it, and the resultant reason for refusal demonstrates a flawed approach by CDC. There appears to have been an assumption by CDC that a quantitative assessment was required, but that runs contrary to the guidance in the NPPG, as identified in the Planning Statement.
- 5.10 In addition to the locational sustainability of the Proposed Development judged properly against the relevant policy framework, there is a comprehensive package of sustainable transport improvements and infrastructure investment proposed by the Appellant. This will ensure the Proposed Development will offer a genuine choice of sustainable modes of travel for both visitors and staff. OCC, as the highway authority, have raised no objection to the Proposed Development on the grounds of sustainability or accessibility to alternative modes of transport.

- 5.11 The Appellant's evidence will demonstrate that the Proposed Development is in a sustainable location for a destination leisure resort, that it is accessible by a choice of travel modes other than private motor vehicle, and that an appropriate assessment has been carried out which demonstrates that any impacts are acceptable, in accordance with the Development Plan and the NPPF.

RfR3: 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.

- 5.12 This Reason for Refusal is unjustified, and the Planning Committee determined the Planning Application without permitting the Appellant proper opportunity to respond to this alleged concern.

- 5.13 The Transport Assessment ("TA") supporting the Planning Application includes detailed analysis of the expected vehicle trip attraction and distribution associated with the Proposed Development. The methodology and figures have been agreed between the Appellant and OCC. The TA includes detailed junction capacity modelling considering the effect of the Proposed Development on the local road network and demonstrates that it will not result in a severe residual cumulative impact.

- 5.14 At the time of determination of the Planning Application, the only outstanding concern from OCC related to the B430/ B4030 junction in Middleton Stoney. The TA, however, demonstrates that the Proposed Development will not result in a material change in vehicle trips at the B430/ B4030 Middleton Stoney junction and therefore the Proposed Development will not result in a material impact on the operation of this junction. Notwithstanding this, the Appellant had in fact put forward a scheme of highway improvement works to provide additional traffic capacity at the Middleton Stoney junction. This will ensure that the Proposed Development will not have any impact at this junction. Motion, on behalf of the Appellant, has prepared an additional technical note (dated 4 September 2020), and summary note of discussions with OCC, which are included at Appendix 4. A formal note from OCC is expected but based on these ongoing discussions, it is still the Appellant's intention to resolve this Reason for Refusal prior to an Inquiry.

- 5.15 The Appellant's evidence will demonstrate that the Proposed Development has been supported by a comprehensive and robust TA which demonstrates the acceptability of the Proposed Development with regard to all impacts on the road network and that the Proposed Development will not have any such material impact, including at the Middleton Stoney signalised junction and that the Appellant has proposed improvements to that junction in any event.

RfR4: 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.

- 5.16 This Reason for Refusal does not properly address the careful and considered approach to the design of the Proposed Development and the selection of the Appeal Site location for the delivery of this

exciting new resort. It is proposed on a site which is ideally located to accommodate the necessary elements without having any material impact on the character and appearance of the surrounding area.

- 5.17 The architectural evolution of the Proposed Development, responding to CDC pre-application comments, is evidenced in Sections 4 and 5 of the accompanying Design and Access Statement (“DAS”). This will be addressed in evidence by the Appellant’s expert architectural designers as necessary.
- 5.18 The DAS illustrates the iterative architectural design process that was undertaken, and how the pre-application comments were addressed and reflected appropriate changes to the design response. The architectural design for the project was developed so as to reflect the required size, scale and massing of the built form to support the resort’s functional brief in a sympathetic and complementary way to the geographic and local architectural context, whilst providing for the very generous landscaping setting that will assimilate the Proposed Development into the local area. From the outset, considerable care has been taken to develop a proposal which responded to its surroundings, the character of the area, and nearby Chesterton village. The project took a ‘*landscape-led*’ approach to design, where the emphasis was placed on understanding the local landscape features and developing an architectural design alongside a complementary landscape design, responding to the local landscape context. The DAS (section 6) provides further information on the design proposals.
- 5.19 The levels of activity associated with the Proposed Development, having regard to the already established existing use which represents the existing baseline, along with daily fluctuation, are dealt with fully in the TA with the Environmental Statement (“ES”). It identifies that the effects “*on the highway network local to the site*” will be “*negligible (not significant)*”. As such there will not be any material adverse impact on the character and appearance of the area, comprising this section of the A4095 on the edge of and running through Chesterton Village. This point will also be addressed as necessary in evidence in responding to Reason for Refusal 3.
- 5.20 Reason for Refusal 4 contains allegations of “*significant urbanisation*” and “*unacceptable harm to the character of the local area*”, but it fails to define or clarify what is meant by these assertions. The allegation of ‘significant urbanisation’ is misplaced in principle. It appears to simply conflate the term ‘urban’ with the concept of built development, but without understanding the landscaped setting of what is proposed and the requirement for a non-urban location for a leisure resort of this kind. The nature of the alleged harm to character of the local area is not particularised. The design approach has been one which ensures policy compliance. The Proposed Development is manifestly not ‘urban’ in design approach and it is carefully set in an extensive landscaped setting with no resulting harm to the character of the local area.
- 5.21 The Appellant will call expert evidence from its architectural design consultants to respond to this allegation by reference to the supporting material. The appended Design Report (Appendix 5) sets out and considers the supporting material and responds to these unjustified allegations. The Appellant and its design experts reserve the right to also respond further if CDC provides any further details of what is actually being alleged (which is not properly explained in the Reason for Refusal).
- 5.22 As to the effect on the character and appearance of the area, the Planning Application was supported by a comprehensive LVIA. This was produced in accordance with the established methodology. It has not been criticised by CDC. As required by best practice, the LVIA formed part of an iterative process in determining and developing the location, scale, massing and architectural design of the proposals – along with the formation of a comprehensive set of landscape measures – all with the aim of minimising the effect of the Proposed Development on the character of the landscape and on

surrounding views, whilst enhancing the landscape and character of the Site. The LVIA fully assesses the effects of the Proposed Development on the landscape and potential views of the development

- 5.23 To inform the LVIA and the design of the scheme, CDC's Landscape Team was consulted, both as part of the EIA Scoping process and in extensive Pre-Application discussions. They provided guidance on the location of viewpoints to be used as a basis for the LVIA, the location for Accurate Visual Representations (wirelines, photomontages and illustrations) which were used to inform the development of the design, along with design input to enhance the appearance of the massing, scale and detailing of built form, along with the strategy and detailing of landscape proposals for the scheme.
- 5.24 The LVIA identifies that there are no views of the Proposed Development from the village of Chesterton or any other settlements in the surrounding landscape, something endorsed by CDC's Landscape Team. It also establishes that there would be no undue harm on the setting of any settlements or any areas of landscape or historic value and there would only be limited effects to the perception of the open countryside. The LVIA work therefore further strongly supports the Appeal Site's particular attributes to accommodate the proposed form of development.
- 5.25 Accordingly, the Appellant will demonstrate that the general assertions that the development will cause *"significant urbanisation and unacceptable harm to the character and appearance of the area including the rural setting of the village"* are unfounded, incorrect and contradictory of the expert opinion of CDC's own Landscape Officer who assessed the Proposed Development.
- 5.26 The Public Right of Way ("PRoW") to which reference is made in the Reason or Refusal is currently routed through a privately-owned golf course. It is therefore already located in a managed, golf course landscaped area rather than an inherently naturalistic one. The evidence demonstrates that this PRoW is seldom used. The Proposed Development includes the re-positioning of the PRoW, providing a dedicated pedestrian route with appropriate hard landscaping for pedestrians, complemented by soft landscaping designed to mitigate views of the proposed building, and to enhance the experience of using the PRoW.
- 5.27 The PRoW improvements arising from the Proposed Development will in fact result in increased enjoyment of this amenity as compared with the existing situation in terms of the landscape and avoidance of a golf course. The overall amenity provision will be further and very significantly improved and enhanced through the creation of the extensive nature trails on the Site. These will be capable of enjoyment by a significantly greater number of people, in addition to the wider off-site investment proposed to connect disparate parts of the PRoW network.
- 5.28 The Appellant's evidence will therefore demonstrate that the Proposed Development has been developed as part of a comprehensive iterative design process, paying close attention to the context and the advice provided by CDC Officers. It would not result in any adverse significant effects of the types alleged to in the Reason for Refusal. To the contrary, it will deliver significant benefits, such as the enhancements to the PRoW and opportunities to enjoy the publicly accessible park area including extensive nature trails and lakes on the site.

RfR5: 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.

- 5.29 This Reason for Refusal is misconceived on the evidence. It fails to address the information provided in support of the Planning Application on drainage. Again, it further demonstrates that the Planning Committee considered the application on a mistaken basis.
- 5.30 The Drainage Strategy submitted in support of the Application (including Drainage General Arrangement plan) sets out a site wide drainage model. This explains how the proposed drainage network would operate. In addition to this, a Flood Risk Assessment (“FRA”) was carried out for the Proposed Development in line with the requirements of the NPPF. Both present a comprehensive list of measures aimed at reducing flood risk both on site and downstream.
- 5.31 The Drainage Strategy proposes the removal of two existing ditches that currently dissect the site. The FRA reviews the use of these ditches as land drainage required by the existing golf course. This has been confirmed by the inlet of numerous shallow perforated land drains entering the ditch from the adjacent fairways. The removal of these ditches does not therefore conflict with the requirements of the Development Plan (Policy ESD6), as they are not watercourses, nor are they required following the development of the site.
- 5.32 The Proposed Development relates to land in Flood Zone 1 (lowest risk) as shown by the Environment Agency’s online mapping. Safeguarding polices are not applicable to this site. Furthermore, there are no flood defences, flood plains or watercourses within the vicinity of the Proposed Development.
- 5.33 The Drainage Strategy proposes to reduce surface water discharge from the site to greenfield run-off rates (i.e. the rate of water leaving an undeveloped site). This is fully in line with Development Plan requirements and national policy. Given that the existing site drains using a network of land drainage and ditches, the Proposed Development will actually result in a betterment as compared with the existing run-off profile from the site. Furthermore, the Drainage Strategy demonstrates that no flooding will occur above ground for events up to and including the 1 in 100-year rainfall event with a 40% allowance for climate change, so providing a further improvement on the requirements of The Development Plan (Policy ESD6).
- 5.34 The Appellant liaised with OCC, as the Lead Local Flood Authority, regarding the drainage methodology. The Appellant provided a letter on 15 January 2020 explaining the calculations made. Despite this, a reply was never provided from OCC.
- 5.35 CDC commissioned Tyréns to undertake a review of Curtins’ flood management and drainage work, as well as other material. Tyréns report was provided to the Appellant on 26 February 2020. The Appellant’s experts Curtins responded in detail on 9 March 2020. This response does not appear to have been considered by CDC as part of their determination of the application. It has never been considered and responded to as part of the correspondence prior to the submission of this appeal.
- 5.36 The Drainage Strategy also provides for a number of Sustainable Drainage Systems (“SuDS”), including: permeable pavements, swales, detention basins, bio-retention areas and storage tanks (all designed using The SuDS Manual (CIRIA C753) and ensuring that water quality is maintained during collection, storage, re-use and disposal). Where underground storage tanks are incorporated, they have been coupled with a rainwater harvesting system to ensure they offer benefits beyond reduction in flood risk. Furthermore, and directly contrary to the unsupportable allegation in Reason for Refusal 5, the inclusion of a buried tank in this way is actually a recognised part of a SuDS. It is fully consistent with the requirements of the Development Plan (Policy ESD7). Moreover, this strategy was discussed and agreed with OCC as the Lead Local Flood Authority in pre-application discussions between the Appellant, OCC and CDC.

5.37 The Appellant will therefore call evidence from its appointed experts addressing this material and responding in relation to flooding and drainage, as outlined in the appended document as necessary. This will demonstrate that the Appeal Scheme has complied with the requirements of the Development Plan and the NPPF and that the Proposed Development is completely acceptable in this regard, reflecting appropriate and accurate calculations. In addition, the Proposed Scheme will actually deliver benefits.

5.38 In these circumstances CDC's reason for refusal, which was drafted in the absence of a full and complete understanding of the position and without regard to the available evidence, is misconceived and unreasonable.

RfR6: 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.

5.39 This Reason for Refusal appears to be a formulaic one simply reflecting the fact that CDC seeks to negotiate the finalised terms of a section 106 legal agreement after any resolution to grant planning permission, rather than beforehand.

5.40 In Section 7 of the Planning Statement, the Appellant set out a series of proposed obligations. Following discussions with CDC, the Appellant proposed additional obligations to address purported CDC concerns. The complete list of proposed obligations to reflect all those concerns as understood by the Appellant are set out in Appendix 6 Each of these obligations is considered to satisfy section 122 of the Community Infrastructure Levy Regulations 2010.

5.41 It is normal practice for a local planning authority to resolve to grant planning permission subject to completion of a S106 agreement securing obligations outlined in the committee report. The Appellant will endeavour to progress discussions with CDC in order to prepare a draft S106 agreement at the earliest opportunity, and in any event a S106 agreement or unilateral undertaking will be completed prior to the close of any Inquiry.

6 RESPONSE TO COMMENTS OF INTERESTED PARTIES

- 6.1 In response to the public consultation on the Proposed Development, there were a number of responses received, including comments made by Chesterton Parish Council (“CPC”) and other nearby parishes. The Appellant responded to these points in its letter to CDC on 10 February 2020. Copies of both letters are included with the appeal documents.
- 6.2 Some of the comments raise issues of the type already addressed above, but in addition CPC alleged (amongst other things) that there would be an unacceptable increase traffic in Chesterton (although OCC have not objected to the Proposed Development on this ground); that there will be a detrimental impact on air quality and noise (CDC Environmental team have raised no objection); and that there is no need for or benefit associated with the Proposed Development (there is no CDC planning policy objection to the Proposed Development on this basis and there are obvious benefits to such development as summarised above and the Appellant has also enhanced the benefit of day passes and supplemented this providing local discounts in response to comments made by local residents).
- 6.3 All of these points are refuted by evidence contained in the application documents to which the Appellant will refer (but does not repeat here). The Appellant reserves the right to call expert witnesses relating to such matters as may be considered necessary.

7 THE APPEAL PROCEDURE AND EVIDENCE

7.1 In light of the PINS Procedural Guide (July 2020) and the criteria set out in Annex K, the Appellant is clear that a Public Inquiry is the most appropriate procedure for the following reasons:

- The nature of the issues raised in the Reason for Refusal and the accompanying expert evidence to be submitted in response, particularly in relation to the question of golf course provision, design, traffic impacts, flooding and drainage and sustainability. These are matters which CDC has raised in its allegations that require testing by formal cross-examination by an advocate. The Appellant has instructed Leading Counsel to conduct the appeal on its behalf for that purpose. The need to test evidence in this way is particularly important given the lack of particularity in CDC's Reasons for Refusal.
- The complexity of the Proposed Development, in terms of its characteristics and the opportunities it presents. It is a special form of leisure development and it is important that the decision-maker is properly informed about the development through evidence at inquiry from the experts. That process will allow the Inspector to obtain any formal clarification on specified and relevant planning matters.
- The issues to be considered on appeal are themselves complex, including technical evidence as appropriate, but the appeal will also require legal submissions to be made on the legal meaning of policy (including on the meaning of sustainability for a development of this type, golf course provision and impact assessments). The Appellant therefore wishes to be represented by Leading Counsel to make such submissions.
- There is some local public interest in the scheme and an Inquiry would allow interested groups to be party to the examination of the identified planning matters.

7.2 Subject to further discussion with the Inspector regarding the key issues for consideration at the Inquiry, the Applicant intends to call expert witnesses in relation to CDC's reasons for refusal, namely:

- Architecture and design (evidence to be given by EPR Director);
- Landscape / visual impact (BMD Senior Associate);
- Transportation (Motion Managing Director);
- Drainage / flood risk (Curtins Head of Department); and
- Planning (DP9 Board Director).

7.3 Subject to discussions with CDC and any other parties, the Appellant reserves the right to call on witnesses relating to other matters as considered necessary.

8 AREAS OF AGREEMENT AND COMMON GROUND

- 8.1 As will be apparent from the responses above, the Appellant considers that many of the issues being raised in the Reasons for Refusal reflect misunderstandings on the part of CDC, or matters which did not address material supplied by the Appellant, or matters which were capable of resolution prior to CDC's determination of the application, had CDC applied the constructive and proactive approach required by the NPPF. The Appellant considers many issues remain readily capable of resolution prior to an Inquiry. The Appellant will seek to resolve these matters as far as possible and record any agreement in a Statement of Common Ground ("SoCG") between the Appellant and CDC, and the Appellant and other parties, as relevant.
- 8.2 A letter from the Appellant to CDC, dated 25 June 2020, at Appendix 7, set out the intention to appeal the decision. It set out areas of clarification with a view to agreeing common ground. A response from CDC to this letter was received on 2 September 2020, and this is included at Appendix 8. Noting that CDC's response does not specify any common ground, at this stage, the Appellant attaches a draft SoCG reflecting what it understands to be uncontentious issues in light of the evidence and its consideration by the CDC in the application process. This is attached at Appendix 9

9 COSTS

- 9.1 The Appellant considers that the conduct of CDC has been unreasonable in refusing the Proposed Development for reasons which involve allegations that are unsustainable in light of the evidence that accompanied the planning application, or are put forward on an incorrect basis, or without providing the Appellant with an opportunity to respond. The Appellant therefore reserves the right to seek its costs in respect of that unreasonable conduct. The Appellant will continue to review its position in light of CDC's Statement of Case and throughout the appeal process.

10 CONCLUSION

- 10.1 In conclusion, the Appellant considers the Proposed Development accords with the Development Plan and attracts a statutory presumption in favour of the grant of planning permission, unless material considerations indicate otherwise.
- 10.2 The Appellant consider the allegations made in the Reasons for Refusal advanced by CDC to be unfounded, based on a flawed understanding of relevant policies and the position of statutory consultees (including OCC), and often based on incorrect or incomplete information. Adopting a reasonable approach, and following the advice in the NPPF, the Appellant considers a number of the issues and reasons could and should have been resolved prior to CDC's decision.
- 10.3 In any event, the Appellant considers that the significant public benefits arising from the Proposed Development are important material considerations which would clearly and demonstrably outweigh any of the alleged harms claimed by CDC (even if those harms were to arise). In these circumstances, the Appellant's case is that planning permission should be granted in this case.

APPENDICES

SEE SEPARATE UPLOADED DOCUMENTS