

Appeal by Great Lakes UK Limited

**Redevelopment of Golf Course to provide a new Leisure Resort
At land to the east of M40 and south of A4095, Chesterton, Bicester**

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**OPENING STATEMENT
OF CHERWELL DISTRICT COUNCIL**

Introduction

1. The Appellant seeks planning permission to build an indoor waterpark together with a 498-room hotel and conference facility in Chesterton. Collectively these may fairly be described as a new leisure resort, replicating as it does a form, style and format established in the United States. There is associated and incidental development, the details of which do not need to be recited now.
2. Cherwell District Council (“the Council”) resolved to refuse planning permission on 12 March 2020. It did so for six reasons. Since then, the Council has continued to work with the Appellant to overcome or at least reduce the scope of matters in dispute. However, substantial objections subsist in respect of landscape and visual impact, in terms of impact on the highway network and in terms of drainage. The Council also considers that, by dint of its location, the appeal site will lead unavoidably to guests and staff relying substantially – and to an unacceptable degree – on use of the private car to access the resort. The loss of 9 holes of the existing 18 hole golf course, and the qualitative deficiencies in the Appellant’s suggested mitigation, are a further ground of objection. The extent of the Council’s objections to this proposal are extensive and fundamental, and rightly so.
3. The development for which the Appellant seeks permission is, by any measure, huge – a vast car park is proposed with 902 spaces together with a series of connected substantial monolithic buildings of up to four storeys with one part extending even higher. The Appellant’s case is that the resort “naturally requires buildings of a certain

size and a layout of a certain scale in a location outside an urban area”¹. As a proposition, this will need to be examined. However, what is proposed is wholly out of scale, and inappropriate, in what is plainly a rural location outside a small Oxfordshire village. Notwithstanding the potential job creation, the proposals are unsustainable and the countryside beyond Chesterton is the wrong location for such a large project.

4. We turn then to summarise, by way of opening, the Council’s case and in doing so we address each of the principal issues as they were identified by the Inspector at the CMC of 14 December 2020, and, in addition, we outline the Council’s concerns as to locational sustainability as a discrete issue in its own right.

Issue 1: The implications for sport and recreational facilities in the area, in particular golf

5. The Bicester Golf Club includes a well-established, well-appointed and well-supported 18-hole golf course. There is no proper basis to conclude that, in terms of the quality of the current offer, it is by any measure deficient. With the proposed development, and on what appears still to be the Appellant’s primary case, 9 of those holes would be lost to the waterpark with the result that the Bicester Golf Club will become a 9 hole course. The Appellant’s fall-back position is to offer reconfiguration of the residual 9 holes by the insertion of a second tee onto each of the remaining holes, together with retention of the driving range, somewhat expanded, and the introduction of a short form 9 hole par three course in the outfield of that driving range.
6. The Council has two principal objections to what is proposed.
7. First, and on the Appellant’s primary case, it is not accepted, and the evidence far from demonstrates, that the existing 18-hole course is surplus to requirements. In fact, the opposite is true; a course of this form and quality should be retained to meet current need and future demand. Moreover, and importantly, the population of the Bicester is growing and is set to grow further substantially to meet development needs and in accordance with the established development plan strategy. The Nortoft Assessment

¹ See N.Rayner Proof of Evidence at para 4.1.4

(CD 7.2) of 2018 is comprehensive, considered and reliable and was formulated and concluded with the full engagement and approval of Sport England and the relevant national governing bodies, including Golf England. The evidence before the inquiry, when properly tested and understood, demonstrates that this 18-hole course is not surplus to requirements and there is no basis to sanction its diminution as proposed, consistent with either adopted development plan policy or NPPF para.97(a).

8. Secondly, the Appellant has introduced a fall-back position as we have identified. The Appellant proposals are, it would seem, still evolving in this respect; its current suggestion seems to be that set out within the Appendix to Mr. Ashworth's proof of evidence. In substance, the Appellant's fall-back position is not to replace the 9 holes which would be lost to the development so as to retain a true and realistic 18 hole course but rather to invite golfers to play the same 9 holes twice. In qualitative terms this does not amount to a replacement which is the equivalent or better than that which will be lost nor indeed is it a replacement at all. In fact, it amounts to a substantial diminution in quantity of provision and quality. Moreover, and as Mr. Almond will demonstrate, as an arrangement, what is proposed is not a safe for users. This represents a substantial loss. The proposed expansion of the driving range (for which planning permission has not been sought or granted) and the introduction of a small par 3 9-hole course, which cannot be played simultaneously with the use of the driving range, are not a qualitative gain capable of mitigating the loss which will arise.

9. Local Plan Policy BSC10 provides that the Council will ensure sufficient quantity and quality of open space, sport and recreation provision by protecting existing sites and enhancing existing provision. Furthermore, the tests in NPPF para 97 are not met in this case: the golf course is not surplus to requirements, it will not be replaced by equivalent or better provision and the Great Wolf indoor waterpark does not and cannot outweigh the loss in accordance with policy. The development would result in reduced opportunities for improved health and wellbeing and a loss of opportunity for active engagement in sport, which is of particular importance at the current time as we emerge from the restrictions of the lockdown.

Locational Sustainability

10. The appeal site is a rural location in what is essentially open countryside. By the Appellant's own admission, those accessing the development, whether as guests or for work, will do so predominately by car. The only mode share advanced by the Appellant demonstrates the overwhelming dominance of the private car mode. The proposal for 902 car parking spaces serves to highlight this inevitability. The appeal site, inherently, provides few opportunities for guests to access the resort by non-car modes; indeed, the location of the appeal site is such that, as an outcome, this can largely be discounted. Moreover, in terms of access by the 460 employees, the Appellant's own evidence suggested that the realisable opportunities for non-car trips will be little better. It is clear that the users of the resort will primarily travel by car – hence the 902-space car park.
11. The central policy objective of reducing car borne trips and maximising opportunities for non-car modes to serve new development will not be met by permitting such a huge trip attractor in what is an inherently unsustainable location. Given the importance of reducing reliance upon the private car, this adverse outcome cannot sensibly be outweighed by the jobs and economic benefits generated. The District Council, whose policies seek to further this central objective and thus reflect the policy of the Government, was right to object to the proposal on the basis of its unsustainable location.

Issue 2: The effect on the safety and free flow of traffic on the highway network

12. As has been confirmed, the Local Highway Authority's concern relates to the impact on the operation of the signalised junction at Middleton Stoney. Visitors to the proposed resort, approaching from the southbound M40 and A4, will be required to pass through this junction.
13. The Middleton Stoney junction is already under pressure; several of its arms are operating above theoretical and practical capacity². The Heyford Park development (which has planning permission for Phase 1 (1,075 dwellings) and a resolution to grant permission, subject to S106 agreement, for Phase 2 (for 1,175 dwellings)) will add

² See DeVenny PE at para 3.67

further pressure to the junction, notwithstanding that mitigation will be provided as part of Phase 1³. No mitigation has been approved for Phase 2.

14. The Appellant proposes assigning additional traffic through the junction to serve its development.
15. The policy test is clear enough. It requires a conclusion as to “whether the residual cumulative impacts on the road network would be severe” (NPPF para.109). The focus here is on the performance of the Middleton Stoney junction and whether the development traffic when considered cumulatively and therefore with baseline growth and that associated with the Heyford Park development would be “severe”. The Appellant’s assessment demonstrates that, when considered cumulatively, the exceedance of practical capacity at the junction and the queue lengths are such that the outcome will be severely adverse. For the avoidance of doubt, it is no answer that the development assigns less traffic in absolute terms through the junction than that associated with Heyford Park. The focus must be on the performance of the junction assessed cumulatively and not by reference to relative numbers; were the position otherwise, and as the Appellant would have it, then we are into the territory of death by a thousand cuts. Equally, it is no answer to draw comparisons when assessing acceptability of impact with Heyford Park; the latter is an allocated site to be developed to meet critical development needs, following a grant of planning permission originally made by the Secretary of State.
16. The Appellant proposes a mitigation scheme for the junction, albeit not, it seems, as part of its primary case. The scheme has been the subject of extensive discussion with OCC as local highway authority. Their concerns remain unresolved. OCC considers that the scheme, which includes the introduction into the junction a formalised pedestrian crossing point, incorporating an in-carriageway pedestrian refuge, gives rise to further and significant safety risks which are unacceptable. The mitigation scheme is unsafe and cannot be relied upon as deliverable therefore to reduce the cumulative impact of addition traffic on the operation of the junction.

³ Plan HEYF/5/582/C, DeVenny Appx C

17. The Appellant's suggestion of the use of conditions to control guest arrival times is, we suggest, unenforceable and, as such, cannot be given any weight. Its suggestion that signage along the A43 could be introduced to discourage drivers from using A430 takes no account of the almost universal reliance on in car GPS navigation systems.
18. The development is contrary to the Local Plan policy SLE 4 (Improved Transport and Connections), Saved Policy TR7 and Local Transport Plan Policy LTP4 (Making best use of existing and planned infrastructure), as well as the Framework at para.109.

Issue 3: The effect on the character and appearance of the area

19. The appeal site is of good landscape quality and of medium landscape value, at the district level, becoming somewhat higher in the immediate local context of Chesterton. It has a high susceptibility to the proposed development giving it a medium / high landscape sensitivity.
20. Within this landscape, the proposed resort will be a very substantial built form which, we contend, is oversized, monolithic and institutional in its appearance. Many aspects will be incongruous when considered in the context of both established vernacular and rural character. The development will urbanise the A4095 corridor, as one approaches Chesterton and this will be of detriment to landscape and visual receptors and the rural setting of the village. The approach to the village along Green Lane, including as it crosses the motorway, will be also be harmed.
21. As Mr Huskisson's evidence will show, this constitutes a significant adverse landscape impact which will not reduce very much over time, even with maturing tree cover and a long-term management plan in place. There would also be a range of adverse visual impacts arising, many of which cannot be mitigated.
22. In addition, the development will divert a public footpath from an attractive open route across the golf course into a constrained corridor, in large measure enclosed by the service road and car park and contained by artificial bunding, fencing and acoustic screening whilst also requiring users seeking to link to the wider footpath network to continue westward along the A4095 and across the access road to the development.

23. There is conflict with Local Plan 2011 Policy ESD13 Part 1 (Local Landscape Protection and Enhancement), Policy ESD15, in part (Character of the Built and Historic Environment), and Local Plan 1996 Policies C8 and C28 (dealing with sporadic development in the open countryside and standards of layout, design and external appearance). The development is also contrary to NPPF para 127 (a, b, c, d and e) that deal with achieving well designed places and para 170 which requires that decisions should contribute to and enhance the natural and local environment.

Issue 4: The implications for drainage and flooding

24. The development will remove two open watercourses on the golf course. Although these are being diverted through further narrower ditches and culverts, the overall capacity will be reduced. A large pond and a further smaller pond are being removed to accommodate the proposed car park and these are being replaced by an underground attenuation tank to manage surface water falling on the proposed hardstanding areas.

25. The underground tank is proposed at a location that is at high risk of groundwater flooding. There are several consequent risks, including to the structure of the tank and also the connecting pipe and manhole drainage from future cracks in the joints/connections that may occur through settlement allowing groundwater to enter the tank, filling it prematurely. It will be significantly harder to identify issues and repair compared to the existing shallow above ground features. The effects of any failure of the drainage system would increase flood risk to the villages of Lower Chesterton and Wendlebury which are already at high risk of flooding from the Wendlebury Brook and its tributary.

26. The other examples where underground tanks have been used, as identified by relied the Appellant⁴ are distinguishable, not least since these are not on sites where there are groundwater issues and those other sites do not have existing above ground drainage features. There is no reason why the Lead Local Flood Authority's advice could not have been followed for this development and drainage provided by integrating the

⁴ Bicester Heritage and Bloxham Grove Academy – see Bettridge PE at Section 9.0

existing watercourse and pond features with further appropriate shallow SuDS features into the design.

27. The proposal is thus contrary to Local Plan Policy ESD6 (no increase in surface water discharge rates or volumes) and NPPF para 163 (ensuring flood risk is not increased elsewhere) and Local Plan Policy ESD7 (SuDS requirement) and NPPF para 165 (incorporating SuDS, applying appropriate operational standards and taking account of advice from the Lead Local Flood Authority).

Issue 5: Whether the proposal makes appropriate provision for the necessary infrastructure to meet the needs of the development

28. A list of suggested planning conditions has been generated by the Council and is understood to be largely agreed as between the Council and the Appellant.
29. A draft planning obligation has been produced by the Appellant. There remain a few matters of a legal nature which need to be ironed out. In substantive terms, it is anticipated that the Council will be in a position to confirm, shortly, that it delivers all that is necessary in the event that (contrary to the Council's case) planning permission is granted.

Issue 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.

30. We have set out above the objections which the Council levels against this proposal. They are fundamental and each gives rise to a serious breach of development plan policy. The conclusion ineluctably follows that the proposal conflicts with the development plan when considered as a whole. For largely the same reasons, it conflicts with national planning policy. The appeal proposal does deliver economic benefits – as would any commercial development of this scale – but these cannot sensibly be given such weight as to save this scheme and justify the grant of permission in the face of substantial objections to it.

DOUGLAS EDWARDS QC

ANNABEL GRAHAM PAUL

Francis Taylor Building

Inner Temple

EC4Y 7BY

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