SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPEAL BY GREAT LAKES UK LIMITED RELATING TO LAND TO THE EAST OF THE M40 AND SOUTH OF THE A4095, CHESTERTON, OXFORDSHIRE

THE PARISHES AGAINST WOLF ["PAW"]

PUBLIC INQUIRY – 9 FEBRUARY – 5 MARCH 2021

THE CLOSING SUBMISSIONS OF PAW

SASHA WHITE Q.C. and ANJOLI FOSTER

LANDMARK CHAMBERS

The structure of this closing speech:

1. The structure of this closing sets out the reasons why planning permission should be refused:

   1.1. Introduction – When making this decision think about the consequences on those who will be affected by it.

   1.2. Reason 1 – This proposal has been promoted with almost no consultation and by an Appellant who has shown a complete disregard for the people who live in the vicinity of the site

   1.3. Reason 2 – This development will cause substantial harm to the landscape character of the site and its surroundings.

   1.4. Reason 3 – This proposal is completely car dependent and the approach to alternative modes of transport is derisory.

   1.5. Reason 4 – This proposal will not result in 10% biodiversity net gain and will cause material biodiversity harm.

   1.6. Reason 5 – This proposal will cause material harm to the safe operation of the road network.

   1.7. Reason 6 – This proposal will cause significant harm to the provision of golf

   1.8. Reason 7 – This proposal is completely contrary to the development plan and its strategy.

   1.9. Reason 8 – This proposal is completely contrary to the NPPF

   1.10. Reason 9 – This proposal does not bring forward any benefits which cannot be provided elsewhere.

   1.11. Reason 10– There will be no harm if the proposal is refused.

   1.12. Reason 11 – This proposal is for development which could not be further from sustainable development.

   1.13. Reason 12 – This community say no in the most universal and emphatic way possible.

Introduction – When making this decision think about the consequences on those who will be affected by it.

2. On behalf of PAW can we strongly thank you for listening to the Rule 6 party with such consideration and understanding. The holding of the Thursday night session was hugely appreciated.

3. It is a shame this inquiry is virtual because it is difficult to appreciate the level of objection to this proposal which would have been so manifest with a physical inquiry.

4. At the commencement of the inquiry and throughout in Banbury there would have been hundreds present to make clear their objection.

5. On some days on You Tube there have been 1000 viewers plus representing the level of objection.

6. On Monday look again at the signs in almost every single house in Chesteton saying NO!

7. In terms of the path ahead of you we empathise and understand that your task involves a difficult decision because of how much is at stake for all 3 main parties.

8. It is also hugely consequential because you have the power to do good and also cause immense pain and suffering to those who will have to bear the consequences of any planning permission.

9. In the Planning White Paper it is noted that only seven per cent of the population trusted the Council to make decisions about large scale development that will be good for their area [page 12 – Planning for the Future].

10. That is reflected by the White Paper seeking to move democracy forward in the planning process and to give communities an earlier and more meaningful voice in the future. [page 18 – Planning for the Future].

11. PAW is the David v Goliath in this matter.

12. PAW is an organisation brought together by local people to fight this proposal.

13. Every single consultant and lawyer is paid for by individual contributions.

14. They have come together to speak with one voice – this is a development which is disliked universally by those who live in close proximity to it and further afield across the 36 Parishes now part of PAW.

15. Notwithstanding the attempts of a public relations company employed to sell its benefits the proposal could not be more disliked.

16. In my professional career I have not come across a proposal which is so reviled by so many.

17. It is also noteworthy that there is absolutely no support. Notwithstanding a pathetic attempt to garner support by someone who remains anonymous – the petition supporting its provision has garnered 11 supporters.

18. A risible and embarrassing number. They could fill their shuttle bus with the entire support for this proposal in Oxfordshire.
19. The Appellant team have done themselves no favours with an attitude of hauteur and being utterly dismissive of those who oppose the scheme.
20. Great Wolf themselves have not had the courage to put anyone forward to justify this vast monstrosity. Not one letter of any kind from them is before the inquiry. The site search selection process is completely absent from any kind of transparency that allows others to understand how and why they came to pick this site.
21. The Appellant's team at this inquiry have also shown an really dismissive attitude for those that oppose them which has added only fuel to the fire.
22. Mr Strachan's opening was really poor and caused real anger; alleging the opposition was based on 'misinformation' which was both patronising and just plain wrong. It was noteworthy that this allegation of 'misinformation' was then utterly missing from the Appellant's evidence at the inquiry. What exactly has been alleged by the Appellant to amount to misinformation relied on in generating opposition? This allegation has no basis and it caused real anger.
23. Mr Goddard compounded the error by contending yesterday that the concerns of the local population and their fears of this proposal and its impacts simply deserved no or little weight.
24. They simply could not be more tone deaf to the real and understandable concerns of the local population.
25. Their approach has made the dislike of this scheme even greater if that was possible.
26. If planning permission is granted this proposal will become a lightning rod for immense rage and anger and rightly so.
27. This is a proposal which is not wanted and has been imposed in the most outrageous way by stealth and secrecy.
28. However, you have immense power.
29. You can end the years of fear and genuine terror that this proposal has brought by refusing it.
30. Refuse it and let those who have the misfortune to find themselves within the locality of the secretive, unjustified and wholly perverse site selection exercise of Great Wolf live again.
31. To live a life free from fear of this vast monstrosity which is the most manifest example of corporate bullying possible.
32. It also needs to be stressed that the proposal just does not need to be here either.

33. It is common ground that it does not need a rural location.[1] The principal elements are all indoor. The Appellant is willing to consider 6 hectares sites which are a third of the appeal site. The Appellant is proposing a vastly lucrative development. It is willing to pay £10 million to buy this site. It is proposing a development which will generate vast sums.

34. The simple position is that it there are a huge number of potential sites available to it within its supposed criteria (again completely unevidenced).

35. The proposition that they could not find an alternative site within an arc of 120 minutes of Birmingham and London is simply risible with the resources this company has available to them.

36. The only evidence relied on is the flawed sequential assessment which is not worth the paper it is written on:

    36.1. For reasons that remain completely unexplained it only looks at 10 towns.

    36.2. It is now 17 months out of date. Covid will have had a significant effect on the availability of land – maybe good or bad – but it unquestionably needs an update.

    36.3. It ignores many other towns within the catchment – Reading, Slough, the whole of West London, The whole of East Birmingham, Luton, Northampton, Daventry, Coventry, Rugby, Maidenhead, High Wycombe, Swindon, Stratford, Warwick.

    36.4. The towns it does chose to consider only looks at sites allocated or subject to recent applications which is completely bizarre when the chosen preferred site does not fit into either of those categories. Therefore lets chose a site which does not have that characteristic and then rule out all sites which have a different characteristic.

    36.5. It also considers all out of centre sites on the same level which is completely wrong. Out of centre sites have to be considered on preference to accessible sites. See the conclusion for example on South Aylesbury – "it is located in an out of centre location and therefore is not sequentially preferrable" [Appendix 3, Planning Statement]. Therefore the document simply does not accord with Government Guidance on this issue.

    36.6. It dismisses sites on the basis they are allocated and without one discussion with an LPA to see whether the LPA would consider a development which would bring forward 460 FTE jobs. Not one phone call or email has been sent to any of the 10 LPAs in which the selected towns sit.

37. Therefore, this proposal does not need to be here and the Appellant has failed to satisfy paragraph 86 of the NPPF. From this flawed site selection, then leads a great number of significant harms, as set out below.

Reason 1 – This proposal has been promoted with almost no material consultation and engagement and by an Appellant who has shown a complete disregard for those that live in the vicinity of the site.

[1] Accepted by Mr Goddard in cross-examination.

38. The chronology in this matter is instructive:

    38.1. Great Wolf identified this site in 2017 and engaged DP9.

    38.2. For 18 months they evolved the proposal and agreed a very lucrative option with the landowner.

    38.3. They engaged with the LPA in January 2018.

    38.4. They then had numerous further meetings with the LPA.

    38.5. They then instructed a professional team who evolved and finalised the proposals with no engagement of any kind with the local community or relevant parish council.

    38.6. Finally they present a scheme in June 2019 when the die was cast.

    38.7. The proposal was identical to that applied for in November 2019.

39. That chronology is a case study in how not to carry out meaningful and proper consultation as sought in paragraph 128 of the NPPF.

40. The contempt shown to the local population is quite remarkable by one of the leading planning consultants in the UK and the company seeking to destroy the environment in which this proposal is situated.

41. This proposal materially breaches the aspiration of the Government that Applicants who are seeking to promote development of this nature listen, engage and work collaboratively with the local community.

42. This proposal has done the opposite – not once has this Appellant listened or sort to work collaboratively.

43. All that was undertaken was a tick box exercise carried out cynically, with a closed mind and with the outcome pre-determined in June 2019. The changes post consultation were non-existent as can be seen from comparing the June 2019 plan with the planning application.

44. What is the purpose of a consultation if nothing is done in response.

45. It reminds one of the Brian Clough quote – "I listen for 20 minutes and then decide that I am right".

46. What actually happened here was completely hollow and academic exercise and to pretend otherwise insults the intelligence of those who live in this community as the Appellant has sought to do repeatedly and consistently in this matter.

Reason 2 – This development will cause substantial harm to the landscape character of the site and its surroundings

47. It is important to appreciate what the character of the site is currently. The site falls within the open countryside, where development is strictly limited. The site contains 9 holes of the existing golf course and is entirely free of built development currently.

48. The site currently is an amenity landscape forming a parkland golf course; it is surrounded by trees on the perimeter and is punctuated by trees throughout, managed as grassland and water bodies, with designed views. The LVIA accepts that one of the key characteristics of the site is the parkland trees throughout.

49. In understanding landscape character, in accordance with GLVIA3 it is necessary to look at the published character assessments. At the highest tier, the site sits within the Cotswold National Character Area. The key characteristics are clearly set out and the penultimate bullet refers to parkland and also identifies gardens and historic designed landscapes and gives examples stating that these particularly feature in the broad lowland where the site is located. The term parkland is generic and not specific and not qualified with regard to the presence of mansion houses or otherwise.[2] This particular type of landscape is a key characteristic.

50. When we go the next local level character assessments, the OWLS, the site falls within the Wooded Estate lands. As the name suggests, the landscape is wooded and comprises estates and specifically, again refers to parklands. The character assessment refers to the landscape type including parklands with no qualifications attached and notes that this area includes parkland areas, and it notes that the parklands are very typical of this landscape site and underline its estate character.[3]

51. Then when we go to the most local character area in the OWLS document, the site falls within Middleton Stoney, it notes parklands are a prominent feature throughout and references Bignell Park by way of example. No further qualification as to whether with or without mansion houses, designated or not. Bignell Park no longer has its original manor house nor is it designated, but is framed by its tree cover to prevent external views.

52. As explained by Mr Cook, the appeal site is a parkland type landscape and sits well in this context. The site contains all the key ingredients of the parkland locality and contributes to a sense of place. The golf club website refers to a hotel set amongst beautiful countryside, referred to as a family owned estate surrounded by gardens and a golf course providing magnificent sweeping rural views. It is from a golfer's perspective a parkland course that provides golfers the opportunity to play golf in a landscape which has the look and feel of a parkland. Mr Waddell agreed in cross-examination that the site is a "parkland style", and Mr Rayner and Mr Patmore also referred to the site's parkland characteristics; there is common ground on this point. There are clearly many forms of parkland. This has a specific use as a golf course, but clearly has parkland characteristics.

53. The character statements show that the strategy is to safeguard and enhance parkland style landscapes such as this, and minimise impact of large-scale development new barns and industrial units (which are notably considerably smaller than the Great Wolf proposal).

54. In relation to landscape value, Mr Cook fairly accepted that the site is not a valued landscape for the purposes of paragraph 170(a) of the NPPF. However, he explained that the site is clearly a highly valued landscape at the local level, as demonstrated by his Box 5.1 analysis

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[2] Mr Cook Proof, p32.
[3] Mr Cool Appendix 4, under headings "location" and "Cultural Pattern".

and by the hundreds of objections, many of which are based on landscape harm. The site is currently well enjoyed by members of the public on the public footpath and also by those playing golf. Mr Waddell and BDM through the LVIA, accepted that the views of society are a factor in assessing landscape value; however, he and his colleagues wrongly failed to then take into account the overwhelming views of the local community in their assessment of the landscape value of the site.

55. Mr Waddell's contention that the hundreds of objections were not relevant to landscape value because they were merely objections to the proposal was a bad argument to make. Clearly these hundreds of objections (many of which comment on landscape harm) are based on people highly valuing the existing site as it is currently; as a parkland golf course and free of built development.

56. In relation to what is proposed, it is not exaggeration to say that this will be a gigantic development:

    56.1. A development which would attract 500,000 visitors a year. [Economic Statement paragraph 1.7] which is equivalent to every resident of Liverpool coming to visit in a year.

    56.2. A development which could have 3,000 people staying overnight. The Appellant was incredibly coy about the actual number of beds proposed, even evasive frankly. Mr Bell did all his work on a capacity of 2,250 which has been shown to be utterly wrong. Doing an actual audit of the proposal with Mr Rayner showed that the number of beds in this proposal is 3000 which makes it on Mr Webster's reckoning the second biggest hotel by beds in the UK.

    56.3. Simply a huge development of 52,685 m² Gross External Area. It is noteworthy that every single witness of the Appellant could not point you to where the nearest building of this scale actually is and indeed treated the question with horror – remember Mr Rayner and Mr Waddell. They are quite happy to promote such a scheme and then when they are asked to find a comparative building, they completely disown the comparison. It is remarkable that no one on the Appellant team can tell you where a comparative example is, and do not even seem to think it relevant.

    56.4. A Gross Internal Area of 47,940 square metres [To give context to that Selfridges has 50,000 square metres selling space and is the second largest single retail space in the UK. By comparison Harrods has a GIA of 29,877 square metres]. Bicester Village has just over 27,000 square metres. That tells one the scale of this proposal. The Appellant is seeking to build a building of the size of Selfridges on a site which is designated countryside or equivalent to 8 average sized superstores. Imagine putting 8 Tesco Extra's together and you are getting the sense of scale of this proposal. It is simply vast.

    56.5. The overall appeal site is 18 hectares. 12 hectares will be developed or 66% of the site area. Built development and car parking across 12 hectares [A football pitch is 0.714 hectares so the development will eat up an area comparative to nearly 17 football pitches]

56.6. A vast hotel by any measure comprising 498 large rooms with a total floorspace of 27,250 m^2. We are not aware that there is any hotel in the county which comes close to that number of rooms.

56.7. Additionally 460 FTE staff [see management plan page 11 and planning application form].

56.8. Therefore the site could host over 3,000 people at any given time if one includes day passes and conference guests.

56.9. A proposal which will generate 805,324 car movements a year, or 15,487 movements a week or between 1991 to 2766 a day every single day of the year. Reflect on the numbers – this is a proposal in 2021 in a climate emergency to allow vast numbers of journeys by the private car. Not just vast numbers but also travelling huge distances from a catchment area of 125 miles and of course others will come further. 805,324 car movements! [Transport Assessment Appendix E]. That actually equates to a vehicle movement every 15 seconds at peak times going in or going out of this facility. [Weekend 1300-1400]

56.10. An enormous indoor water park of 8,340 m^2 which is a grand name for a huge shed with a massive swimming pool in it. That structure alone is the size of a Superstore.

56.11. An enormous "family entertainment centre" with restaurants and shops with a floorspace of 12,350 m^2 which again is comparative to two superstores on its own.

56.12. It will have an ice cream parlour, coffee shop, breakfast buffet, pizzeria, fast food restaurant, tacos restaurant, Barnwood restaurant none of which are open to the public. [The Appellant's ventilation statement].

56.13. Additionally there is 550 m^2 of conference space on which the Appellant's material makes quite clear will attract outside visitors; but Mr Goddard is now telling us that there is this logical market of waterpark + conference facilities which is a novel idea.

56.14. Then 902 car parking spaces. Again to give context the biggest redevelopment in Oxford – The Westgate centre has 1,000 spaces (and this is over multiple storeys) to feed the main shopping centre of a city with a population of 250,000. This car park will immediately become one of the biggest car parks in the County.

56.15. A physical barrier at the plot boundary [management plan page 16]

56.16. The height of the hotel is between 18-20 metres which is equivalent to a 6-7 storey domestic structure but the dimensions are enormous – if you walked around the whole building it is equivalent distance to 1.2 kilometres [Rayner XX]

56.17. The water slide is 22.5 metres in height which again is in excess of a 7-storey building and brightly coloured and garish [maybe intentionally].

56.18. A 24-hour 365-day operation for maybe many decades.

56.19. Lighting throughout across the 12 hectares in the car park, including 70 Column lights at 6 metres throughout the car park, save for a tiny area of 4 metres another 30-40 lights around the service yard and on the side of the building and lighting on the external area of the FEC. The Plan overview shows the whole area covered by development will be constantly lit at night [Lighting Design document] with only moderate adverse consequences predicted on those who live in close proximity to the site [See illumination impact profile document]

56.20. A waste generation of 185,562 litres per week or 9,649,224 litres per annum of which 54% is refuse and the rest is recycling [Waste Management Strategy – Paragraph 3.2.4 – CD 1.27] or 1.4 billion kilograms of waste a year [Table 3.4].

56.21. A water consumption of 141,512 m^3 per annum [Utilities statement of the Applicant].

56.22. The destruction of 53 trees, 46 tree groups which will contain multiple trees and 1 wooded area across the existing site [Arboriculture Impact assessment paragraph 5.2.1]. Effectively every existing tree which sits in the way of the structures and car park are destroyed to allow the development to proceed [Tree protection plans in arboriculture impact assessment]. As Mr Cook articulated this proposal will destroy many hundreds of trees whose only failing is to fall in the way of the Appellant's bulldozer.

56.23. Six hectares of public parkland which sounds attractive but it is almost completely within an area which the Appellant has annotated as an area subject to "Loud noise from the Motorway" [See BDP Architect Pre-App Document 2] and "subject to noise pollution" [See DAS]. Will outsiders really choose to walk adjacent to the motorway and in the shadow of this vast monolithic structure?

56.24. It is of note however that the Delivery and Servicing Management Plan and the TA do not estimate or reveal anywhere the number of deliveries expected on site. It is completely unclear what is the extent of deliveries to a site that might host 4,000 a day who need to be fed and watered. What is the actual figure and size of vehicles? Mr Lyons and I spent years providing those figures for Tesco proposals in great detail. Mr Bell told us only 4-5 vehicles a day which seems incredibly light to feed 3000 people.

57. Mr Rayner confirmed that there were a vast number of Great Wolf requirements in terms of the sheer size of built development required that were mandatory and fixed in his brief, and which he could not change. This included that the development needed to be an indoor facility and comprised of a single connected building. In addition, the size and number of hotel rooms, size of waterpark, restaurant, family entertainment facility and conference facility; height of the water slide, and hundreds of car parking spaces. Mr Rayner also confirmed that he was not involved in site selection, but was only presented with this as the chosen site.

58. In reality, Mr Rayner was given virtually no discretion in his task, as demonstrated in the most superficial of changes he was able to make in developing the design. Mr Rayner had to squeeze this development onto the south of the site and that was that. There were no

material changes made in response to consultation – by this stage the design was fixed. Mr Rayner and the Appellant's approach runs entirely contrary to paragraph 124 of the NPPF which states that it is effective engagement between applicants, communities, local planning authorities and other interests throughout the process is essential.

59. It was revealing that the Design and Access Statement did not even identify the site being in the open countryside as a development constraint. The regard paid by Mr Rayner and Mr Waddell to responding to the local context was almost non-existent. They did not claim to identify any local precedent or any comparative buildings to relate this proposal too – in fact, their position is that this relation to local context is not even relevant. As an approach by design and landscape experts, this is a remarkable approach.

60. The proposed development as a whole would be entirely alien and have a significant urbanising effect in the landscape. The necessity of the brief to accommodate the development as proposed, unavoidably requires substantive loss of trees and grassland, two key components of parkland character. Consequently, a substantial loss of parkland type landscape would occur which neither conserves nor enhances.

61. In particular, in relation to trees, the AIA identifies that the site is heavily treed with many mature trees as standards and in groups designed specifically to create an attractive amenity landscape with internal views and spatial definition. The AIA demonstrates substantial loss of tree cover – Mr Cook notes that the trees, given their age, maturity and condition do represent quality trees throughout the site and he invited the Inspector to view the trees across the course on the site visit.

62. Much of the course to be replaced with a hotel and car park on a massive scale, plus the engineered earth bund which would be an alien feature in its own right. Mr Cook explained that the dimensions, combined with intensity of use, resembles what we are more familiar with in an urban environment together with associated movement, activity, noise and lighting to run what is presented as a 24/7 operation. The proposal would involve the loss of landscape elements and landscape type that defines this local rural environment. Mr Cook stated that the new development would not give any sense of place and would be totally out of character. Mr Cook identified that this would result in a significant loss of parkland type landscape, loss of key parkland ingredients and represent a fundamental change, resulting in a major adverse impact on landscape character.

63. Frankly, this conclusion as to major adverse landscape character impact should be indisputable. The fact that Mr Waddell asserted a minor beneficial effect on landscape character is wholly incredible. For the first time in cross-examination, he accepted that the circa 50,000 sqm building and the 902 car parking spaces would both have a negative impact on landscape character. His contention that these negatives would be outweighed essentially by some tree planting and enhancement of grassland, so as to result in an enhancement, was unsound.

64. If Mr Waddell's approach is to be followed, this would be fabulous news to the development industry – a development of huge built form in the open countryside can overall benefit landscape character by planting some trees.

65. Mr Cook also identified that in terms of visual harm, although the visual envelope is localised in geographical terms, there are a number of visual receptors in this envelope which would suffer a substantial significant adverse effect:

    65.1. The receptors on the retained golf course to the south would have clear visibility of the proposals but are not assessed in any detail nor are the public hotel areas the viewing and congregation areas on the north side of the hotel.

    65.2. The size of the scheme and the limited size of the site leaves no alternative but to remove an existing public right of way across an attractive amenity landscape. This route would now run alongside a busy road and pass over the entrance to the resort and pass between the rear of two hotel complexes.

    65.3. A prominent urban type development on the site would spill out onto the A4095 with its junction, road lanes, signage, traffic movements and visibility and lighting, all of which would detract from its rural approach to Chesterton village substantially diminishing its sense of rurality given the scheme were in place.

66. It is quite remarkable that the visual assessment concludes no major adverse impacts even at close range and this may be due to the limited analysis – it does not address in detail the key visual receptors and their locations such as the new footpath route and entrance to the hotel which is promoted as an arrival experience. Neither are there any visualisations of the appeal scheme at close quarters, conspicuous by their absence.

67. Mr Cook also identified the major adverse visual effect to the highly sensitive residential receptors at Vicarage Farm and Stapleford House, where the proposed development would be dominant and prominent in views. Again, it is Mr Cook's opinion that should be preferred over Mr Waddell's on this issue – Mr Waddell's assertion that a harm as low as minor/moderate adverse would be caused, based on an opinion "it could be worse" (giving the example of a nuclear power plant) was again an unsound approach. It was also remarkably flippant. The existing occupiers look out on a golf course. That is to be replaced by the largest building in Oxfordshire and a sea of car parking and at worst the harm is moderate. The objective position is that on BMD's criteria this is major adverse as it "*Causes a major deterioration to the view of the receptor of high sensitivity* (which is agreed) *that would constitute a total change in the view or would introduce a major discordant element into the view*" [ES Chapter 13 Appendix 2, page xvii].

68. On the basis of the above, there would clearly be non-compliance with policy. As Mr Cook explained, the relevant development plan policies focus on character <u>and</u> appearance, and all require the same clear theme that any development must be consistent with, and sympathetic and complementary, to local character. The major adverse impact on landscape character, as well as significant visual effects locally, would patently conflict with these policies. The development would also not be of the high quality required (see section 12 of the NPPF), nor would it contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside (see para 170(b) NPPF in particular).

Reason 3 – This proposal is completely car dependent and the approach to alternative modes of transport is derisory

69. This proposal is in a location which has terrible alternative means of transport currently.

70. That is accepted in essence in the Transport Assessment, Mr Bell's XX, the Hale Appeal Decision and the Planning Officer's report into the extension of the Hotel.

71. Therefore the Appellant is utterly dependent on improvements to make this proposal comply with Government Guidance.

72. However, this inquiry closes after 4 years of the Appellant's interest in this site and no one is wiser as to what the level of car usage will be.

73. There is no evidence of any kind that the proposed transport infrastructure and service improvements will actually achieve a change in modal split which makes the proposal acceptable. It simply will not happen.

74. The test that has to be passed is not the provision of infrastructure and services, but paragraph 103 of the NPPF requires us to: (i) limit the need to travel <u>and</u> (ii) provide people with genuine choice of transport modes.

75. The first limb goes to location and site selection (noting that Mr Bell acknowledged in cross-examination that he again became involved (in March of 2018) once the appeal site has already been selected).

76. The second, requires us to make an assessment of whether, or not, people will actually use what is proposed to be provided (noting that Mr Bell could not provide the Inquiry with his assessment of what the modal share of people travelling to the appeal proposal would be).

77. Mr Bell worked hard to distance himself from the only modal share data before the Inquiry, namely, that provided in the Appellant's Trip Generation Analysis in Appendix H to its Transport Assessment, but it remains all that we have to consider.

78. Yes, that data may well have been used in an effort to demonstrate the efficacy of the data from America, but Motion has told us that it "is considered to provide a reasonable comparison for guest mode share" and car occupancy. [Para 2.10 of Appendix H of the Transport Assessment CD 1-24].

79. So, in the final analysis of the evidence base, it is all that we really have to rely on and that tells us that in the order of 98% of guests and visitors will travel by car.

80. Thinking about car occupancy, it is simply not credible to characterise families driving to the appeal proposal as 'car sharers' in the context of the definition of 'sustainable transport modes' given in the glossary to the NPPF. It is illusory to suggest that a driver's partner and children are making a sustainable travel choice to car share when: (i) they have a common trip origin and destination, (ii) they are highly unlikely to drive separately to their common destination, and (iii) they have no other realistic choice (especially if they are children).

That is simply not what is envisaged by the NPPF and not what will happen here. For clarity, car sharers typically either have separate trip origins and a common destination or the reverse (i.e. shared journeys to and from places of work or school, and/ or home). They often participate in coordinated arrangements.

81. The evidence has also demonstrated the modest pedestrian and cycling catchment of the appeal site, and the low population that lives within a reasonable walking distance. The cycle catchment is larger but here the Appellant clearly fails to complete the delivery of cycle infrastructure that will provide a genuine choice for visitors and staff to cycle to and from Bicester.

82. That leaves, the proposed provision of (a) free-to-use shuttle bus for guests, visitors and staff and the financial contribution towards the provision of a paid-for public bus service.

83. Notwithstanding the debate about the modest population that actually lives within a comparable (to the equivalent drive-time) catchment of the site, the fundamental concern remains that the free-to-use shuttle bus will, inevitably, compete with the public bus service such that it will, undoubtedly, undermine its commercial viability. It is simply not sustainable.

84. While initially the financial contribution will enable the provision of "a single bus, operating a broadly hourly service over the period between the first and last shift changes, seven days a week for a period of up to ten years", even the County Council acknowledges that it is "not expected that the service would become viable as a standalone operation".

85. When the Appellant's subsidy is exhausted, the bus service will fail.

86. The extent of the funding dilemma was made apparent by Mr Lyons when he determined that the bus service would need to achieve almost three times the modal share achieved at the proxy site in order to achieve commercial viability even without the competition threat posed by the free-to-use shuttle bus.

87. No-one believes that the public bus service will endure.

88. Save for any day visitors or staff that do live in Chesterton and that may be inclined to use the new footways to be provided, and the handful of guests and staff that may use the free-to-use shuttle bus, ten years after opening the accessibility of this site will revert to what it is today.

89. The appeal proposal is almost entirely car dependent and that is contrary to the requirements of the Framework.

<u>Reason 4 – This proposal will not result in 10% biodiversity net gain and will cause material biodiversity harm</u>

90. There is common ground on the policy context between Mr Woodfield and Mr Patmore; namely that policy ESD10 of the Cherwell Local Plan Part 1 seeks to ensure a biodiversity net gain in all development proposals, and that since the Council resolution in October 2019 the requirement is for a minimum of 10% net gain for development proposals. This is in line with the direction of travel in the forthcoming Environment Bill.

91. For some unknown reason, the Appellant chose not to instruct WSP for the purposes of the appeal (even though it was WSP who had carried out all the BNG assessments and surveys), and instead Mr Patmore was parachuted in for the purposes of defending the Appellant's position at the appeal. Mr Patmore chose to 'nail his colours' to WSP's approach, which caused fundamental problems for him both in terms of methodology and the accuracy of the baseline assessment.

92. In relation to methodology, Mr Patmore continued to insist throughout his evidence in chief and cross-examination that the metric used by WSP in December 2019, which was based on the Defra 2012 metric, should continue to be used to calculate BNG now (which WSP calculated would result in a 27.09% BNG);[4] rather than using the Biodiversity 2.0 metric.

93. This approach was inexplicable when compared to numerous comments Mr Patmore made in his Proof, including that the 2.0 metric "builds on" and "advances" the 2012 metric; the 2.0 metric is based on "more recent evidence" (particularly in respect of the difficulty and time required for new habitats to be delivered); the 2.0 metric has now "superseded" the 2012 metric and is a "significant advancement"; and that the up to date 2.0 metric should be used for the purposes of reserved matters.[5]

94. Mr Patmore's insistence on the 2012 metric, and his confirmation in cross-examination that his approach meant the Inspector should <u>not</u> base his BNG analysis on the most up to date evidence, revealed the illogical approach that tainted Mr Patmore's evidence as a whole.

95. As rightly explained by Mr Woodfield, the correct metric to use here must be the Biodiversity Metric 2.0; and indeed this has been the case since it was published in the summer of 2019. Even before taking into account any of Mr Woodfield's criticisms of the baseline and proposed site assessments, this drops the Appellant's claimed BNG to 17.14%.[6] Mr Patmore finally conceded in answers to the Inspector at the end of his evidence (and not fairly in answers in cross-examination as he should have done) that it would in fact be reasonable for the Inspector to use the 2.0 metric for his decision – clearly this is the right approach.

96. In relation to the baseline assessment, WSP's assessment[7] was littered with errors; and rather than correct these errors from his own verification site visit, Mr Patmore decided to own them by wholeheartedly endorsing the WSP baseline assessment. There were several areas where Mr Woodfield showed there to be incontrovertible errors in the WSP approach, errors which unjustifiably suppress the baseline habitat value and scoring on the existing

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[4] CD2-1, page 14. Note this is without any of Mr Woodfield's corrections to the baseline and proposed assessment being made.

[5] See paras 4.1.1; 4.2.2; 5.3.2; 5.5.2; 5.5.3; and 3.4.11; of Mr Patmore Proof.

[6] Mr Patmore Proof, Appendix B.

[7] CD2-1, Appx A; also found in Mr Patmore's appendices.

site. The detail of all these errors was gone through in evidence, and is not rehearsed again here, but most notably:

96.1. Mr Woodfield identified that a significant number of trees had been missed off the WSP baseline mapping (Mr Woodfield calculated 74 missing trees amounting to circa 0.357ha[8]). Mr Patmore attempted to reason backwards to explain that it was right that all these trees should be ignored for BNG purposes – his approach is that because these trees are free standing and not in groups so they have no habitat value for BNG, and instead the right approach was to map these areas as the poorest condition amenity grassland.

96.2. This was plainly nonsensical and has the effect of driving down the baseline value of the site. Unsurprisingly Mr Patmore could not point to a single bit of guidance to endorse his approach. Mr Woodfield's alternative approach, which seeks to account for all such habitat features in the metric, is clearly the more rigorous, accurate and appropriate.

96.3. Such examples of this error and skewed accounting are particularly important when it comes to considering Mr Woodfield's evidence that there's a qualitative difference between the intensively managed greens, tees and fairways on the one hand and less frequently mown roughs on the other.

96.4. In cross examination Mr Patmore conceded, rightly, that there is an "obvious"[9] qualitative difference between fairways and roughs. He also accepted that at least some of the roughs are not the poorest condition amenity grassland but he merely disagreed with Mr Woodfield on the extent of this. However, Mr Patmore's complete endorsement of the WSP approach of classifying the whole area homogenously as the poorest condition of amenity grassland fails to capture this obvious difference in condition.

96.5. Mr Woodfield has illustrated that just by correcting the areas of roughs to a moderate condition amenity grassland, which he described as a highly conservative approach, makes a significant difference to the calculations, resulting in a biodiversity net loss of -5.77%.[10]

96.6. Mr Woodfield explained that this was a much fairer approach than that taken by WSP (and adopted by Mr Patmore), and explained that he could easily identify a number of diverse grass species in the roughs just by sight, which are included in the criteria for moderate condition grasslands in the 2.0 Metric Technical Supplement.[11] This tallied with WSP's acceptance in the habitat survey that the roughs in the amenity grassland category may develop into a taller and more species rich sward during the

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[8] From EPR architect's drawing 'existing site plan' (ref: 10875 EPR 00 ZZ DR TP0101); see also Mr Woodfield's email to Mr Patmore submitted as a PDF document to the inquiry.
[9] Mr Patmore's words.
[10] See Appendix to Mr Woodfield Rebuttal.
[11] CD10-7a, page 19.

spring and summer[12] (though this was not then carried through in their BNG baseline assessment).

96.7. Further and importantly, neither WSP nor Mr Patmore have carried out a botanical survey of the amenity grasslands in the appropriate season[13] (nor indeed has Mr Woodfield, though it should clearly not be the task of a Rule 6 party to carry out the surveys the Appellant has failed to do). Therefore, the precise effect of this obvious and accepted qualitative difference is unknown.

96.8. The critical point, however, is that it is anywhere even close to Mr Woodfield's illustration, the appeal proposals will deliver net loss, and certainly not a 10% gain, and thus would conflict with policy. This is before one comes onto consider whether there are further errors or questionable assumptions in the Appellant's accounting for the post development situation.

97. On the issue of the post-development situation, we learn from correspondence with the Council's biodiversity officer and from Mr Patmore that the Appellant accepts that there are particular challenges to the delivery of some of the claimed enhancements and a tension between the ecology objectives and their future amenity uses, especially near the building and around the car parking area. Such enhancements are clearly an afterthought by the Appellant, and are not even shown on the only CGIs that are available in Mr Rayner's evidence – further adding to the misleading nature of the Appellant's imagery.

98. No adjustments to the metric are made to account for this and indeed in all cases the proposed habitats are expected to reach the top level of condition possible, often in very short order. Mr Woodfield explained how, for example, it was 'fanciful' to describe a half metre wide row of planted whips with no room to grow in the same terms as the robust long established species rich hedge along the site's north-eastern boundary. Mr Huskisson for the Council also made similar criticisms.

99. The Council's biodiversity officer queried the inclusion in the metric calculations of narrow strips of ornamental planting between car park bays; and yet these are still presented to this appeal as native hedgerow planting of a high scoring pedigree. Thus, there is a need for further margins of error to be considered in the second part of the story that relates to compensation and its delivery, and as Mr Woodfield sets out in his evidence, accounting for these additional errors will push the appeal scheme further into net loss.

100. As a result of this volley of legitimate criticisms, the Appellant was driven to throw in new proposed enhancements, in Mr Patmore's Rebuttal and even during Mr Patmore's evidence in chief. These are wholly absent of detail and themselves appear to change upon scrutiny; indeed, it was a voyage of discovery to find out exactly what the Appellant is even proposing as new enhancements. For example, a 'green roof' that is proposed without any supporting detail other than an annotation on some of the architects drawings, or investigations into feasibility as to structural loadings, and which covers an extent area that is already being revised downwards, as Mr Patmore confirmed in his oral evidence.

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[12] Phase 1 Habitat Survey at CD1-13, ES Volume 1, Appendix 9.1, para 4.2.22.
[13] Phase 1 Habitat Survey at CD1-13, ES Volume 1, Appendix 9.1, para 3.3.3.

101. Finally, vague and cursory references to off-site provision are made, again absent of any detail on location, practicality or delivery or what it will displace. The definition of an afterthought. Notably, in relation to off-site impacts, Mr Woodfield pointed out that off-site losses had also not been accounted for in the BNG assessment by the Appellant (including no account have been made for any biodiversity losses from the proposed footpath/cycleway to Chesterton, if that is carried forwards; and loss of hedgerow to the site access, splay and sightlines).

102. Overall, it is Mr Woodfield's evidence on this topic that should be preferred, which results in the conclusion that the appeal proposals will deliver net loss, and certainly not a 10% gain, and thus would conflict with policy.

Reason 5 – This proposal will cause material harm to the safe operation of the road network

103. The road network has roads which everyone accepts should not as a matter of principle be used by those coming to the site. Mr Bell readily accepted that some of the routes should not be used hence the justification for the signage strategy.

104. No-one doubts that guests (and conference delegates) will use satellite navigation devices to plan their route to the appeal proposal. Where there is doubt and confusion is whether, or not, drivers will comply with the signage strategy that it proposes.

105. The Appellant has modelled a scenario whereby it accounts for 50% of drivers on the M40 off-slip road at Junction 9 ignoring a sign directing them to follow the longest route (via the A34 and the B430 (through Weston-on-the-Green) in favour of taking a shorter route (via the A41). Yet, it expects that all drivers will comply with a sign that directs them via Vendee Drive and the A4095 rather than taking the shortest route via Little Chesterton and the Green Lane cross-roads junction.

106. That is simply not a reasonable analytical stance to take, and clearly one that has deprived this Inquiry of a credible analysis of the adverse impact of the appeal proposal in the context of saved Local Plan Policy TR7 on minor roads or its impact on highway safety in the context of paragraph 109 of the NPPF. A point which was well made by Mr Sensecall.

107. Indeed, as far back as January 2020, the County Council identified the inappropriateness of the route through Little Chesterton as a key point [CD 10-25]. It remains one that has not been addressed by the Appellant and no one doubts that it remains the shortest and quickest route for traffic from Junction 9 of the M40.

108. Additionally the proposal will cause harm on the A4095.

109. There can be no confidence in the amount of car parking proposed. The Appellant wanted 1,000 spaces and purely promoted 902 to meet OCC's requirements.

110. Mr Bell has done nothing to put those fears that the proposal is under-parked to rest.

111. It is just not credible that the demand for car parking at the appeal proposal will be greater during the week than at the weekend, as suggested by the Appellant's Car Parking Demand analysis provided in Appendix E to the Transport Assessment.

112. Moreover, it is entirely inconsistent with the narrative provided in the Appellant's Trip Generation Analysis that clearly envisages: (a) increased patronage during the weekends and (b) a demand for more car parking than is proposed.

113. Worse, that calculation is based upon "expected" room occupancy, "a peak occupancy of 2,250 guests", and "typical car occupancy" in order to derive a "typical parking demand" when we now know the proposal can host 3,000 guests.

114. The Appellant has taken an unreasonably optimistic assessment of parking demand and, in the absence of the provision of any overspill car parking, it falls far short of what can and should be expected in order to satisfy this Inquiry that the demand for car parking generated by the appeal proposal can be safely accommodated within the curtilage of the site.

115. The consequences of a higher than expected (typical or average) demand for car parking cannot be accommodated at the appeal proposal and will spill out onto the Main road causing significant problems.

Reason 6 – This proposal will cause significant harm to the provision of golf

116. The Appellant's case on golf was shown to have very little merit once it was tested. A large part of Mr Ashworth and Mr Swan's evidence was aimed at showing that the new golf offering would be better in terms of quantity and quality compared to the existing golf course – indeed the claim was that the new offering would be an "enormous enhancement" over the existing. This was a claim that entirely lacked credibility.

117. As a starting point, both Mr Ashworth and Mr Swan accepted that they had not considered at all the ways in which the existing golf course and facilities could be improved, but rather their evidence was all predicated on the Great Wolf resort being built on 9 holes of the existing course. In reality, there is nothing in physical terms preventing the golf course owner from implementing any of the suggested changes to the existing course.

118. Further, despite the grand claims from Mr Ashworth and Mr Swan that the funding from Great Wolf was the only way these improvements could be secured, and that without Great Wolf the existing golf course would inevitably fail, such claims lacked any real evidential basis and it was entirely unjustified for these claims to be made:

    118.1. The starting point for Mr Ashworth claiming that the proposed golf offering would result in a better business model for the BHGS were his calculations of the revenue from the existing golf offering, which he alleged to be £315,792 in 2019/20.[14]

    118.2. However, Mr Ashworth accepted that this figure did not include any revenue at all from golf breaks at the BHGS. Based on the figure of 1,359 golf-related room packages being booked at the BHGS in 2019,[15] this equated to a circa further £178,029 of revenue

[14] Para 4.16 of Ashworth Proof.

[15] See para 4.17 of Ashworth Proof.

that had not been included in Mr Ashworth's calculations.[16] Given that the BHGS is a blended model (including with the hotel and golf offering interlinked), and that this amount of money was clearly also revenue linked to the existing golf offering, this was significant omission to make.

118.3. Mr Ashworth accepted that he had not examined any financial information from the BHGS, or investigated other sources of finance that BHGS could make use of. The impression given in the brief letter from the Financial Controller (who did not appear to give evidence and could not be tested) was contrary to the most recent company accounts for BGHS, which as a whole showed a substantial net profit of £352,873, and also recorded that golf revenue streams (other than purely membership fees) were improving and that recently golf had been thriving at the existing course.[17]

118.4. In light of this, it simply not arguable that the Great Wolf development is the only way any 'improvements' could be achieved or that the golf course is about to fail. Clearly if the owner of BHGS thinks that Mr Ashworth and Mr Swan's proposals are a good idea, he can implement these and the golf course can and will continue to thrive.

118.5. Mr Ashworth eventually fairly conceded that he had not put forward any real viability evidence to show that the Great Wolf development was the only way any golf 'improvements' could be achieved.

118.6. The fact that even following Mr Ashworth's evidence, Mr Swan (and to an extent Mr Goddard) continued to boldly contend that Great Wolf was the only way these changes could possibly happen, conveniently ignoring the evidence of their colleague Mr Ashworth, was just one of the ways in which their evidence displayed a serious credibility problem.

119. In addition, the Appellant's claims that cutting the existing course down to 9 holes, in addition to the proposals for the joint driving range/par 3 course, would result in a huge surge in new people playing the course did not withstand scrutiny:

119.1. Any comparison that was sought to be drawn to the existing golf course was not a fair one to make. The existing course has not had any material investment in recent years, and there has been a clear sense of discontentment amongst members about this (whose offers to help increase membership have been rebuffed by the BHGS owner[18]) which has been amplified ever since the Great Wolf proposal became public.

119.2. Both Mr Ashworth and Mr Swan accepted that they had not carried out any consultation with the members of the golf club when preparing their proposals. The complete failure to consult or engage with the members in preparing the new proposals, to ask the members views, was irrational.

[16] Put to and agreed by Mr Ashworth on the basis of £131 per night (the golf-related room price for off peak golf rooms in 2020 based on the BHGS website).
[17] Mr Sensecall Proof, Appendix 5 of Appendix B.
[18] See the Statement on Golf from PAW and the Golf Committee at Mr Sensecall's Appendix B (including the Appendices within this) and the Golf Committee Further Golf Objection.

119.3. This inquiry has shown that the clear view of current members is that the consequences of Great Wolf will materially harm their club, and the evidence is that 75% of members would leave,[19] and Mr Ashworth fairly accepted that this reaction was a reasonable one for members to take. It really is true to say that the only people who think the new golf offering will be an "enormous enhancement" and have the "wow factor" are members of the Appellant's team – they are the outliers.

119.4. Indeed, the only golf consultation that was seemingly carried out by the Appellant was the survey of 3,000 golfers across the UK. Only 5% of participants of the survey had ever played at Bicester,[20] which already makes the usefulness of the Appellant's survey questionable.

119.5. However, even with this rider, the Appellant's survey did not help them in the slightest. It demonstrated that when golfers go on golf breaks they far prefer 18 holes over 9 holes, and far prefer 18 holes over 9 holes with 18 tees.[21] On this basis, it was simply not right for Mr Ashworth to assume in his assessment of use of the new golf offering that there would be no change in the number of rounds played by BHGS golf break guests.[22] Just as with membership players, this aspect of golf played at BHGS would also clearly diminish with the Appellant's new proposals; which further calls into question the Appellant's claims that the new offering would be an "enormous enhancement".

119.6. It was unrealistic, and frankly not credible, for Mr Swan to allege that the new 9 hole course with 18 tees would be more attractive to golfers. He accepted that variety on each hole is fundamental to the sport of golf, and he also accepted that other than the tee position, the same hole, with the same bunkers and same water features would be played twice. Mr Swan also agreed that the new course offering could not be advertised as an 18 hole course. This deficiency of the 9 holes with 18 tees offering was yet further compounded by the evidence from Mr Swan that there would be 2 hour periods where no new players could play on the course.

119.7. Finally, in an attempt to justify their claims that the new golf offering would be better than the existing, the Appellant's case was that the 'improvements' would result in a whole host of new people playing at the golf course.

119.8. A material proportion of these apparent new players was alleged to be Great Wolf guests. This was yet another assertion by the Appellant which could be not be substantiated. The basis for Mr Ashworth claiming this was the again the survey of the 3,000 golfers across the UK. However, it was clear that the answers given in this survey were based on a hypothetical integrated "resort + golf" offering.[23] This suggestion that Great Wolf will now so dramatically change their business model so as to attract the

[19] See Statement on Golf from PAW and the Golf Committee at Mr Sensecall's Appendix B and the Golf Committee Further Golf Objection.
[20] Appendix 2 of Mr Ashworth Proof, pages 49 of the survey answers.
[21] Appendix 2 of Mr Ashworth Proof, pages 44 and 45 of the survey answers.
[22] Para 4.26 of Mr Ashworth Proof.
[23] Appendix 2 of Mr Ashworth Proof, see pages 25, 51 and 52 of survey answers.

golf tourism market and "serious golfers"[24] was fanciful, and Mr Ashworth confirmed that he had made these contentions about this integrated offer without any conversation with either Great Wolf or BHGS – and no evidence was put forward by GW themselves or BHGS on this new change of model.

119.9. The Appellant also relied on more play from novice golfers or nomadic golfers at the new course offering. In this respect, the suggestion that cutting the course to 9 holes will encourage more people to play at the golf course is not sustainable, when it is accepted by all witnesses that 9 holes could be easily played on the current course (with both loops of the front 9 and back 9 ending up at the club house).

119.10. In addition, the reliance on the driving range/par 3 course to bring in novice golfers or new golfers was hugely exaggerated. There is already a driving range, with space for 10 bays,[25] and the proposals are not to cover these bays or install any floodlights in any event.

119.11. There will also be a very limited benefit due to the driving range being on the same land as the par 3 course, with no ability to use both at the same time. Indeed, the scheduling suggestion by Mr Ashworth would result in barely any benefit from the par 3 course due to the limited daytime hours it would be operational.[26] There is also already putting green practice and bunker practices available at the existing course, which was a fact apparently not appreciated by the Appellant.[27]

120. On this basis, it is patently obvious that the loss of 9 holes of the current golf course resulting from the proposed development would not result in replacement by equivalent or better golf provision in terms of quantity and quality, contrary to paragraph 97(b) of the NPPF. Rather, the new offering would be worse than the existing in terms of quantity and quality.

121. In relation to paragraph 97(a) NPPF, it is also plain that no assessment has been undertaken which has clearly shown the 9 holes of the golf course to be surplus to requirements. Quite the opposite is the case. The Council's evidence, through Mr Darlington and Mr Bateson, demonstrated that the Nortoft report, an up-to-date assessment carried out by an experienced body, showed that with the significant amount of population growth (particularly in Bicester) there would be a deficiency of one 18 hole course or two 9 hole courses by 2031. Thus, there will already a deficiency and the loss of 9 holes caused by Great Wolf would exacerbate this deficiency.

122. Finally, as to paragraph 97(c) NPPF, the development of the Great Wolf facility would not provide alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. As demonstrated above, the loss of the current 9 holes would be a significant loss; the current club and course is greatly loved by members and the local community (as shown by the weight of evidence given by locals), and the course can

[24] In Mr Ashworth's words.

[25] The BHGS advertises 10 bays, and 10 bays is recorded in the Council's golf reports; and despite Mr Swan reporting that there are only 4 bays laid out at this current time, he accepted there was space for 10.

[26] Para 4.28 of Mr Ashworth Proof.

[27] Mr Ashworth said he was not aware of this.

continue to thrive once the threat of Great Wolf has disappeared. This loss is amplified in the context of this golf facility being needed in the local area, as shown by the Council's evidence.

123. In contrast, there is no evidence whatsoever of any need for the type of water park leisure facility that is proposed here. There is no evidence of such deficiency in the Council's evidence base. Similarly, the Appellant has not put forward any evidence of such a need or deficiency of the type of leisure facility they are proposing – the fact that the Appellant has not put forward any such evidence, despite the huge financial resources they have thrown into this appeal, itself speaks volumes. In addition, as accepted by Mr Rayner, the open space provided to the north of the site would suffer from a significant noise issue in this area – Mr Sensecall stated that this would mean this would not be an attractive open space. As such, the benefits of this leisure facility proposed would not clearly outweigh the loss.

124. Accordingly, paragraph 97 of the NPPF provides that the existing sports facility should not be built on. In addition, the proposal would be contrary to policy BSC10 of the Local Plan, which provides that the Council will work to protect existing sites such as this. The loss of the 9 holes caused by Great Wolf will cause significant harm.

Reason 7 – This proposal is completely contrary to the development plan and its strategy

125. In addition to the key development plan policy breaches identified in relation to landscape, biodiversity and golf, Mr Sensecall comprehensively explained that multiple and significant ways in which the appeal proposal would fundamentally conflict with the spatial strategy in the development plan.

126. Mr Sensecall explained that the consistent thread running through the development plan was to focus development on the most sustainable locations, done through focussing the bulk of growth in and around Bicester and Banbury, limiting growth in rural areas and directing it towards larger and more sustainable villages and aiming to strictly control development in the countryside. He explained that this was consistent with the aims of national policy to achieve sustainable development, achieve a modal shift away from reliance on the private car and protect the intrinsic qualities of the countryside.

127. The site is patently not on the edge of Bicester; there is a clear separation between Bicester and the rural settlement of Chesterton which is to be maintained, and then separation again between Chesterton and the site. Any contention to the contrary by Mr Goddard is not legitimate. Even within the built up limits of Chesterton, only very minor development is envisaged; and the appeal site lies beyond this.

128. Mr Sensecall is clearly right in his view that locating the appeal proposal – over 50,000 sqm gross external area and attracting half a million visitors a year – on this site would, on any rational view, be wholly incompatible with the spatial strategy. This tallies with Mr Bell's concession that locating the proposal on the appeal was contrary to the requirement in paragraph 103 NPPF to focus significant development on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

129.Mr Sensecall also set out in detail how the appeal proposal ran contrary to the policies on developing a sustainable local economy:

129.1. SLE1 sets a clear locational direction for employment proposals, focussing these on main urban centres, which the appeal site does not meet. Mr Sensecall explained that it would be illogical to disregard this policy when looking at the proposed development here, where the Appellant is relying on the provision of creating over 400 jobs.

129.2. SLE2 requires a sequential test approach to main town centre uses, such as the proposed development, which is an approach consistent with the NPPF. Out of centre proposals, such as the site here, are at the lower end of preference; and even when considering such out of centre sites, preference will be given to accessible sites.

129.3. It is a mystery as to the process that was gone through which led to Great Wolf selecting the appeal site – Mr Goddard confirmed that this had been fixed already by the time he was instructed. He accepted though that there was no requirement for Great Wolf to have a rural location, and that urban locations were not ruled out in principle. He also accepted that he had not put forward any viability evidence that the proposed development needs to be this size – it is notable that the proposed Great Wolf facility being considered in this appeal is larger than many of those in America.

129.4. Mr Sensecall explained that the sequential test put forward by the Appellant was flawed and selective – there was no evidence to justify why particular requirements were chosen (e.g. the M40 corridor over the M1); no evidence to support assertions made as to why sites were discounted; no evidence to justify why merely 10 towns were looked at and a multitude within the target area which had not been identified.[28] In addition, the sequential assessment had not been updated since the application, and an alternative (more sustainably located) site was shown in the evidence from Mr Hardcastle.

129.5. SLE3 on tourism growth is prayed in aid by the Appellant. However, Mr Sensecall explained that the SLE3 is only supportive where proposals “accord with other policies in the plan”, as set out explicitly within the wording of SLE3; a requirement far from met here. Further, the focus is on *sustainable* tourism.[29] The appeal proposal, which the Appellant openly accepts is aimed at a 125-mile drive catchment area and skewed towards the private car, is straightforwardly not sustainable tourism.

129.6. Policy SLE4 requires that all development should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. The evidence from Mr Sensecall and Lyons shows this is policy requirement is also not met. Indeed, Mr Bell accepted that locating the appeal scheme on this site was contrary to paragraph 103 of the NPPF.

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[28] Mr Sensecall mentioned Watford, Stratford, Luton, Warwick and Slough.
[29] SO5 in the Local Plan.

129.7. Further, policy ESD1 seeks to distribute growth to the most sustainable locations as defined in this local plan, and Policy Villages 1 sets out a highly restrictive approach to the villages.

130. The only rational view is that the proposed development is contrary to the spatial strategy, and is contrary to the development plan when considered as a whole. If Mr Goddard's conclusion is followed, that a development of this huge scale in the open countryside is compliant with the development plan, then frankly all bets are off and this makes a mockery of the plan-led spatial strategy.

131. The appeal proposal is firmly contrary to the development plan when considered as a whole, and thus the decision in accordance with the development plan, as per section 38(6), is to refuse to grant planning permission.

Reason 8 – This proposal is completely contrary to the NPPF

132. Material considerations, primarily, the NPPF, do not indicate a decision otherwise than in accordance with the development plan.

133. Quite the opposite, as detailed comprehensively above, the multiple breaches of key paragraphs of the NPPF weigh yet further against the grant of consent namely:

133.1. The purpose of the planning system is to contribute to the achievement of sustainable development [NPPF7] – A development generating 800000 vehicle movements and overwhelmingly for the private car is not sustainable development and on greenfield open countryside.

133.2. Minimising pollution and mitigating climate change [NPPF8 c] – As above.

133.3. Where a planning application conflicts with an up to date development plan permission should not normally be granted [NPPF 12] – This proposal completely contravenes the policies and spatial strategy of the development plan.

133.4. The planning system should be genuinely plan led [NPPF 15] – This proposal has never gone near the development plan and is completely contrary to this guidance.

133.5. The plan ..is a framework and …a platform for local people to shape their surroundings [NPPF 15] – This proposal is the antithesis of allowing local people to shape their surroundings.

133.6. Applicants should engage with the local community before submitting their applications [NPPF 40] – The engagement with the local community was only done after the die was cast.

133.7. Significant weight should be place on the need to support economic growth and productivity taking into account local business needs and wider opportunities for development [NPPF 80] – This proposal has nothing to do with local businesses and there are much wider opportunities for its placement than here.

133.8. Only if suitable town centre or edge of centres sites are not available or not to come available in a reasonable period should out of centre sites be considered [NPPF

86] – the Appellant has completely failed to show there are no preferable town centre or edge of centre or out of centre sites with better accessibility.

133.9. Applicants should demonstrate flexibility on issues such as format and scale – [NPPF 87] – The Applicants have not shown any flexibility. Only DP9 have tried to address this issue in the most dilatory way.

133.10. If the Sequential approach is failed it should be refused [NPPF 90] – This advice is mandatory and should be followed in this case.

133.11. Planning decisions should guard against the loss of valued facilities [NPPF 92C] – The local community and members of the golf club hugely value the existing facility.

133.12. Existing sports facilities should not be built on [NPPF 97] – This facility concretes over 9 existing golf holes.

133.13. Unless the land is surplus to requirements [NPPF 97 A] - The facility is most patently not surplus to requirements.

133.14. Unless there would be better provision in terms of quality and quantity [NPPF 97 B] – This is a poor replacement halving capacity and requiring every hole to be played twice.

133.15. Unless the benefits outweigh the loss of the current [NPPF 97C] – This proposal simply does not outweigh the loss as has been evidenced by members.

133.16. Planning decisions should protect and enhance rights of way [NPPF 98] – the proposed diversion is a poor replacement requiring people to walk through the vast development and by the road for a significant length.

133.17. Significant development should be focussed on locations that are or can be made sustainable [NPPF 103] – There is simply in the absence of any conclusion on modal split no evidence that this site can be made sustainable.

133.18. Through limiting the need to travel [NPPF 103] – Mr Bell accepted this development breached this.

133.19. Offering a genuine choice of transport mode [NPPF 103] – One shuttle bus and one bus service and no effective improvement in pedestrian and cycling provision simply does not amount to a "genuine" choice of transport. It is derisory.

133.20. Planning policies should with larger scale sites minimise the length and number of journeys [NPPF 104A] – 800,000 car journeys from across the country do nothing of the sort.

133.21. Planning policies should provide for "high quality walking and cycling networks" [NPPF 104D] – What is the point of having policies seeking this is a massive development does nothing of the sort.

133.22. Promote sustainable transport modes can be or have been taken up given the type of development and its location [NPPF 108(a)] – These trips as Mr Bell accepted

are discretionary. They do not need to be made and yet they place this in the open countryside.

133.23. The effect on the road network would be severe [NPPF 109] – It would be resulting in the use of many small rural country lanes utterly unsuited to host a development attracting 800,000 movements every year.

133.24. Give priority to pedestrians and cyclists [NPPF 110(a)] – There is absolutely no priority of any kind in this scheme.

133.25. Facilitate – as far as possible – high quality public transport [NPPF 110(a)] – no one would sensibly suggest that one shuttle and one subsidised bus for 10 years is high quality public transport.

133.26. Planning decisions should ensure that developments ..add to the overall quality of the area not just for the short term but over the lifetime of the development [NPPF 127] – Can it sensibly be said by anyone that this proposal adds to the overall quality of this part of Oxfordshire? No of course not.

133.27. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot [NPPF 128] – This engagement has been late, utterly un-proactive and completely ineffective. This is a major breach and requires you to look less favourably on the proposal.

133.28. Permission should be refused for poor design [NPPF 130] – The design is monolithic, vast, institutional and plain ugly – It must be refused. There is no element of redemption.

133.29. New developments should be planned in ways that can help to reduce Greenhouse gas emissions through its location, orientation and design [NPPF 150(b)] – Therefore don't put a completely car dominant proposal in the middle of nowhere.

133.30. Planning decisions should enhance the natural environment by recognising the intrinsic character and beauty of the countryside [NPPF 170(b)]

133.31. Planning decisions should provide net gains for biodiversity [NPPF 170(d)]

134. Consequently material considerations sit firmly against the proposal.

Reason 9 – This proposal does not bring forward any benefits which cannot be provided elsewhere, in a far more sustainable location

135. There is no indication from Great Wolf that if this appeal is refused, they will give up on finding an alternative, far more suitable site, in the UK. Indeed, if this were the case, one would expect this to have been said – it has not been.

136. If permission is refused at this appeal, and Great Wolf heed the criticisms of why this site is completely unacceptable and find an appropriate site which complies with national planning policy, then the benefits of the scheme can be brought forwards elsewhere, in a far

more sustainable location and without the significant harms associated with this particular site.

Reason 10– There will be no harm if the proposal is refused

137. Even if a refusal here results in Great Wolf deciding not to proceed in the UK, then the status quo of non-provision will be continued with absolutely no harm of any kind.

138. However, Great Wolf have never said they will go away.

139. Every single benefit can be delivered but in a proper location with a refusal.

140. Yes to the investment and the jobs but in a location which is appropriate and suitable for this vast project.

141. Unlike housing or road infrastructure or transport infrastructure, there will be no harm of any kind by saying no to this proposal because all that will happen is DP9 will be instructed to find a site which deals with your criticisms.

142. It is simply as straightforward as that.

Reason 11 – This proposal is for development which could not be further from sustainable development

143. The evidence as the inquiry has shown that this proposal is an affront to sustainable development. The proposal could not be more inappropriate.

Reason 12 – This community say no in the most universal and emphatic way possible.

144. Therefore this community say NO.

- 144.1. The hundreds who objected at the application stage say NO.
- 144.2. The hundreds who objected at the appeal stage say NO.
- 144.3. The hundreds who have signed a petition say NO.
- 144.4. The hundred businesses who have signed the petition say NO.
- 144.5. The residents of Ambrosden say NO. [Population of 2,650].
- 144.6. The residents of Ardley with Fewcott say NO [Population of 720]
- 144.7. The residents of Blackthorn say NO [Population of 375]
- 144.8. The residents of Bletchingdon say NO [Population of 1025]
- 144.9. The residents of Bucknell say NO [Population of 235]
- 144.10. The residents of Caversfield say NO[Population of 2156]
- 144.11. The residents of Charlton on Otmoor say NO [Population of 440]
- 144.12. The residents of Chesterton say NO [Population of 1023][30]
- 144.13. The residents of Duns Tew say NO [Population of 455]
- 144.14. The residents of Finmere say NO [Population of 466]
- 144.15. The residents of Fritwell say NO [Population of 645]
- 144.16. The residents of Godington say NO [Population of 450]
- 144.17. The residents of Hampton Poyle & Hampton Gaye say NO [175]

[30] Reduction from the figure of 3,110 on the CDC website.

144.18. The residents of Hethe say NO [280]
144.19. The residents of Horton cum Studley say NO [Population of 460]
144.20. The residents of Islip say NO [Population of 650]
144.21. The residents of Kirtlington say NO [Population of 980]
144.22. The residents of Launton say NO [Population of 1204]
144.23. The residents of Lower Heyford and Caulcot say NO [Population of 490]
144.24. The residents of Middle Aston say NO [Population of 310]
144.25. The residents of Middleton Stony say NO [Population of 310]
144.26. The residents of North Aston say NO [Population of 310]
144.27. The residents of Oddington say NO [Population of 120]
144.28. The residents of Piddington say NO [Population of 375]
144.29. The residents of Rousham say NO [Population of 125]
144.30. The residents of Shipton-on Cherwell & Thrupp say NO [Population of 493][31]
144.31. The residents of Somerton say NO [Population of 290]
144.32. The residents of Steeple Aston say NO [Population of 965]
144.33. The residents of Stoke Lynn say NO [Population of 410]
144.34. The residents of Stratton Audley say NO [Population of 450]
144.35. The residents of Tackley say NO [Population of 890]
144.36. The residents of Upper Heyford say NO [Population of 345]
144.37. The residents of Wendlebury say NO [Population of 420]
144.38. The residents of Weston on the Green say NO [Population of 530]
144.39. The residents of Woodeaten say NO [Population of 190]
144.40. The residents of Yarnton say NO [Population of 3085]
144.41. The members of Cherwell District Council elected to represent this population say NO.

145. Consequently PAW [representing 25,000 local residents] and the Councillors of Cherwell District Council who voted unanimously at Planning Committee [representing over 100,000 local residents] and the Local MP, Victoria Prentice all say with one unified, loud and clear voice – NO.

146. Let democracy and L4ocalism prevail and refuse planning permission for this reviled and horrid proposal once and for all and give teeth to the aspiration of government that proposals of this nature can be welcome – but in the right place. Not in the middle of the Oxfordshire countryside in a location which could not be more unsuited to this development.

147. Therefore, we represent with enormous pride the community in asking you respectfully please bring joy, light and a future to the thousands and thousands of people who SAY NO!

5 March 2021.

SASHA WHITE Q.C. and ANJOLI FOSTER

[31] Figure taken from Wikipedia as population figure not available on CDC website.