

**TOWN AND COUNTRY PLANNING ACT 1990  
SECTION 78 APPEAL**

**APPEAL BY GREAT LAKES UK LTD**

**REF: APP/C3105/W/20/3259189**

**LAND TO THE EAST OF M40 AND SOUTH OF A4095,  
CHESTERTON, BICESTER, OXFORDSHIRE OX26 ITE**

---

**REBUTTAL PROOF OF EVIDENCE OF  
CHRIS JB GODDARD BA(Hons) BPL MRTPI MRICS**

---

## **Introduction**

Chris Goddard will say:

1. I have provided a main proof of evidence with appendices for this appeal. Having reviewed all the evidence, and the planning and related golf evidence of Andrew Bateson, Paul Almond and Thomas Darlington of CDC and the planning evidence of Steven Sensecall on behalf of PAW in particular, for the most part I do not consider they raise any matters not already addressed in my evidence and that of the Appellant's other witnesses, or which cannot be explored at the Inquiry without the need for me to submit a rebuttal.
2. However, the evidence of Andrew Bateson, Paul Almond and Thomas Darlington raises an issue of fact in relation to CDC's consideration of the golf issue and specifically the re-provision of the golf holes, to which I consider it would be helpful and appropriate in advance of the inquiry itself to provide a response in writing.
3. Andrew Bateson and Steven Sensecall also make some assertions in relation to economic and social matters which are incorrect or fail to have regard to material considerations which require a brief response.
4. This rebuttal proof of evidence therefore only deals with these issues, rather than all areas of disagreement. It is not intended to be exhaustive and it should be read in conjunction with my existing evidence.

### **Issue 1. The re-provision of the Golf Holes**

#### **i) The CDC Assertions**

5. At paragraph 7.1 of his proof of evidence Andrew Bateson asserts:-

*'It was belatedly suggested just one day before committee determination, when perhaps the applicants agents reviewed their case and the Committee Report, that the applicant chose to submit a short 1 page statement that claimed to be a business case and a small A4 plan showing how 18 golf holes could possibly be accommodated on the front nine holes of the BHGS course.*

6. A similar assertion is repeated again at paragraph 7.12 of Andrew Bateson's evidence, at paragraph 5.7 of Paul Almond's evidence and then again at paragraph 5.7 of Thomas Darlington's evidence.
7. These assertions are factually incorrect. The apparent criticism is misplaced. Based on a full and accurate account of the matter, it is evident that not only did CDC encourage preparation of the plan to which reference is made, but CDC had been provided with it before the Committee

meeting. Indeed, Thomas Darlington confirmed, in writing, that he considered an appropriate re-provision of the 9-holes could address his objection.

8. In addition, the fact that Mr Darlington subsequently raised concerns with the indicative layout that was provided clearly does not mean that a suitable alternative satisfying CDC could not be secured by way of a condition, and it is very clear that CDC failed to properly engage with this matter.

**ii) The NPPF requirements**

9. To set this in context, I refer to the requirements set out in the NPPF as to the approach expected of a local planning authority (LPA) dealing with a development proposal of this kind. The NPPF makes clear that LPAs should approach decisions on proposed development in a creative and positive way and that they should *'work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of an area'* (Paragraph 38). Paragraph 54 states that Local Planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
10. Unfortunately the evidence in this case demonstrates that on this, as with other reasons for refusal, CDC simply declined to engage with matters which were the subject of active and ongoing discussion and outstanding consultation responses, and decided to take the application to Committee prematurely and based on incomplete information, and has since then sought to reconfirm its original reasons for refusal, again without seeking to engage with the Appellant at all to narrow any areas of dispute and potentially address any of the reasons for refusal, so resulting in the need to incur the significant time and cost of addressing these matters through the Inquiry process.

**iii) The chronology of events in this case**

11. To demonstrate the inaccuracy of what has been claimed, I will outline the chronology of events.
12. Following the submission of the planning application on 13 November 2019 and its validation on 25 November 2019, CDC's Recreation & Leisure ('R&L') Team provided a formal consultation response on 10 December 2019 (**Appendix 1**).
13. CDC's R&L Team did not object to the planning application at that stage, but instead 'commented' saying: *"To compensate for the loss of 9-holes of golf course provision, we would be seeking mitigation based on a positive approach to an increase in usage of the remaining 9-holes. This should be presented in the form of a development plan, showing how usage and accessibility will be increased, especially from the local community"*.
14. It is clear that the R&L Team had no in principle objection to what was proposed and identified mitigation based on proposals for the increased usage of the remaining 9 holes. It can also be seen that R&L Team comments did not contain any criticisms of the application material that had

been submitted by the applicant dealing with this issue, including in particular the CBRE appendix to the DP9 Planning Statement. There was no suggestion at all of the type that now appears to be made that the CBRE appendix and assessment was somehow deficient.

15. Following this, CDC's R&L Team (understood to fall within the CDC Wellbeing directorate remit) provided a further response to the application with an objection on 9 January 2020 (**Appendix 2**), this time stating that *"[they] strongly object to the development proposals due to the loss of 9-holes of golf course at Bicester Golf Course. To compensate for the loss of 9-holes of golf course provision, we would be seeking mitigation of a replacement 9-hole golf course in a suitable location in the Bicester area"*.
16. Leaving aside the contradictory position from its earlier response, it is still evident that CDC considered that compensation or mitigation could address their stated concern. In this context, reference was made to a 2018 sport studies which had been commissioned by CDC as part of their emerging Local Plan evidence base (a matter addressed elsewhere in the evidence) but once again there is no criticism or review of the material that had been submitted with the planning application addressing these issues.
17. The 9 January 2020 objection was forwarded to my colleague, Peter Twemlow, on 15 January 2020. Within an hour of receipt of these different R&L Team comments, Peter Twemlow contacted Helen Mack of CDC (the author of the 9 January 2020 response) specifically identifying that he had:

*"questions regarding the review of the CBRE work submitted as appendix 2 to the Planning Statement and wonder if it would be possible to have a short conversation with you about this? In particular to discuss potential mitigation measures relating to your comments and the general demands in the area (as evidenced in the CDC and CBRE work)"*.
18. Helen Mack of CDC responded on 16 January 2020 and proposed a call with Peter Twemlow and with Thomas Darlington of CDC's R&L Team for 21 January 2020. The relevant correspondence of 15/16 January 2020 is set out in **Appendix 3** to this statement
19. This call was held on the 21 January 2020 and Peter Twemlow summarised the content of that call in an email of 10:47 on the same day (**Appendix 4**) stating, inter alia:

*"Trying to think through some ideas of what Great Wolf Resorts could do (and be secured through a s106) to enhance the 9-hole course and looking on the England Golf website. A lot there on encouraging child / youth involvement and would be good to talk through that with them directly to understand better. Do you think it would be possible for me to speak with your contact there? I would not want to step on their toes with the up to date assessment work they're doing and see the value and need for this in any future decision being made. More a fact-finding effort on our part, to be prepared and refine what could be done and what is most in need"*.
20. The call on 21 January 2020 therefore reflected the first meaningful engagement on this issue. During that telephone call, CDC discussed the 'enhancement' of the remaining 9 holes and with

the aim of widening participation in golf as can be seen from Peter Twemlow's contemporaneous email. This was also the first time that CDC and the Appellant discussed England Golf's involvement in reviewing the planning application (and the material submitted as part of it) and work they were doing to provide an up-to-date analysis of golf needs.

21. Subsequent to this, on 29 January 2020 Peter Twemlow emailed Helen Mack and Thomas Darlington of CDC asking for an update on the England Golf "*position*" (i.e. their response to CDC officers) and the "*new data*" (ie the up-to-date analysis). Thomas Darlington of CDC responded stating that nothing had been received from England Golf and that this "*might take around 10 days*".
22. Having heard nothing from CDC after 10 days, on 11 February 2020 Peter Twemlow emailed the CDC planning case officer, Clare Whitehead, and asked: "*is there anything back from policy of leisure / rec team?*". Clare Whitehead of CDC responded explaining that she was due to "*have a meeting with the rec team next Monday morning [17 February]. And I have been chasing Policy pretty much hourly and have passed it up the line to apply pressure*".
23. Later that day on 11 February 2020, Peter Twemlow spoke to Matt Draper of England Golf and he then sent an email (**Appendix 5**) reflecting what had been discussed and identifying that the Appellant would:

*"work up a design for a 'best in class' 9-hole course. In addition, our client could offer a scholarship type scheme whereby young people (say 15 or younger) are given free 9-hole membership to BHGS. Something like 20 people per year for 10 years"*. Peter Twemlow of DP9 explained that he "*Would love to hear your and colleagues' views on these things – or other ideas*".
24. As can be seen, once CDC officers had identified England Golf's potential involvement, the Appellant sought to engage with them and did so directly after waiting from a response within the 10 days identified by CDC in the absence of a response from CDC itself.
25. Shortly afterwards, on 24 February 2020 Peter Twemlow had a further conversation with England Golf and then submitted both a plan and a video to Richard Flint and Matt Draper of England Golf after that conversation showing proposed enhancement works and other improvements, along with the identification of a scholarship scheme.
26. This email and the accompanying material (which I reproduce as **Appendix 6**) was then sent by Peter Twemlow to Thomas Darlington of CDC on 2 March 2020. Peter Twemlow and Thomas Darlington then discussed its content and Peter Twemlow emailed Thomas Darlington on 3 March 2020 asking whether it had been sent on by him to Clare Whitehead of CDC.
27. In response, on 4 March 2020, Thomas Darlington of CDC confirmed to Peter Twemlow that he had spoken to Clare Whitehead and also with England Golf and he stated he would be "*submitting my updated comment shortly*". Peter Twemlow asked him for clarification about those updated comments and in particular "*is it along the lines we discussed so no objection subject to s106*". Ten minutes later, Thomas Darlington of CDC confirmed "*broadly, yes*" adding "*However, we are*

*not content to leave everything to the s106, so will request a plan of the revised 9 hole course set-up with additional tee positions and improvements to the practice facilities, alongside a (high-level) business plan and feasibility study for the updated facility".* This email exchange is reproduced as **Appendix 6**.

28. On the same day, (the 4 March 2020) Peter Twemlow responded to Thomas Darlington stating *"Okay and when do you need all that by? We have some of that and rest needs to be refined"*. Thomas Darlington of CDC responded saying *"The sooner you submit, the sooner we can scrutinise and discuss!"*. Ten minutes later, Peter Twemlow attached an initial plan and confirmed that, *"we are more than happy to provide this detail now for discussion. Aim is to get you something in the next 24 hours"*. Thomas Darlington of CDC then sent an internal email to Clare Whitehead of CDC, and her line manager Alex Keen of CDC asking: *"I assume you want him to submit these documents formally for consideration?"* This email exchange is **Appendix 7**.
29. It was therefore a shock and inconsistent with what had been taking place to receive an email from Clare Whitehead of CDC to Peter Twemlow of CDC later on 4 March 2020 (**Appendix 8**) stating (for the first time) that, *"any additional information you might wish to submit to address the planning issues will likely require full re-consultation. In line with our Negotiating Protocol, we consider that the current application should therefore be determined as submitted. We would of course be happy to consider any amended or additional information through a re-submission"*.
30. It was on this basis it appears that a decision was taken by CDC to publish the Committee report notwithstanding the ongoing dialogue and, of course, the delays by CDC in engaging on the issue and all the efforts that the Appellant had made to take forward the issue, in addition to other material issues remaining the subject of ongoing discussions and outstanding statutory consultee comments.
31. Following the publication of the Committee Report on the 4 March 2020, as noted in my main proof of evidence, I wrote to CDC Planning Committee Members on 10 March 2020 seeking a deferral. I explained that, *"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 4th March, with a view to securing a positive recommendation from planning officers at Planning Committee"* and setting out my *"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"*
32. In the light of the CDC's sudden decision to take the application to Committee, despite this ongoing dialogue and extensive correspondence between CDC, England Golf and the Appellant, Peter Twemlow sent a further email to Thomas Darlington of CDC and Clare Whitehead of CDC, copying in Matt Draper of England Golf, including a submission about the golf course enhancement works, and wider package, and BHGS's business plan of the type that reflected what had already been sent and the additional information sought. Despite this, Clare Whitehead of CDC responded on 11 March 2020 (**Appendix 9**) stating:

*“I am unable to accept the information at this time as it warrant reconsultation with relevant parties” adding that, admittedly without reviewing the material, “even if the information was acceptable and the relevant refusal reason was addressed, there remains fundamental issues with the proposal for the other refusal reasons to still stand.”*

33. In these circumstances, it is incorrect to suggest that the first CDC officers saw of the potential alternative layout was on the 11 March 2020. In fact the indicative layout was provided to CDC officers on 4 March 2020, and this had been part of an ongoing process in response to discussions with Helen Mack and Thomas Darlington of CDC on 21 January 2020, arranged on 16 January 2020, i.e. the day after the receipt of CDC’s first objection on these grounds where every effort had been made by the Appellant to seek the positive engagement by CDC with any outstanding issues of concern to them.

**iv) The current position**

34. It is also unfortunate that despite the efforts of the Appellant at every stage to engage with CDC prior to submission of this Appeal to seek to resolve this and other matters, CDC has made no attempt to re-engage with the Appellant to establish whether this matter can in fact be resolved in exactly the way that Thomas Darlington was originally proposing and without the time and cost involved in pursuing the matter at the forthcoming Inquiry.

35. Instead, CDC has apparently sought to reconfirm the first reason for refusal on 10 December 2020, without further engagement with the Appellant or England Golf and without addressing the further material that was provided, or even engaging with the Appellant about that further material.

36. This approach is now also carried through into the evidence of Paul Almond, which is largely confined to repeating a critique of the earlier indicative proposals, rather than any attempt to consider what acceptable alternative layout can be achieved. Indeed, CDC has still failed to address what was specifically identified by Thomas Darlington in the earlier discussions, including that on 4<sup>th</sup> March 2020, that this matter can be addressed by way of a s106 and/or condition which deals with the control of any alternative arrangement that CDC may seek and any business plan (albeit there has been no engagement with the business plan previously submitted).

37. This misunderstanding of the approach is reflected in Paul Almond’s evidence at paragraph 5.7 where he refers to a ‘belated suggested alteration to an application’.

38. A fundamental part of the rationale for CDC’s uncooperative approach on this issue appears to be what is expressed in the case officer’s response on 11 March 2020, namely a view that:

*“even if the information was acceptable and the relevant refusal reason was addressed, there remains fundamental issues with the proposal for the other refusal reasons to still stand”.*

39. I consider that this approach is, on its face, manifestly unreasonable for three principal reasons. First, such an approach fails to follow what is specifically required by the NPPF, namely to address

matters proactively and to consider whether the first reason for refusal can indeed be addressed by condition. Secondly CDC has not presented any evidence to demonstrate that a satisfactory alternative layout cannot be achieved and secured by condition. Thirdly, in the context of an appeal where the parties are under a duty to try and narrow the issues, it is wrong in principle to refuse to address the resolution of the reason for refusal itself.

40. In the absence of any proper engagement on this issue, the issues have been addressed in more detail in evidence of John Ashworth which attaches the material from Howard Swan. This demonstrates how an alternative re-provision of the 9-holes and other measures can be achieved and simply secured by way of a condition and/or s106 agreement which would clearly enhance the existing golf facilities, as discussed with Thomas Darlington.
41. This mitigation, together with the substantial new recreation facilities and new public open space would address the requirements of Policy BSC10 and NPPF paragraph 97. As such, there is no reasonable or sustainable basis for CDC to continue to pursue the first reason for refusal.

## **Issue 2. The CDC and PAW consideration of the socio-economic benefits**

42. In paragraph 8.15 Andrew Bateson acknowledges the potential economic benefits of the Proposed Development, through investment, job creation and local/national tourism. He also acknowledges that the proposed development may assist in securing some benefit in Bicester through linked trips to the town centre. In paragraph 8.17 he confirms that the proposal would contribute towards reducing out commuting, by generating new jobs near to Bicester, which is one of the main aims of the local plan and acknowledges that significant weight should be placed on the need to support economic growth. I agree.
43. However, Andrew Bateson then makes a series of assertions which are internally contradictory, and/or not borne out by any evidence whatsoever.
44. First, at paragraphs 8.4 and 8.5 Andrew Bateson repeats CDC's assertion that no impact assessment was undertaken and there is potential to harm the vitality and viability of Bicester town centre. For the reasons outlined in my main evidence, the first assertion is incorrect and there is no basis whatsoever to support the second. On the contrary, CDC's consideration of applications for out of centre hotels to date has consistently led to the conclusion that they would enhance the economy and support the town centre. This is supported by the Volterra work, the comments of TVAC, and the experience of Great Wolf Resorts in the US.
45. In this case, Andrew Bateson produces no evidence which would support a different conclusion. On the contrary, in paragraph 8.15 he actually accepts, in terms, that the proposal may benefit the town centre. In paragraph 8.18 he confirms that the proposed development would deliver spin off economic benefits, although he asserts these 'may well' be limited as Great Wolf Lodges are marketed as offering everything under one roof. Andrew Bateson produces no evidence to contradict the forecast economic benefits, or to reconcile how these could conceivably support CDC's assertion that the Proposed Development could result in any significant harm to the vitality



and viability of the town centre. CDC's approach on this issue is inconsistent, and not supported by any evidence.

46. Second, Andrew Bateson asserts that the jobs which would be created would be 'mostly low skilled positions, which does not reflect the desired direction suggested in either Cherwell District nor Oxfordshire County policies. He also asserts there is an issue relating to the supply of labour, suggesting that only about 3,400 people living in the district may be seeking work, and questions how the work available at Great Wolf Resort would match workforce skills and ambitions.
47. Steve Sensecall makes similar assertions, again without the benefit of any economic evidence. Whilst not disputing the employment figures, Steven Sensecall questions the value of the employment which would be generated, suggesting at paragraph 7.47 that 'it is not clear how these jobs will fit into the employment strategy for Cherwell, and that their 'seasonal' nature undermines their benefit. While not disputing the potential of the proposed development to generate some spin off economic benefit, Steven Sensecall questions the extent to which this would take place. On the basis of these assertions he attaches only moderate weight to these benefits.
48. While neither CDC nor PAW has carried out any alternative economic assessment of the Proposed Development, and the key conclusions of Volterra's work on employment generation and the principle of some spin off benefits are not disputed, I have requested Volterra to consider the assertions made about availability of labour, the profile and quality of the jobs which will be created and how they relate to planning strategy and current and future employment needs. I attach their report as **Appendix 10**.
49. This concludes that, inter alia:
  - The number of people Andrew Bateson refers to as seeking work in CDC represents only part of the total number of people seeking work in CDC, is out of date, and ignores the additional needs of significant population growth;
  - The type and quality of jobs would be well suited to the requirements of those seeking work, and the needs of the growing population, and would be well paid good quality jobs, including management and supervisory roles;
  - The employment which will be created is consistent with, and complementary to, the Local Industrial Strategy, which aims to create longer and more flexible careers for older workers and improved access to emerging jobs for young people, including training and apprenticeships, and will support a diverse workforce; and
  - The Proposed Development will deliver wider spin off benefits to the local economy, and delivers a range of social benefits
50. As recorded in my main proof, CDC attaches particular importance to developing its tourism and visitor economy. CDC has consistently attached significant weight to the benefits which hotel and tourism development and its visitor attractions bring to the wider economy. Andrew Bateson's

approach to this case is inconsistent, contradictory, and not supported by any evidence. In contrast, I have referred to the clear and consistent evidence which supports the level of employment which will be created, how this relates to CDC's current and future needs, and the wider benefits to the local economy.

51. In the context of Cherwell's planned population growth, and the challenges facing Cherwell's economy cited in CDC's Community Involvement Paper, which appear to have been ignored by Andrew Bateson, I remain of the view that the economic benefits of the Proposed development carry significant weight in this case, alongside the other important social and environmental benefits described in my main evidence.