

REF: APP/C3105/W/20/3259189
TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEAL

APPEAL BY GREAT LAKES UK LTD

LAND TO THE EAST OF M40 AND SOUTH OF A4095
CHESTERTON, BICESTER, OXFORDSHIRE OX26 1TE

OPENING STATEMENT FOR THE APPELLANT

1. This appeal represents an opportunity for this country, Cherwell District and Bicester. And what a remarkable opportunity!
2. At any time, the chance to secure inward investment of this kind into an area on this scale to support tourism and leisure, bringing great numbers of jobs and economic benefits to the area, consistent with both local and national policy, ought to be unmissable. At this particular time, as we emerge from one of the bleakest chapters of a generation for the hospitality sector and the many thousands of jobs that depend upon it, the opportunity is truly extraordinary.
3. The Appellant wishes to build the first ever Great Wolf Lodge leisure resort in the United Kingdom. It is a leading operator of these facilities in the United States. It wants to provide a family-focused waterpark designed for children aged 2-12, with their parents, guardians, carers grandparents and friends. It is difficult to think of a more deserving generation than that, particularly in the current climate; the exception might be the generation that will be able to take advantage of the 600 new permanent jobs the resort will offer.
4. The resort's specific offer for such children and their families or carers is a tried and tested success story for that generation elsewhere. The Appeal Scheme would provide such a resort for children in this country.
5. It is also difficult to conceive of any better location for such a resort than this. Geographically in the middle of England, adjacent to Bicester, it could not be better placed strategically to serve a naturally wide catchment of people who can access it easily. It provides ready access for significant urban populations such as London and Birmingham. It provides close access to locally big urban areas such as Oxford and Bicester itself. Bicester is one of the fastest growing towns in western Europe.

6. The site is immediately adjacent to the M40. It therefore has quick and direct access via main roads to the strategic road network. To match this, the area around Bicester itself has a host of complementary tourist and visitor destinations that can immediately foster linked tourism and leisure trips. And whilst it is inevitable that many of the families using a resort of this kind (wherever it is located) will travel by car, what is striking is that this resort in this particular location offers genuine choices to get there sustainably, as Oxfordshire County Council (“OCC”) – the local highway authority with responsibility for promoting such sustainability and accessibility, has properly recognised.
7. For a start, the intrinsic nature of the resort providing family groups of children aged 2-12 years means that guest car trips are inevitably likely to be car-sharing ones This contrast with many other trip-generating uses such as employment, retail or housing where this is not inherent. Car-sharing is something that the National Planning Policy Framework (“NPPF”) specifically defines as a sustainable transport mode¹.
8. For those that do travel by car, the Appellant has also ensured that it will be immediately attractive to those with ultra-low emitting vehicles, with a wealth of charging points for electric vehicles, with provision to expand all of the car-parking to accommodate such vehicles in the future as we all move to that form of travel, another defined sustainable transport mode².
9. But what also makes this particular site so suitable is its immediate proximity to Bicester itself. The edge of Bicester is less than 1.3km away. The town centre is just 3km away. And within Bicester there are two railway stations connecting it to a much wider area beyond .
10. This has two immediately obvious advantages. The first is that guests do have a genuine choice to come to this resort by rail. The railway stations are less than 5km from the site. Itself keenly aware of the opportunities that this presents, the Appellant is committing to the provision of free guest shuttle buses to these stations and town centre. This is an exemplar of offering a genuine choice for travel to a resort of this kind other than by the car. Guests can arrive by train and be met by a dedicated shuttle bus to take them to the door of the resort a short distance away. The same simple journey applies in reverse.
11. The locational advantages of this proximity to Bicester, however, go far deeper than that. On the doorstep of the resort is an immediate source of employment for the

¹ See Glossary to the NPPF CD5.1.

² See above.

many jobs that the resort will offer. Those employees will have a real and genuine ability to get to their work other than by the car. Indeed, the choices are significant. For those closest to the resort, there is always the option of walking. The Appeal Scheme will link the pedestrian routes in the area, including providing a convenient link with Chesterton itself. For those further away, there will be the option to cycle. The Appeal Scheme provides new cycle links to Chesterton. For those who cannot, or do not want to, walk or cycle, there are two immediate options to avoid ever having to get into a car at all:

- a. First, the Appellant will be providing a dedicated free employee bus that can coincide with the key shifts. What is more, it can be tailored as far as practicable to the needs of the employees themselves. It will provide a free, dedicated and focused bus service into Bicester, stopping at the most appropriate locations including, of course, the two railway stations and the town centre bus stops. This therefore covers not just those living in Bicester, but all employees who can readily make their way into Bicester by public transport and then have a direct and easy link to the resort itself.
 - b. Second, the Appellant is committing £1.6 million towards the provision of a local bus service from Chesterton to Bicester. Currently the 21 service is of little use. A service once a day that goes in one direction can do little to encourage those in the area to travel by bus. The Appeal Scheme will change that, with at least one bus per hour to and from Chesterton enabling employees to get to the resort by public transport as well as the dedicated shuttle bus. This new public bus service will, of course, be available as a significant enhancement in the bus service to all residents in the area.
12. These measures will make the resort itself sustainable and accessible³. But they also have an immediate and further direct consequence that embodies the essence of the NPPF and local policy for this area. They will make Chesterton sustainable. The public bus to and from the town centre, connecting to its facilities and railways stations will be available to the public. It will transform the ability for residents of Chesterton to get into Bicester by public transport. The pedestrian facilities in the area will provide an immediate benefit, linking footpaths in the wider area and providing safe routes for those want to walk out into the countryside from their doorsteps. Nothing like this has been offered, or could be offered, to transform Chesterton into a sustainable community in the absence of the Appeal Scheme.

³ For a summary of the transport improvements considered with OCC, see Mr Bell's Evidence, paragraph 3.14.

13. It is therefore little wonder that OCC agrees that the Appeal Scheme is accessible and sustainable. Indeed, it reaches that conclusion even without the provision of the shuttle buses to which the Appellant is committing. Ensuring proposals are accessible and sustainable is at the centre of its Local Transport Plan. OCC agrees that this proposal is sustainable and accessible for those purposes.
14. These locational attributes of the site itself make it ideal for the resort. That is not to say that the Appellant has simply chosen this site because of these qualities without considering an even more central location. To the contrary, as the resort will be offering leisure facilities which fall within the category of a town centre use, the Appellant has conducted a site sequential search of whether there are either in centre, or edge of centre site's available that could be used for the resort. As CDC accepts, that sequential site search confirms that there is no sequentially preferable alternative⁴.
15. Turning to other attributes of the site itself, it is outside the existing settlement boundary of Bicester itself. It therefore falls within land treated as countryside. But it is inherently well-suited for the proposal in all its characteristics. In addition to its locational attributes to serve its intended catchment, it is already used for a recreational/leisure use – it is part of a wider golf course area adjacent to the M40 and part of the existing Bicester Hotel Golf and Spa. Therefore, the provision of a resort offering enhanced leisure/recreation with hotel accommodation is already consistent with an intrinsic element of its existing character.
16. The provision of this new form of recreation/leisure through the resort, coupled with the new public area of open space to the north, will open up the use of this space for recreation and leisure uses for many thousands of people as compared with its current use. Coupled with the retention of a golf course on the remainder of the golf course site, and the enhancement of the facilities it has to offer which are far more in tune with the fostering of golf for the future, it represents a huge enhancement of leisure and recreation facilities in the area.
17. Perhaps what is most remarkable about this site, with all of its other virtues for a resort of this kind, is its ability to accommodate this resort with such limited effects on the landscape or visual amenity. True it is, of course, that the resort requires a certain size, mass and scale of building to provide the hotel accommodation, the waterpark and all the ancillary facilities in the family entertainment centre (FEC) that will generate the recreation and jobs that support it. In that respect, both the Appellant's architects and landscape designers have gone to considerable lengths to

⁴ See paragraph 9.40 of CDC's Committee Report, CD 3.3.

come up with a design that is site-specific, landscape-led and ensure that the building itself sits naturally and comfortably within the site. There are large areas of open space around and distances to the site boundaries.

18. What soon becomes obvious (which you will see from your own site visit and consideration of the application materials) is how well suited this site is to contain such a resort, with its natural topography and existing screening making it already well-concealed. There is already naturally screening around the majority of the boundaries from where the building might otherwise be seen. This arises from the topography and existing vegetation, alongside its location immediately adjacent to the M40.
19. In addition, the land is not subject to any designation; it is agreed that there are no grounds for refusal in relation to any heritage assets, including the Chesterton Conservation Area⁵. It has been developed already as a golf course with planting to match. Its size, shape and boundaries mean that there is already be very limited scope to view the proposed new buildings that are located deep within the site close to the M40 boundary. Both the placement of their buildings, their design and the surrounding landscaping are all conceived in a way which will mean that the building will have very little effect on the wider surrounding area. Where it may be glimpsed or seen, it will generally be through layers of filtering vegetation. Where it can be seen more directly, principally from within the site or its entrance, it is designed to be enjoyed with a vernacular reflected of the local area, based on a typology of the hierarchal form of building manor houses and materials that are drawn from the local area.
20. So whilst there are no other sites within or closer to any urban area to accommodate this sort of much needed tourism and leisure offer anyway, it is a naturally well located and well-suited site for such a resort anyway.
21. What then of the Council's reasons for refusal and the local objections to the scheme?
22. It is an unfortunate reality that those developments which can offer the most in terms of new jobs, new tourism, new social and economic improvements are often the things which engender the most local opposition. Here, 600 permanent new jobs would arise along with the leisure and recreation facilities for many, many thousands to enjoy, serving a wide catchment. This means it is necessarily of a certain size. It is really that the mind's perception of scale (rather than the reality as to its general lack of visibility) and the nature of the change this tends to cause an instinctive negative

⁵ See eg paragraph 9.112 of the CDC Committee Report, CD3.3 and the Council's Reasons for Refusal.

reaction. Unfortunately, much of this is also prompted or encouraged by misunderstandings and misinformation about what is actually proposed, as can be seen from reading the objections.

23. It is hardly helpful, for example, for people to be wrongly told that the proposal will exacerbate the risk of flooding experienced in the local area – in fact it will do precisely the opposite; it will improve the existing situation by providing greater retention of water on site. It is hardly helpful for people to be told that the proposal will result in a loss of biodiversity, when the opposite is the case; it will result in a significant biodiversity net gain, with managed areas of new open space that will enhance the biodiversity of the site and offer new space for people to enjoy. It is hardly helpful to be told that the proposal will create widescale problems on the local roads when that is emphatically not the case. Indeed, OCC's only remaining point concerns Middleton Stoney Junction, some distance away, which as you will hear relates to existing congestion rather than any material, let alone severe impact caused by this proposal. It is similarly unhelpful for people to think that they will be losing golf facilities, when golf is not just retained, but enhanced through delivering facilities that England Golf itself identify as representing the future. And it is similarly unhelpful for people to be given a distorted impression of the effects of the proposal on the landscape character which don't reflect reality. All of this misinformation makes it easier for people, including the members, to ignore the huge social and economic benefits that a development of this kind will bring to the area.
24. You will hear evidence from the Appellant on each of the Council's remaining reasons for refusal which show why they are misguided. In reality, the proposal enjoys strong policy support (as one might expect) both at a national and local level given its characteristics and the characteristics of this site. At the same time, the Appellant will address those misguided concerns being expressed by the Parish Council's through PAW and from other objectors.
25. Before turning to the main issues for the appeal, it is worth mentioning how much is not in dispute with Cherwell District Council (CDC) in terms of the scheme's compliance with relevant policies in the development plan and national policy. For example, as noted in CDC's committee report⁶, there is no objection from CDC Ecology or Natural England in terms of the effects of the proposal on biodiversity and its compliance with the policy requiring biodiversity net gain. There is no objection from CDC Arboriculture in terms of the effect of the proposal on trees, which is unsurprising given the very significant landscaping with new trees that the scheme will deliver. There is no objection from CDC Economic Development to the proposal in recognition

⁶ See eg Consultee responses in the CDC Committee Report in section 7 CD3.3.

that this is a proposal which is consistent with economic development in the area (albeit that the benefits have been massively understated in CDC's assessment and evidence). There is no objection from CDC Environmental Protection (Environmental Health), in recognition of the way in which the design does not give rise to any environmental health issues, such as those relating to noise, air quality or light intrusion. There is no objection from the Environment Agency or Thames Water. There is no objection from the Highways Agency. There is no objection from the Legal Services Rights of Way Officer, in light of the way the proposal proposes a diverted right of way and links to the PROW network which will be far better than exist at present. There is no objection to the proposal in terms of any consultee on heritage grounds. In focusing on the remaining reasons for refusal, one all too often loses sight of the policy support and benefits of a proposal that go without saying.

26. The following is therefore a very short and non-exhaustive summary of the Appellant's position in relation to the 6 main issues you identified at the CMC based on the limited reasons for refusal in issue, anticipating the more detailed evidence you will hear:

(1) Implications for Sport and Recreational Facilities in the area, in particular golf

27. This arises out of reason for refusal 1 of the Council's Decision Notice. There is a huge irony in the reason for refusal itself. In many ways it exemplifies a wrong-headed approach, and sort of "planning by numbers" that can be so detrimental to progress and a sustainable future.
28. The most obvious implication for sport and recreation of a facility of this kind is an enormous enhancement. The resort building is a leisure use of itself. It is one that would offer leisure activity for many, many thousands of children and their families and carers in both the local area and much further afield to enjoy. In addition to the resort building itself, it also actually delivers high quality publicly accessible open space on the north part of this site on an area previously only available to members of the private golf club. This then combines with the enhancements to the PROW network that will be created.
29. Policy BSC10 of the Cherwell Local Plan is a policy which is concerned with open space, outdoor sport, but also recreation⁷. It is difficult to see how provision of a leisure resort, offering recreational activity to so many, at a resort which is simply not otherwise available in the area, can be suggested to conflict with the basic purpose of the policy. It is looking ensure the provision of recreation provision in the area, not restrict its creation. Even if this policy were wrongly to be interpreted as limited in

⁷ See CD5,3

application to outdoor recreational use (which would be inconsistent with the NPPF), the new area of public open space that is created on this site is self-evidently consistent with its purpose. Save for a PROW which crosses the existing part of the golf course which the evidence indicates is rarely (if ever) used, there is no public access to this site for the public.

30. Policy BSC10 links to the NPPF. It is paragraphs 96-101 which deal with open space and recreation⁸. Those paragraphs clearly encompass recreation in the wider sense one would expect, namely both sport and physical activity which includes both sport and recreation facilities, including recreational buildings and land (see paragraph 96 and 97). It is therefore equally inapposite to suggest that the provision of this resort, dedicated to recreational physical activity for young children and their families, is somehow inconsistent with the purpose of the NPPF. To the contrary, it is a facility which will demonstrably widen access to such recreational facilities for both the local area and beyond, in addition to the further public open space that is now being created.
31. But even if one ignores this context, and simply seeks to apply the tests in paragraph 97 of the NPPF, you will hear evidence as to how the proposal meets each of them, although it is sufficient for simply one to be met. This is covered by the CBRE Report submitted with the application, the evidence of Mr Ashworth and Mr Goddard.
32. The Council has placed reliance on a report produced in 2018 (the Nortoft Report)⁹. This is a report prepared for its emerging plan. It has not been subject to any testing. On the basis of this report, it claims that there is a requirement to retain an 18 hole golf course here. For the reasons addressed in the Appellant's evidence, this report does not provide a reliable basis for opposing the scheme. It involves assessing golf provision in a completely artificial way, as if administrative boundaries are real borders beyond which people cannot travel to play. And it completely ignores the up-to-date and best evidence from England Golf as to facilities in the area, as well as what is actually needed for golf in the future.
33. Quite apart from all that, CDC has fundamentally ignored what the scheme can actually bring by way of enhancement. Leaving aside the basic problem of ignoring the facilities of the resort itself, and the accompanying public open space, the assumption that the remaining part of the golf course continuing with the provision of golf will result in a diminution of provision in this area is misconceived. The opposite is the case. In circumstances where the existing golf club membership is dwindling and the operator has confirmed the problems with its viability, the Appeal

⁸ See CD5.1

⁹ See CD 7.2

Scheme offers the ability to inject a new lease of life into golf in this location. It will provide the necessary funding for the remaining 9 holes to be improved and enhanced, offering the ability to play 18 holes on a better facility. In addition, it provides the funding to enhance the existing driving range offer, provide a golf academy within the driving range area and also a practice course for the junior end of the game.

34. It is depressing that CDC has failed to grapple with such evidence not just from the Appellant's experts, but from England Golf itself as to the provision in the area and how such better facilities are what are needed to arrest the decline in interest in golf and secure its future. These enhanced facilities will provide a far greater opportunity to increase participation in the sport of golf, for younger people including children, men and women, including with far greater demands on their time for whom the 18 hole format is less appealing. At the same time, the new enhanced facility will still present 18 holes in a par format suitable for competitions for those that want it¹⁰. There is opposition from the dwindling membership of the golf club. But that appears to be based on misinformation and the local opposition to which I have already briefly alluded.
35. So far from any adverse impact on recreational facilities in the area, including golf, the Appeal Scheme presents a wonderful opportunity to enhance recreational facilities, including the golf provision on offer, in a way which will serve huge numbers in many generations to come.

(2) The effect on the safety and free flow of traffic on the highway network

36. This relates to reason for refusal 3. CDC confirmed at the CMC that this issue, so far as it and the local highway authority OCC, is concerned solely relates to the effect of the proposal on Middleton Stoney Junction. Before turning briefly to that, it is worth pointing out the corollary of this acceptance. Both OCC and CDC are satisfied that there is no unacceptable effect from the Appeal Scheme on the safety and free flow of traffic on any other part of the highway network. That includes the roads of concern to locals and the access arrangements into the site. In that respect, the Appeal Scheme has been the subject of comprehensive assessment and scrutiny. You have the TA itself, and various other technical notes to supplement it.
37. As to Middleton Stoney Junction, you will hear evidence from Mr Bell which demonstrates why this objection is misconceived in principle, given the accepted figures and the consequential policy text.

¹⁰ See indicative layout designed by Howard Swan, BICE.101B.

38. The calculations themselves that been carried for this junction are not in dispute (see Mr DeVenney's evidence). Middleton Stoney Junction is signalised junction between the B4030 and B430 some 3.5km away from the site. It is a junction which carries significant flows of traffic already.
39. At the outset it is relevant to note that the calculations in the TA¹¹ and updated technical notes¹² assessing the flows at that junction are based on a highly precautionary approach. For example, the calculations:
- (1) ignore the beneficial effects of the site's location and the effect of the measures that OCC make the scheme sustainable and accessible - the calculations assume the vast majority of all trips to and from the site are by car (as in the US), with no benefits assumed from the shuttle buses, public bus enhancement, pedestrian or cyclist routes;
 - (2) ignore the proximity of Bicester as a source of employees, or through which employees would come and who would not travel through Middleton Stoney Junction at all;
 - (3) assume normal shift patterns at peak hours based on growth assumptions that pre-date the current pandemic.
 - (4) ignore the effects of any simple mitigation, if it were necessary, such as signage to avoid the junction, or conditions on check in, or travel plan measures for employees.
40. To describe this as highly precautionary is an understatement. Yet even using that highly precautionary approach, Mr Bell will explain that there are no material impacts, let alone "severe" residual cumulative impacts on the road network.
41. The calculations show that the maximum flows generated by the AM and PM peak hours at the junction in 2026 would be just 34 and 46 respectively¹³. That is fewer than 1 every minute. To put that into proper perspective, the expected baseline flows in 2026 in those AM and PM peaks are 2,071 and 1,853 vehicles respectively (assuming pre-pandemic growth). With the inclusion of flows from the nearby Heyford Park residential development into these highly precautionary calculations, the Appeal Scheme without any mitigation whatsoever would only result in a 1.4% increase in flows the morning peak and 2.2% increase in the evening peak. To put that into further perspective, the traffic flows in this location already fluctuate by 17% as shown by the automatic traffic count data between Wednesdays and Fridays. And the additional

¹¹ See CD1-24.

¹² See CD10.9 and 10.16-10.23.

¹³ See eg Mr Bell Evidence, paragraph 4.14 and following.

1.4% increase from the Appeal Scheme in the AM Peak would represent less than 1 year's natural growth in the flows that would be occurring anyway. Mr Bell is therefore undoubtedly right in his analysis that such increases are not material (they will not realistically be perceptible), let alone severe.

42. The objection becomes all the more bizarre to understand when one considers both the reality of the situation and the opportunities to address any such effect even if it were necessary to do so.
43. As to the former, Mr Bell will explain how the calculations included distribution of traffic that does not reflect the obvious main location for many employees, such as Bicester. Employees (that make up a significant proportion of the flows assumed in the AM and PM peak calculations) from Bicester have no reason to travel through Middleton Stoney and the model is therefore highly precautionary as described. In addition, the many sustainable transport measures that are delivered by the Appeal Scheme will all reduce the overall volume of car traffic anyway, yet none of this is accounted for.
44. As to the latter, any flows that might otherwise route through Middleton Stoney Junction in the AM or PM peak can be effectively eliminated anyway by any combination of things like additional signage, Travel Plan requirements for employees, including peak hour working, or a restriction dealing with guest check-in times (if it were necessary).
45. On top of all that, the Appellant has also proposed specific junction improvement to Middleton Stoney itself if required by OCC and CDC. That junction improvement was proposed in conjunction with the committed development of Phase 1 of Heyford Park and its changes to the junction arrangements necessary to mitigate that level of traffic. The Appellant's additional junction improvements would have ensured no net detriment from its own traffic anyway in that scenario. As a result of a request to consider the mitigation proposals being put forward for Phase 2 of Heyford Park, the Appellant has shown that its scheme proposals will also continue to be effective in reducing traffic if those go ahead as well. Again, there is no material impact, let alone a severe impact.
46. Bizarrely, the junction proposals that the Appellant has shown operating in conjunction with Heyford Park 2's mitigation proposals are now being criticised by Mr DeVenney by reference to things like how they address east-west movements for HGVs whilst providing a pedestrian refuge. In fact, the Appellant has actually shown how such movements can be accommodated in the junction arrangements. Its proposals have been subject to full scrutiny through a Stage 1 Road Safety Audit. Mr

DeVenney's criticism are somewhat artificial anyway given that the Heyford Part 2 mitigation that OCC asked to be modelled, and wishes to put in place, include bus gate and HGV restrictions that would prevent such HGV movements occurring. The other criticisms of the junction arrangement are also misplaced as Mr Bell will explain.

47. Accordingly, there is no merit in the suggestion that there the Appeal Scheme will cause any severe impact on Middleton Stoney Junction, or that any of its mitigation proposals (even if they were to be required) are unsafe.
48. As to the objections from PAW as expressed through Mr Lyons, his criticisms of the sustainability of the location are at odds with the analysis of OCC itself and the Appellant's evidence, as will be addressed in evidence. Moreover, his criticisms of the detailed transport assessment work are misguided. He seeks to discount the best traffic data that exists which shows how these resorts work in practice. He then misinterprets the way in which the "First Principles" sensitivity test confirmed the robustness of that data by looking at Center Parcs data for sensitivity purposes only. That Center Parcs sites was a considerably less sustainably located site in Elveden Forest. He then misuses that data as some sort of proxy for this scheme. He also purports to carry out what consequently become entirely theoretical calculations, based on his own "first principles" analysis which is flawed by ignoring the nature of this resort, and the specific data that exists as to how it will actually be used. His trip generation and distribution analyses are therefore simply inapposite and inapplicable.
49. His views about the sustainability of the geographical location and its accessibility are not just inconsistent with the analysis of the Appellant's experts, but also, of course, OCC that has endorsed the approach adopted by the Appellant in concluding concluded that the site is sustainable, and rightly so.
50. There is some reference to Mr Bateson dealing with sustainability in his evidence, but there is nothing meaningful he produces to gainsay the conclusions of OCC in this respect.

(3) The effect on the character and appearance of the area

51. Turning to the effect on the character and appearance of the area, this has been the subject of very detailed analysis and consideration by the Appellant's architects and landscape architect.
52. You will hear evidence about the careful design process applied to the scheme and the landscape-led approach that has been applied throughout. As already noted, whilst the buildings themselves are of a certain scale, size and mass to provide the key

elements of the resort, including hotel accommodation, the FEC and the waterpark with slides, considerable care and attention has been given in the selection of the site for its suitability, the location of the buildings within the site to ensure they integrate fully and minimise any effects and to make full use of the landscape around which already provides natural screening.

53. In this context, it is disappointing to say the least now to read unfounded criticisms of that design and landscape-led approach which typify an approach to design which would be unsound in itself – for example, to criticise the use of the opportunities of the level nature of the buildings which provides such welcome opportunity for accessibility for all users seems very strange indeed. By the same token the criticisms of bunding with landscaping in the south along, the benefits of the diverted PROW (given its current lack of use and conflict with the golf course) and with the landscaping around the car-parking areas or in the new publicly accessible open space are all hollow. Likewise, to suggest that the design is not bespoke for this site, but represents some sort of US shelf design is patently wrong. This is a scheme which has been very carefully thought about and is of very high quality indeed.
54. As to the effect on landscape character and visual impacts, the LVIA that was produced is both comprehensive (addressing the points that CDC wanted addressed) and fair. You will hear evidence from Mr Waddell about that. CDC's own landscape services themselves accepted that the LVIA is a comprehensive and competently written document that complies with GLVIA3 guidelines, and also that the site itself has low landscape sensitivity to change.
55. The character of the site and the surrounding area is addressed in detail in the LVIA and Mr Waddell's evidence to confirm this. The corresponding lack of impact on the landscape character from what is proposed has been demonstrated. Indeed it is one of the virtues of the site itself as to how well suited it is to accommodate this development in a generous landscaped space with no significant landscape or visual impacts. Moreover, CDC's own reason for refusal does not allege any visual impacts from the scheme, and rightly so.
56. The evidence of Mr Huskisson now presented on behalf of CDC bears little relation in this respect to what CDC in fact decided, but it is characterised by what are now exaggerated judgments about the value of the landscape, its character and the effect of the development (although even Mr Huskisson appears to recognise that any effects he is identifying are necessarily localised).
57. The evidence of Mr Cook is even more hyperbolic and unwarranted. Amongst other things, it involves treating the site as having some sort of elevated status in landscape

character terms as if it were in the Cotswolds AONB, and treating a golf course as if it were historic parkland. Both such claims are unwarranted and artificial.

58. We will refer to the judgments of Mr Waddell in his LVIA and written evidence as presenting the fair picture against which you can make your own assessment, based on your site visits. We believe you will see how the opportunities that the site presents have been properly realised, and the constraints properly recognised, with the consequence that there are no significant adverse effects on the character and appearance of the area, and no effects that justify refusing planning permission

(4) The implications for flooding and drainage

59. This relates to reason for refusal 5. It was alleged in this that the submitted drainage information was somehow inadequate in relation to the calculations and methodology and there was an assertion of a lack of “robust justification” for the use of tanking as part of the drainage strategy.

60. The Appellant has had great difficulty in discerning any proper basis for these contentions. The Appellant provided all of the necessary flooding and drainage information, with a flood risk assessment, a drainage strategy that makes proper use of SuDS and justification for the use of the buried tank as part of that overall strategy.

61. Far from there being any proper basis for criticism of the Appeal Scheme on these grounds, it is a beneficial scheme. The results of the development addressing run-off to QBar levels means that the Appeal Scheme will in fact provide a betterment to the existing situation, so reducing the risk of flooding downstream as compared with the existing situation. As part of this, it uses a tank to hold water on the site as necessary; but as an integral part of that proposal the tank provides the ability to harvest rainwater from the site for reuse within the resort itself. This is the essence of a sustainable approach to drainage.

62. The tank uses an industry-accepted intelligent system to control the amount of water in the tank and the capacity required to address rainfall events as and when they occur. The tank will be water-proof and it is bread-and-butter work for an engineer to provide such tanks to address groundwater situations in a simple and commonsense way.

63. Inexplicably, the objection appears to be based on a preference on the part of one representative of the LLFA who would seemingly prefer for a pond to have been used rather than a tank. That is despite the fact that: use of a pond is not practicable given the requirements for development on the site; the site will contain many other ponds;

and use of a pond of the size required to provide attenuation in an area with groundwater would be far more difficult and impractical given the difficulty of securing the necessary lining for such a pond with the groundwater conditions that exist. The Appellant's experts have been unable to discern any reasonable basis for objection to the drainage strategy that is proposed.

(5) Whether the proposal makes appropriate provision for the necessary infrastructure to meet the needs of the development

64. This issue relates to reason for refusal 6 as it was originally articulated concerning the absence (at that time) of an unilateral undertaking, or section 106 agreement, providing for the appropriate infrastructure required as a result of the development; but this is an issue resolved by a section 106 agreement with the relevant contributions ascertained.

(6) Whether the proposal conflicts with the provisions of the development plan and, if so, whether there are any material considerations that would outweigh that conflict

65. This issue covers the issues above, but also other potential issues that have been raised by others but not by CDC itself. For example, despite the fact that CDC is entirely satisfied that there is no basis for an ecological objection to the scheme (as are Natural England) and that the proposal is supported by a biodiversity net gain assessment and the proposal complies with CDC's policy for biodiversity net gain, PAW has sought to question that conclusion. For the reasons that you will hear from Mr Patmore in response, there is no proper basis for Mr Woodfield's surrogate calculations which simply do not reflect the surveyed conditions on the site and distort the reality of the situation.

66. As Mr Patmore will explain, the proposal will result in a significant biodiversity net gain (which is not really surprising given the full extent of the measures proposed and the management that will ensue of the biodiversity areas) as compared with the predominant amenity grassland nature of the site currently managed for golf. Mr Woodfield's objection is not just inconsistent with the expert views of Mr Patmore and CDC's own ecology officer, but also flawed for a number of reasons Mr Patmore addresses. And the Appellant has not been generous to itself in including the full biodiversity gains that can be achieved from its scheme. The areas of green roof are excluded from the net gain calculations, as are other areas which are not proposed to be changed, but which could readily be included within any management measures had there been any additional need to increase the net gain result.

67. Mr Goddard addresses the development plan policies, as well as the other material considerations like the NPPF, in more detail. He will demonstrate why the proposal is both fully compliant with the development plan as a whole, but also the core elements of the NPPF in its three strands. Regrettably the CDC's own analysis of the scheme appears to set little store by those policies, despite the fact that they strongly support the principle and need for new tourism and leisure facilities within Bicester, both as a key part of uses required for the area, but also the social and economic benefits that such tourism and leisure facilities bring. Through the adopted Policies SLE1, 2, 3 and 4 of Cherwell's Local Plan, this resort enjoys strong support in principle as a much needed additional new tourism and leisure destination.
68. Mr Goddard, in conjunction with Mr Ashworth, further demonstrates how the proposal is fully compliant with Policy BSC10 in both retaining a golf course on the site, but also retaining and enhancing the recreational use of the remaining part of the golf course with this new resort and publicly available open space to the north.
69. At the same time, in providing a leisure use, Mr Goddard explains both the sequential site search that has been applied, as well as the proportionate impact assessment that has been produced. These demonstrate that there are no better sites in this area for such a use located in a more central location; and that far from having any adverse impact on the vitality and viability of Bicester Town Centre, this use will only deliver positive benefits to the Town Centre and the economy as a whole.
70. Mr Goddard will similarly provide evidence on the compliance with the NPPF. He will also provide evidence on the broader planning balance.
71. As it happens, the compliance with the development plan and the NPPF create a strong presumption that the proposal should be approved anyway. Notwithstanding this, Mr Goddard also gives evidence that even if the proposal did give rise to any or all of the harms being alleged (despite the Appellant's evidence to the contrary), this is a case where there are indeed material considerations that would outweigh from any conflict with the development plan.
72. The huge benefits that this proposal would bring, whether individually, or collectively, in terms of things like delivery of tourism and leisure to the local area, providing a resort to serve many thousands of people in the catchment who would otherwise have to look elsewhere, the 600 new permanent jobs to Cherwell and this local area, the other significant economic benefits and other benefits (such as improvements in biodiversity, flooding and sustainability of the local area as a consequence) would very clearly outweigh that conflict.

73. We will therefore have no hesitation in inviting you to allow this appeal once you have considered all the evidence at this inquiry. If this area wants to live up to its own planned aspirations, including those in national policy, this resort is exactly the sort of project it should be welcoming. If this country collectively is going to thrive, this is exactly the sort of sustainable and important investment in its future it needs, fostering home-based, family-focused, leisure and recreation, in the right location and delivering huge opportunities for the guests and employees alike. We commend it to you.

JAMES STRACHAN QC
39 Essex Chambers

9 February 2021