



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

RULE 6 STATEMENT OF CASE

Appeal by Great Lakes UK Limited against Cherwell District Council's refusal to grant planning permission for the Redevelopment of part of golf course to provide new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping at Land to the east of M40 and south of A4095 Chesterton Bicester Oxon (Council's Ref. 19/02550/F) APP/C3105/W/20/3259189

1. SITE LOCATION AND PROPOSAL

- 1.1 The appeal site extends to 18.6ha and comprises the western nine holes of the existing 18-hole golf course, which forms part of the Bicester Hotel Golf and Spa. The site is situated in open countryside approximately 0.5km to the west of the village of Chesterton. Little Chesterton is located approximately 1.3km to the south of the site and the town of Bicester is approximately 1.3km to the east of the site. The M40 motorway runs to the west of the site and runs north to south along the boundary and the nearest junctions – J9 and J10 are located approximately 1km and 2.3km to the south and north, respectively. This boundary consists of existing trees, woodland and established shrub and vegetation. To the north of the site runs the A4095, which runs east to west. This boundary is also formed from trees, woodland and established shrub and vegetation.
- 1.2 The eastern nine holes of the existing 18-hole golf course at Bicester Hotel Golf and Spa are situated to the south of the site, as well as other buildings associated with the existing leisure facility. If this appeal were to be granted, then as part of a course wide reconfiguration, the eastern nine holes and the hotel and spa facilities would be retained and would continue to operate alongside the proposed development.
- 1.3 Two private residential properties, Stableford House and Vicarage Farm lie adjacent to a secondary access leading to the current golf course site (mainly used for deliveries). Another private residence, Tanora Cottage sits further east along the A4095. To the north of the site and north of the A4095 is a mix of agricultural land and Bignall Park Barns (which provides office accommodation) and two residential properties – Bignall Park Farm House and Park House. Beyond the M40 to the west is agricultural land with associated agricultural and residential properties. Middleton Stoney is the closest village to the north west, approximately 1.8km away.
- 1.4 The site is constrained by the presence of a variety of habitat types of ecological value including ponds, plantation and semi-natural woodland and species rich hedgerow (of which some forms the site boundaries). There are also a variety of mature trees, shrubs, grasslands, dense scrub and tall wasteland plants throughout the site.

- 1.5 Most of the groups of trees are established as part of the golf course and whose purpose is to delineate fairways or to provide a degree of low level screening within and around the site.
- 1.6 The ponds are mostly located in a cluster to the northern part of the site and have been engineered as part of the design of the golf course landscape. A narrow and shallow ditch runs south east from the central woodland block towards the Hotel and Spa roughly lying parallel to the A4095. A dry ditch crosses the central part of the site.
- 1.7 The landform of the site is characterised by the engineered undulations of the golf course. The site has a gentle fall from the north-western corner towards the south-eastern boundary, generating a change in level of approximately 7m. The topography of the site is set within the wider context of a transition between broadly undulating but gently rising valley slopes to the northwest and a relatively level and flat landscape to the southeast.
- 1.8 A public right of way (ref 161/6/10) runs through the site entering the golf course off the A4095 to the north and crossing the site in a south-easterly direction before exiting through the Bicester Hotel Golf and Spa car park. The precise alignment of the public right of way is not clearly signed and is difficult to locate.
- 1.9 The site is located wholly within Flood Zone 1 and as such has a low probability of flooding. Watercourses and ponds across the site are managed within the context of the golf course.
- 1.10 The appeal site is not within the confines of a built-up area being outside of both Chesterton and Bicester. It therefore lies in the open countryside. The land is not designated Green Belt, nor does it have any landscape designation. The Planning Committee report considered by the Council noted other constraints including the proximity of the site to nearby heritage assets, natural features including ancient woodland and waterbodies and it recorded that protected and notable species have also been recorded within 2km of the site.

1.11 The appeal relates to a refused planning application (Ref: 19/02550/F) which sought planning permission for a Leisure resort consisting of:

- 498 bed hotel (27,250sq.m)
- Indoor water park (8,340sq.m) with external slide tower (height 22.5m)
- Family entertainment centre including an adventure park, food and beverage and merchandise retail, plus Conferencing and back of house facilities (12,350sq.m)
- Adventure park providing rope course, climbing wall, miniature golf, family bowling, arcade games and an interactive role-playing game
- Associated access and landscaping
- 902 new parking spaces
- Public parkland (6 hectares) including nature trails and play spaces

Paragraphs 3.2 to 3.8 of the Planning Committee report provide further summarised detail of the proposal.

1.12 The application was accompanied by an Environmental Statement covering landscape and visual impacts, ecology, transport, air quality, noise and vibration, water management, ground conditions and contamination, agriculture and soils, built heritage, archaeology, construction and demolition phases, climate impact, socio economics, human health, waste and cumulative effects. The information contained in the Environmental Statement and the consultation responses received were taken fully into account in the Council's consideration and determination of the application.

2. RELEVANT PLANNING HISTORY

2.1 The relevant planning history for this site is as follows:

19/01255/SCOP – Issued Scoping Opinion – Redevelopment of existing 9 holes of the wider 18-hole course at Bicester Hotel Golf and Spa to provide a new leisure resort (sui generis) incorporating waterpark, family entertainment centre, hotel, conferencing facilities and restaurants with associated access, parking and landscaping.

All other Planning History in the vicinity relates to the existing Hotel, Golf and Spa and relates mainly to extensions to buildings on the site to provide additional accommodation for those uses.

3 POLICY CONSIDERATIONS

The Development Plan

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that the NPPF does not change the statutory status of the Development Plan as the starting point for decision making.
- 3.2 The Development Plan consists of The Cherwell Local Plan 2011-2031 - Part 1 which was formally adopted by Cherwell District Council on 20 July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of previously ‘saved’ policies in the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. On the 7th September 2020, the Council adopted The Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need and it too forms part of the Development Plan.
- 3.3 The full list of relevant planning policies in Cherwell District’s statutory Development Plan is as follows [those emboldened are specifically referenced in the six refusal reasons]:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- **PSD1: Presumption in Favour of Sustainable Development** [Reason 6]
- **SLE1: Employment Development** [Reason 2]
- **SLE2: Securing Dynamic Town Centres** [Reason 2]
- **SLE3: Supporting Tourism Growth** [Reason 2]
- **SLE4: Improved Transport and Connections** [Reasons 2, 3 & 6]
- **BSC10: Open Space, Outdoor Sport and Recreation Provision** [Reason 1]
- **ESD1: Mitigating and Adapting to Climate Change** [Reason 2]
- **ESD2: Energy Hierarchy and Allowable Solutions**

- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- **ESD6: Sustainable Flood Risk Management** [Reason 5]
- **ESD7: Sustainable Drainage Strategy** [Reason 5]
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- **ESD13: Local Landscape Protection and Enhancement** [Reason 4]
- **ESD15: The Character of the Built Environment** [Reasons 3 & 4]
- ESD17: Green Infrastructure
- **INF1: Infrastructure** [Reason 6]

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- **TR7: Minor roads** [Reasons 2 & 3]
- **T5: Proposals for new hotels, motels, greenhouses, and restaurants in the countryside** [Reason 2]
- **C8: Sporadic development in the open countryside** [Reasons 2 & 4]
- **C28: Layout, design and external appearance of new development** [Reason 4]
- C30: Design control
- ENV1: Pollution control

Other Material Planning Considerations

- **National Planning Policy Framework (NPPF) – Paras.97, 98, 103, 108, 109 & 170** [Reasons 1 – 6]
- Planning Practice Guidance (PPG)
- **The Oxfordshire Local Transport Plan 4 (LTP4) – Policy 17** [Reason 3]
- **CDC Sports Facilities Strategy (2018)** [Reasons 1 & 2]
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017

- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

3.4 The Council may also refer to other documents in support of its case including (but not limited to) landscape studies, leisure studies and its Developer Contributions Supplementary Planning Document (SPD) February 2018.

4 THE COUNCIL'S CASE

4.1 Application 19/02550/F was submitted to the Council on 13 November 2019 and validated on 25 November 2019. It was publicised under the Council's normal procedures for a major application accompanied by an Environmental Statement, and as a departure from the Development Plan. The application was reported to planning committee on the 12 March 2020 with an officer recommendation of refusal.

4.2 The Planning Committee resolved to refuse the application following the Officer recommendation. The reasons for refusal for the application are as follows:

1. The proposed development by reason of its location would result in the loss of an 18-hole golf course when the Local Planning Authority's evidence indicates the course is not surplus to requirements and there is a need for more provision for golf courses in the Bicester sub-area over the plan period. The evidence and proposals for alternative sports and recreation provision included with the application is not considered sufficient to make the loss of the golf course acceptable. The development is contrary to Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 which seeks to protect existing sport and recreation provision and enhance the existing provision. It is also contrary to Government guidance contained within the National Planning Policy Framework.
2. The proposed development would result in the creation of a substantial leisure and hospitality destination in a geographically unsustainable location on a site largely devoid of built structures and beyond the built limits of the nearest settlement. It has no access via public transport and would not reduce the need to travel or offer a genuine choice of alternative travel modes over the private motor vehicle. Given the predominant guest dynamic (families with children) the majority of trips are likely to be made via private motor vehicle, utilising minor rural roads. Furthermore, the proposal is for retail and leisure development in an out-of-centre location and no impact assessment has been provided as required by Policy SLE2. The Council do not consider that exceptional circumstances have been

demonstrated to justify the development in this location, and as such the proposal is contrary to Policies SLE1, SLE2, SLE3, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies T5, TR7 and C8 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. The proposed development fails to demonstrate that traffic impacts of the development are, or can be made acceptable, particularly in relation to additional congestion at the Middleton Stoney signalised junction of the B4030 and B430. As such the proposal is contrary to Policy SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 2011-2031 Part 1, Policy 17 of the Oxfordshire Local Transport Plan 4 and Government guidance contained within the National Planning Policy Framework.
4. The development proposed, by virtue of its considerable size, scale and massing and its location in the open countryside beyond the built limits of the village of Chesterton, along with its institutional appearance, incongruous design, and associated levels of activity including regular comings and goings, will cause significant urbanisation and unacceptable harm to the character and appearance of the area, including the rural setting of the village and the amenities enjoyed by users of the public right of way, and would fail to reinforce local distinctiveness. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
5. The submitted drainage information is inadequate due to contradictions in the calculations and methodology, lack of robust justification for the use of tanking and buried attenuation in place of preferred SuDS and surface management, and therefore fails to provide sufficient and coherent information to demonstrate that the proposal is acceptable in terms of flood risk and drainage. The proposal is therefore contrary to Policies ESD6 and

ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure (including highway infrastructure) directly required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies SLE4, INF1, and PSD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government Guidance contained within the National Planning Policy Framework.

- 4.3 The Council's evidence will support the reasons set out in paragraph 4.2, to demonstrate that the proposed development is not in accordance with the Development Plan or the Framework and that there are no other material considerations that warrant granting permission. In support of its case the Council will call witnesses at the inquiry to present Planning, Transport/highway impact, Leisure, Landscape/visual impact and Drainage evidence.

5 Reason for Refusal no. 1

5.1 The proposed development would result in the substantive loss of an 18-hole golf course, with the land to remain for Bicester Hotel, Golf and Spa, reconfigured to provide either just a 9-hole golf course, which would therefore result in the loss of 9 holes from the golf course; or alternatively provide a much smaller 18-hole facility in a poor and potentially unsafe layout.

5.2 Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031, states that the Council will ensure sufficient quantity and quality of open space, sport and recreation provision by protecting existing sites and enhancing existing provision. Supporting paragraph B.159 explains that development proposals that would result in the loss of sites will be assessed in accordance with guidance in the NPPF and the PPG.

5.3 The Council will refer to its Open Space, Sport and Recreation Assessment and Strategy (Nortoft – October 2018) which identifies that there is likely to be a need for more provision of golf courses in the Bicester sub area due to the level of housing growth (a doubling in the size of the town) and that existing golf courses should be protected. It forecasts a long term and currently unresolved need for an additional 18-hole golf course or 2 X 9-hole courses and 8 driving range bays in the Bicester sub area by 2031. The assessment advanced by the Appellant and referred to inter alia at para.5.4 of its Statement of Case is not accepted by the LPA and will be robustly challenged.

5.4 As the proposal will result in the reduction of the golf course provision at this site, the Council will then consider the proposal against paragraph 97 of the NPPF. This states that existing open space, sports and recreation buildings and land should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements, or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, or
- c) the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

5.5 The Council, will demonstrate that the tests set out at paragraph 97 of the NPPF would not be met and that the loss of the existing golf course will result in a worsening in the shortage of golf provision in the Bicester sub area, an area where deficiencies are already forecast in the Council's Open Space, Sport and Recreation Assessment and Strategy (October 2018). The further loss which will arise as a result of the proposed development will result in reduced opportunities for improved health and wellbeing and result in a loss of active engagement in sport. The Council will demonstrate that the development would conflict with the policies quoted in reason for refusal one. The assertion by the Appellant (at Para.5.4 of its Statement of Case) that the Council's first reason for refusal is "misconceived" and could be appropriately addressed through a re-provision of 18 holes on a suggested redesign of the retained 9-hole course (as referenced at Para.9.5 of its Statement of Case) will be contested by the Council as unfeasible and impractical and therefore cannot be relied upon. The Council maintains and its evidence will demonstrate that the resultant substantial harm caused by this proposal would not be outweighed by any benefits accruing from the recreational activities proposed.

6 Reason for Refusal 2

6.1 Reason for Refusal 2 relates to the sustainability of the location for the proposed development, which represents a substantial leisure and hospitality destination.

6.2 The presumption in favour of sustainable development is at the heart of the NPPF. Policy ESD1 of the Cherwell Local Plan Part 1 2011-2031, states that in order to mitigate the impact of development within the District on climate change, that the Council will distribute growth to the most sustainable locations as defined in the Local Plan (with paragraph 1.9 of the Local Plan confirming that Bicester and Banbury are the most sustainable locations for growth), including by delivering development that seeks to reduce the need to travel and which encourages sustainable transport options.

6.3 Other policies of the Cherwell Local Plan Part 1 2011-2031 follow this requirement for sustainable development. Most relevant to the issues to be considered in this appeal include Policy SLE1 (which relates to employment development), SLE2 (which relates to directing retail and other main town centre uses towards the District's town centres), SLE3 (which supports new tourist facilities in sustainable locations) and SLE4 (which encourages the use of sustainable modes of transport).

6.4 From the Cherwell Local Plan 1996, Saved Policies T5, TR7 and C8 are relevant. Policy T5 states that beyond the built limits of settlements, the provision of new hotels and restaurants will generally only be approved where they would largely be accommodated within existing buildings or totally replace an existing commercial use of an existing acceptably located commercial site. Policy TR7 states that development that would attract large numbers of vehicles onto unsuitable minor roads will not normally be permitted. Policy C8 states that sporadic development in the open countryside, including developments in the vicinity of motorway or major road junctions will generally be resisted. This, it explains, is to maintain its attractive, open, rural character.

6.5 The NPPF, at paragraph 103, confirms that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to

reduce congestion and emissions and improve air quality and public health.

- 6.6 The nearest settlement to the appeal site, which is Chesterton, is a village location, served by minor roads and the proposed development would attract large numbers of vehicular movements onto those minor roads. The proposed development site is in the open countryside, outside the built environs of Chesterton village, in an area with no current public transport links and poor links by cycle and foot due to the lack of pavement facilities on rural roads and the A4095. Therefore, notwithstanding the relative proximity to Bicester, when taking this into account, alongside the likely guest demographic and the expected catchment, it is considered that there will be an overwhelming reliance on the private motor vehicle for access to the site, as evidenced by the proposed 902-space car park.
- 6.7 The Appellant has proposed a number of measures which it suggests would improve the sustainability of the site in transport terms (including shuttle buses, agreement to provide a public transport contribution, a Travel Plan and improved walking and cycling links). The Council will demonstrate that these will not provide a genuine or meaningful alternative to the likely reliance on the private motor vehicle for those wishing to access and use the proposed development when operational.
- 6.8 The Council will demonstrate, with reference to the above policies and taking into account the location of the development beyond the built limits of the nearest settlement, the lack of sustainable transport links and the claimed sustainability credentials of the proposed development itself, that the appeal site is locationally unsustainable for the development proposed. On the basis that the proposal is a very significant built development which will attract significant numbers of visitors and which is heavily car reliant, in a rural location accessed by minor roads, the Council will demonstrate that the proposal will not constitute sustainable development in locational terms and that there will be conflict with the Development Plan.
- 6.9 The Council will also refer to Policy SLE2 of the Cherwell Local Plan Part 1 2011-2031. In accordance with the NPPF, the Policy requires that 'Main Town Centre'

uses, which include leisure, entertainment and more intensive recreation uses, be directed to a town centre. Whilst the development proposed is 'Sui Generis', on the basis that it amounts to destination comprising a range of typically town centre uses, the Council will demonstrate that there is the potential for there to be significant harm caused to the vitality and viability of Bicester Town Centre.

- 6.10 Development Plan policy requires that where the floor space of a proposal exceeds 350sqm (in areas outside of Banbury and Bicester), that an Impact Assessment is necessary. The Appellant seeks to argue at Para.5.9 of its Statement of Case either that no quantitative assessment of impact is necessary or that what was submitted as part of the application was adequate for the purpose. The approach advocated in the Council's Plan policy follows the approach set out at Paragraph 89 of the NPPF. The Appellant has not provided an impact assessment to consider quantitative impacts on Bicester town or any other centres in line with the NPPF or Policy SLE2 requirements. The Council acknowledges the sequential test undertaken such that the proposed town centre development uses are unlikely to be physically accommodated within Bicester town centre, albeit the Council will demonstrate that this does not mean that the appeal site is the best and only location for the types of development proposed in planning and sustainable development terms. In any event, the need for an Impact Assessment is clear and its absence, alongside concerns regarding the suitability of this site for the development in location terms, compounds the Council's concerns.
- 6.11 The Council will demonstrate that, as a strategic development, the economic benefits of this proposal could be delivered wherever it happened to be located – it does not justify this particular location. From a social perspective, any alleged benefits should also be balanced against the harm caused through a partial loss of the golf course. Environmentally, the Council's evidence will demonstrate that development on such a large scale and in such an unsustainable location will cause substantial harm to the environmental facet of permitted development, including to the character and appearance of the surrounding local rural.

7 Reason for Refusal 3

- 7.1 Policies SLE4 and ESD15 of the Cherwell Local Plan Part 1 2011-2031 set out that development which is not suitable for the roads that serve a site and its surroundings, and which have a severe traffic impact will not be supported. It also confirms support for proposals within the Local Transport Plan and identifies that contributions to mitigate the transport impacts of development may be required.
- 7.2 Policy TR7 of the Cherwell Local Plan 1996 states that development that would attract large numbers of vehicles onto unsuitable minor roads will not normally be permitted.
- 7.3 Policy 17 of the Oxfordshire Local Transport Plan 4 states that Oxfordshire County Council will seek to ensure, through cooperation with the Districts and City Councils that the location of development makes the best use of existing and planned infrastructure, provides new or improved infrastructure and reduces the need to travel and supports walking, cycling and public transport.
- 7.4 The NPPF also refers to transport impacts. In particular paragraph 109 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. At paragraph 108, it is clear that specific applications for development should be assessed to ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety, can be cost-effectively mitigated to an acceptable degree.
- 7.5 Oxfordshire County Council as the Highway Authority objected to the application on the grounds of the impact upon the already congested signalised junction at Middleton Stoney (the junction of the B430 and B4030). In order to demonstrate that the impact of this development would be unacceptable, the Council will draw on future year modelling and technical analysis (including LinSig) to demonstrate that the proposed development would contribute to a severe impact on the road network in this location.

- 7.6 Reason for refusal 3 was attached to the notice of refusal of planning permission for the proposed development in response to the unresolved objection of the County Highway Authority.
- 7.7 The Council, in conjunction with the County Highway Authority, will address the Appellant's proposed scheme of mitigation (including the road safety audit referenced at Paras.5.13-5.14 of its Statement of Case) for this junction and demonstrate that, notwithstanding its concerns as to whether the scheme is deliverable, that the proposed scheme will not adequately mitigate for the traffic impacts identified when considered cumulatively with other development, most particularly the Heyford Park development (allocated by Policy Villages 5 in the Cherwell Local Plan Part 1 2011-2031).
- 7.8 On the basis of the above, the Council will demonstrate that there will be severe residual transport impact on the Middleton Stoney junction and that the proposed scheme of mitigation will not mitigate this impact. It will therefore be shown that there will be conflict with the policies listed in reason for refusal 3 and with the NPPF.

8 Reason for Refusal 4

- 8.1 Policy ESD13 of the Cherwell Local Plan Part 1 2011-2031, advises that development will be expected to respect and enhance local landscape character and it includes a number of criteria including that development is not expected to cause visual intrusion into the open countryside, it must be consistent with local character and must not harm the setting of settlements, buildings or structures. Policy ESD 15 requires new development to complement and enhance the character of its context through sensitive siting, layout and high-quality design. Where development is in the vicinity of any of the District's distinctive natural or historical assets, delivering high quality design that complements the asset will be essential.
- 8.2 The wording of Saved Policy C8 of the Cherwell Local Plan 1996 is referred to at paragraph 6.4 of this Statement of Case. Saved Policy C28 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.3 The Council will demonstrate that these Policies are up to date and accord with the advice at paragraph 170 of the NPPF which states that planning decisions should recognise the intrinsic character and beauty of the countryside and should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The NPPF also requires in Section 12 to ensure the achievement of Well-Designed Places and it also, at paragraph 98 states that 'Planning policies and decisions should protect and enhance public rights of way and access'.
- 8.4 The Council will demonstrate that, whilst the wider landscape and visual impact of the proposed development may be limited, there would be a significant local impact in particular in terms of local character and appearance including along the tree-lined A4095 Bicester Road and B430 Oxford Road, the junction and the edge of settlement to Chesterton at Corner Cottage, which will be appreciated by local residents, walkers on the public footpath and drivers and will all be impacted by the development and activity associated with it.

- 8.5 In support of this position, reference will be made to the significant size, scale, height and massing of the building and water park features proposed and the required infrastructure to support it such as car parking areas, on a site which is currently devoid of buildings or other structures.
- 8.6 The Council will also set out its concerns with the design of the hotel building, which it considers to be institutional, incongruous and which pays very little regard to the local vernacular of North Oxfordshire therefore paying little regard to local distinctiveness.
- 8.7 The impact of this development will be assessed against the character of the site and its surrounds as they exist currently, which, whilst managed as a golf course, contributes to the rural character and appearance of the area. In assessing the detail of the development, it will be demonstrated that the development would cause significant urbanisation and that there would be detrimental impacts to the rural character and appearance of the locality and setting of nearby Chesterton village. This will include an assessment of the experience of walkers in views from the public rights of way that cross the site, and which are proposed to be diverted around buildings and car parks to accommodate the proposed development.
- 8.8 The Council, in this respect will also demonstrate that this impact would be compounded by the level and intensity of activity including vehicular comings and goings associated with the nature and scale of the proposed uses.
- 8.9 The Council will also demonstrate that the proposed highway mitigation works, including a proliferation of signs, road markings, etc, would have an urbanising effect that would be harmful visually to the character and appearance of the village of Middleton Stoney at its crossroad junction and the surrounding buildings, some of which are designated or non-designated heritage assets, such as the Grade II listed Registered Park & Garden at Middleton Park and its Grade II listed gatehouse.
- 8.10 Taking the above into account, the Council's evidence will show conflict with the policies referred to within reason for refusal 4.

9 Reason for Refusal 5

- 9.1 Policy ESD6 of the Cherwell Local Plan Part 1 2011-2031 sets out that to manage and reduce flood risk in the District, a sequential approach to development will be taken. This follows national guidance as set out in the NPPF. The Policy sets out that development should be safe and remain operational and proposals should demonstrate that surface water will be managed effectively without increasing flood risk elsewhere. Policy ESD7 requires the use of Sustainable Urban Drainage Systems (SUDs) to manage surface water run-off. SUDs are beneficial in reducing flood risk and pollution and provide landscape and wildlife benefits.
- 9.2 In this case, the application site is less than 1ha in area and in flood zone 1 so a flood risk assessment is not required. However, a drainage and SUDs strategy was included as part of the application documentation and Chapter 12 of the Environmental Statement covered Water Resources, Flood Risk and Drainage.
- 9.3 Oxfordshire County Council as the Lead Local Flood Authority objected to the detail of the proposed scheme and the lack of information provided, as they had in their original pre-application advice, in particular due to contradictions in the calculations and methodology and a lack of robust justification for the use of tanking and buried attenuation in place of SUDs and surface management. Reason for refusal 5 was included on the notice of refusal of planning permission to address the County Council's unresolved concerns, which remained and still remain unchanged from the pre-application submission.
- 9.4 A meeting has taken place recently with representatives of the Appellant to explore whether the outstanding concerns can be addressed and the technical reason for refusal resolved by the attachment of conditions to any grant of planning permission. The Council will continue to respond constructively with the Lead Flood Authority and the Appellant with a view to securing, if possible, resolution of the outstanding concerns relating to drainage, which can be referenced in any Statement of Common Ground. Any amended arrangement may impact upon the development site layout and/or the layout of the remainder of the site and there may need to be a re-consultation to ensure interested parties are informed.

9.5 If no additional information is provided to demonstrate an acceptable drainage arrangement, then the Council will demonstrate, with reference to the requirements of the policies referred to and the Oxfordshire County Council document titled 'Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire' that the information submitted for determination did not provide a sufficient, coherent basis on which to demonstrate that there would be an acceptable impact in terms of flood risk and drainage. On this basis, it will be shown that the proposals would be harmful in raising the risk of flooding on and off site and in providing a drainage solution which does not manage surface water in a sustainable way. The Council's evidence will therefore show conflict with the policies referred to in reason for refusal 5.

10 Reason for Refusal 6

10.1 As the planning application was refused before any satisfactory legal agreement could be drafted, there could be no certainty that the Appellant (and any other parties with an interest in the land) would have committed to the necessary covenants to secure the infrastructure required.

10.2 The Council will submit a statement with its proofs of evidence setting out the justification for the commitments expected to be made within any planning obligation, having regard to the statutory tests in Regulation 122 of the CIL Regulations 2010 (as amended). This is expected to be broadly in line with the recommended heads of terms for a planning obligation as listed in the Officers report to Planning Committee (para 9.204) taking account of any material changes in circumstances since that date.

10.3 The Council will demonstrate that the lack of a satisfactory S106 obligation to secure the necessary infrastructure and contributions would result in a proposal which would fail to mitigate adequately the likely impact of the development and as such results in an unsustainable form of development contrary to Development Plan policies and the NPPF.

10.4 It is anticipated that the Appellant may wish to enter into a legal agreement to secure the mitigation identified. The Council will maintain this reason for refusal pending the submission of an acceptable obligation, which it is anticipated could then be referenced in an agreed Statement of Common Ground.

11 CONCLUSION

- 11.1 The Council will consider the weight to be applied to various policies and will demonstrate that the policies of the Development Plan remain up to date and compliant with the NPPF and relevant PPG. The Development Plan should be the starting point for consideration of the proposals in accordance with S38 of the Planning and Compulsory Purchase Act 2004 unless material considerations demonstrate otherwise.
- 11.2 In this context and taking into account the reasons for refusal, the Council will demonstrate that the development proposed conflicts with the Development Plan, considered as a whole, and that no material planning considerations are such that planning permission should, notwithstanding, be granted.
- 11.3 The Council's evidence will demonstrate that the planning balance of the environmental, social and economic impacts of the Appellant's proposals are overtly harmful, not sustainable and could not be adequately mitigated.
- 11.4 For the reasons set out above, the Council will respectfully ask for the appeal to be dismissed.

12 OTHER DOCUMENTS TO WHICH THE COUNCIL MAY REFER

- 12.1
1. Reports to Planning Committee, written updates and minutes of the Planning Committee meetings of 12 March 2020.
 2. Site location plan showing appeal site and surroundings
 3. Plans and other application documentation
 4. Policy documents referred to throughout the Statement
 5. Previous appeal decisions
 6. Site history documentation
- 12.2 The Council reserves the right to refer to any other documents as is necessary in its Proofs of Evidence.
- 12.3 The Council will work proactively to progress a Statement of Common Ground with the Appellant following the submission of this Statement of Case.