

Appeal by Great Lakes UK Limited

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

**CLOSING SUBMISSIONS
FOR CHERWELL DISTRICT COUNCIL**

Introduction

1. All of the Council's objections to the Great Wolf resort essentially flow from the same causes: its vast scale and its location which results in trips to the development being overwhelmingly dependent on the private car.
2. It is instructive perhaps now to take a step back and remind ourselves as to the basic parameters of the scheme.
3. The appeal proposal is for a hotel with capacity to accommodate 2,250 guests¹ with an associated conference centre, family entertainment centre and an indoor waterpark. There will be 902 car parking spaces to serve guests and staff. All of this is proposed to take place on an unallocated site which all parties agree is, for policy and practical purposes, within the open countryside. The very clearest policy basis is, we suggest, necessary for such a substantial car-dependent development to be supported through the grant of planning permission.

¹ TA para 5.17

4. What became abundantly clear through the evidence of Mr Rayner, the scheme architect, is that he had been afforded almost no discretion to challenge or to adapt the brief given to him by Great Wolf. Great Wolf, in turn, have taken a model that obviously works well for them in North America and imposed it, in almost identikit fashion, on the Oxfordshire countryside, without any meaningful consideration being given to the very different planning policy context and material considerations which inform decisions here.² It is possible to feel some sympathy for Mr Rayner and his team in trying to deliver his client's brief within the appeal site. However, ultimately, he has – as he accepted – designed a development to meet his clients' needs and brief,³ on a site that had already been selected by the Appellant without input from him as to its capacity to acceptably accommodate a development of the scale demanded, and without any real opportunity for independent judgment as to the acceptability of the scale that he was instructed to deliver.⁴ It is notable too that no advice was taken in respect of the acceptability of the site for the development proposed by reference to landscape and visual character or locational sustainability before the Appellant took an option over the site.⁵ What has become clear is that the driving factor in site selection was the site's convenient access to the strategic road network to facilitate attracting visitors from the 2.5 hour travel isochrone. The option to purchase the site was entered into on 21 December 2018, well before the planning application was submitted and any of the experts who gave evidence at the inquiry (or anyone with similar expertise) had been engaged.

² There does not seem to have been any real thought given to, or explanation to the inquiry of, the intended use of certain elements of the Resort e.g. the Conference Centre. It was revealed in cross examination of Mr Rayner that this space was not for business use but rather for “cheerleader conferences” and, through Mr Goddard's evidence, family parties. However, no market assessment to support demand or need for this highly speculative (in Mr Rayner's words, ‘flexible’) space has been revealed, despite the Council's request made during Mr Rayner's evidence. We address why demonstration of a need for the development is important in this case later in these submissions.

³ Rayner PE para 1.1.5 and cross examination

⁴ The DAS CD7-1 Opportunities p. 25 seems to suggest that “abundant space” is an ‘opportunity’ without considering that visibility is a sensitivity of the site at all.

⁵ Waddell cross examination.

5. Mr Rayner and his team have sought to mitigate the vast scale of built form where possible,⁶ including by placing the largest element of the scheme “deep into the site”,⁷ by breaking down the building into sub-parts,⁸ and he has sought to reflect local vernacular, to an extent, in the architectural detailing.⁹ However, he had no choice whatsoever about the amount of floorspace to be delivered, that it was to be configured in one single building (an experience ‘all under one roof’),¹⁰ and the amount of the car parking to be provided.¹¹
6. The unacceptable landscape and visual impacts, the loss of half of the golf course, the diversion of the public footpath, and the number of car trips all arise as a consequence of the fact that the quantum of built development is too simply great. Mr Rayner appears to have taken the view that the proposed brief “could be accommodated on site”¹² i.e. it would physically fit. However, whilst it does physically fit, this fails to have any regard to the harm caused.
7. The suggestion that the proposals respond to the traditional form, scale and massing of buildings in the area is untenable, we suggest. The near view wireframes, in the Pre-application submission,¹³ which Mr Rayner accepted are “broadly the same”¹⁴ in terms of an impression of the current scheme, speak for themselves.¹⁵ The Great Wolf building is monolithic and institutional in scale. Even Mr Rayner likens it to having

⁶ See Rayner PE para 4.5: “As the design has progressed, the team has focussed on minimising any perceived experience of the size of the building”

⁷ Rayner PE para 4.5 in relation to the waterpark element

⁸ Rayner PE para 4.4, rebuttal para 2.1.2

⁹ Rayner rebuttal para 2.1.2. Mr Rayner accepted in cross examination that these were the three ways he had sought to reflect the local character and scale of the site and surrounding area.

¹⁰ Rayner PE para 3.3.3: “From a circulatory perspective the guestroom corridors are continuous from the main core and servicing centre. This ensures that guests do not need to exit to the outside to reach their guestrooms. This is a critical safety and operational feature of the resort”.

¹¹ Leading to comments such as in Rayner PE para 4.3.1: “Whilst the development necessarily involves 47,940 sqm of gross internal floorspace disposed in buildings of between 14 and 22.5m in height”. Why did it *necessarily* have to involve those dimensions?

¹² Rayner rebuttal para 3.1

¹³ CD16C-1

¹⁴ In cross examination. There are no equivalent wireframes in the ES Vol 2 Appx 13.8

¹⁵ Caution must be applied when looking at other images of the proposed development, for example in the DAS CD7-1, which Mr Rayner acknowledged are not accurate.

“aspects of a campus environment”.¹⁶ The Appellant was told unequivocally by the Council during the pre-application process that the proposed development must deliver a sense of England and Oxfordshire.¹⁷ Although Mr Rayner has sought to some extent to echo the formal hierarchical layout arrangement of an English manor house estate “in theme”¹⁸ (with elements of manor house, residencies and stables), the building is far larger than any building in Chesterton, including grand manor houses and the Parish church.¹⁹ There is simply no local precedent for the scale, height, bulk and mass of the Great Wolf resort anywhere nearby, including looking at agricultural buildings.²⁰

8. Having set out the fundamental objection that the scheme has taken an American car-dependent model and imposed it on Oxfordshire without any real thought to how it relates to local scale, we turn to the particular objections which arise. We do so by reference, in the main, to the principal issues as identified by the Inspector

Issue 1: The Implications for Sport and Recreational Facilities in the Area, in particular Golf

9. The Bicester Golf Club includes a well-established, well-appointed and well-supported 18-hole golf course. Despite, it seems, some unexplained decline in membership in recent years, (which does not reflect a trend of increased membership of other golf clubs in Cherwell)²¹ and a lack of any evidence of active promotion and investment on the part of the owner of the Club, the Bicester Club continues to enjoy an active and

¹⁶ Rayner PE para 4.9.4

¹⁷ DAS CD7-1 at 5.1

¹⁸ Rayner PE para 3.3.6

¹⁹ Mr White QC for PAW made the comparison with Blenheim Palace in opening. A building which is: “the best part of 50,000 square metres of built form is completely untypical with anything in the district”, it is “totally alien in scale”, as Mr Bateson said in examination in chief.

²⁰ There was some suggestion that there are large agricultural buildings on the edge of Bicester but, still, no comparison can be made in scale and none was alleged by the Appellant, with Mr Rayner saying he was “not relying on them”.

²¹ CD 10-13 “England Golf Facility Planning Report” p.11. Membership has increased between 2015 and 2018 at seven clubs (Kirtlington, North Oxford, Tadmarton Heath, Rye Hill, the Oxfordshire Club, Buckingham) and decreased in three others, including Bicester (Bicester, Studley Wood, Hinksey Heights GC).

engaged membership, as well as attracting many visiting players.²² It is a flexible course; the opportunity for ‘pay and play’ exists and it is not necessary, as Mr Ashworth accepted, to play all 18 holes; the course is suitable for a 9 hole game and a player is able to play one, for example by taking advantage of the ‘twilight’ rate for evening games. The course also offers tuition and equipment hire and is affiliated to England Golf. It is of competition scale and quality. Moreover, it benefits from its location next to the hotel so that hotel guests can use the course (in combination with the other leisure facilities – gym, spa, swimming lake and assault course). The Bicester Club has, now, all of the attributes to allow it to thrive and to succeed.

10. The footprint of the Great Wolf scheme will necessitate the loss to the built form and car parking of the proposed development 9 holes of the existing course, with the result that the Club will become in fact a 9 hole course. The Appellant’s mitigation is to offer reconfiguration of the residual 9 holes by the insertion of a second tee onto each of the remaining holes, together with retention of the driving range, somewhat expanded, and the introduction of a short form 9 hole par three course in the outfield of that driving range and a putting green.
11. First, and on a correct understanding of local plan policy, the replacement of an open sports facility with a hotel and indoor waterpark is a plain and straightforward breach of policy BSC10 of the 2015 Local Plan. BSC10 forms a suite of related policies with BSC11 and BSC12. BSC12 is plainly concerned with, and directed to, *indoor* facilities; BSC10, by contrast, is concerned with “open space, outdoor sport and recreation provision” and those recreation facilities within the remit of BSC10 must logically be *external* recreation facilities (with *indoor* recreation by contrast being the concern of policy BSC12). On this, we submit, correct interpretation of policy BSC10, the built development and its car park will not meet the policy requirement to “protect existing sites” but rather will generate a substantial loss of an existing site used for *outdoor* sport to a non-outdoor recreational use. Mr Goddard agreed that such a conclusion is right on this premise. A breach of BSC10 therefore arises.

²² Mr Ashworth Appendices SMS Survey p.49; 67% of those surveyed who played at Bicester did so as visitors, 21% as hotel guests and only 3% as members.

12. It is of course necessary to consider the impact through the application of the approach in the NPPF, not least since that may inform the weight to be attached to the breach of BSC10 and the impact generally. The NPPF is clear that: “Access to a network of high quality open spaces and opportunities for physical activity is important for the health and well-being of communities” (paragraph 96) and that “Existing open space, sports and recreational buildings and land should not be built on ...” (paragraph 97). That is the starting point.²³ The burden is on the Appellant to show that one of the three exceptions is met. The Council’s Wellbeing Directorate, Healthy Communities Team has objected strongly to the Great Wolf development because of the loss of 9 of this 18 hole golf course.²⁴ They were right to do so for the following reasons.

(a) The existing 18 hole course should be retained to meet current need and future demand. It is not “surplus to requirements”, in the words of paragraph 97(a) of the NPPF.

13. The Council’s ‘Open Space Sport and Recreation Assessment 2018’ (the Nortoft Report²⁵) is an independent evidence base intended and used to inform policy preparation and decisions affecting a range of formal sports facilities. The document is robust. Nortoft was selected to complete the assessment on the basis of their 20 years’ of experience in the sector. The relevant parts of the assessment, in particular those concerning golf, were prepared through a Steering Group comprising representatives of Sport England. England Golf were also consulted throughout preparation of the assessment.²⁶ Sport England were consulted upon, and where they considered it necessary they commented upon the methodology and conclusions in the report but expressed no concerns. A survey was also sent out to Golf Clubs who had the opportunity to comment, although none did. The Nortoft assessment concerning golf provision was relied upon by the Council as part of its evidence base for the Part 2 Local Plan (which involved development on the existing North Oxford Golf Club with

²³ The policy in paragraph 97 of the NPPF is not saying – as was suggested to Mr Bateson in cross examination – that it is permissible to switch one recreational use for another per se without consideration of the exception tests in paragraph 97(a), (b) or (c).

²⁴ CD16C-5 and Appx 1 to Mr Goddard’s Rebuttal

²⁵ CD 7-2

²⁶ Full details are set out in Nortoft’s ‘Clarification Note on Sport England and England Golf Involvement’ (CD 16C-15)

an opportunity for replacement elsewhere). The Inspector who examined the soundness of that Local Plan expressed no concerns and found the Council's policies sound.

14. Nortoft set out three different approaches to assessing future need for golf courses.²⁷

Test 1²⁸ looked at a number of golf courses in the district and used the number of holes within those golf courses and divided it by the population of the district to give a proportion of golf facilities per head which is then projected forward to 2031 using population data provided by the Council's planning policy team, providing a bespoke update to reflect the projected housing growth in the Local Plan. Test 2²⁹ is similar to Test 1 but deals with sub-area related provision. Splitting Cherwell District into three sub-areas was agreed with Sport England and the governing bodies on the basis of the length of time it takes to get from one part of the District to another.

15. Mr Ashworth has criticized tests 1 and 2 on the basis that Nortoft have not looked outside area district boundaries in terms of facilities available but proceeded on an assumption that imported and exported demand would remain in equilibrium.³⁰ There was no criticism of that assumption by Sport England or anyone else. There is no reason to consider that the balance is unreliable or likely to materially change looking into the future.

16. Nortoft test 3 models future growth based on club membership. By reference to the average membership of all golf courses in the District, Nortoft has identified an average number of golf club members per head of population in the District; it has projected this forward and then compared this to the national average membership of golf clubs. From this, a future level of required provision is derived. For this inquiry, Nortoft have updated these figures to reflect the latest membership data for Bicester Golf Club from the England Golf Facility Planning Report, December 2020³¹ as well more recent national average golf club membership. Mr Ashworth has criticised the use of a national

²⁷ See p. 184 of CD7-2 (Extract from Part 2)

²⁸ Para 11.33

²⁹ Para 11.37

³⁰ Ashworth PE at 3.2

³¹ CD16-C7 and CD10-13 (Golf England Report), which for the first time identify the actual members of each club in Cherwell.

average,³² however no such criticism was levelled against test 3 when the report was first produced on this basis in 2018 by Sport England, England Golf or anyone else. The model proceeds on the basis that the average membership conforming to the national average equals capacity. The Appellant has said that there may be spare capacity in some existing courses but, in response to the Inspector, Mr Ashworth explained that actual capacity depends on a range of site specific considerations and he was unable to offer a capacity of the current Bicester Club or that which would be its capacity in the future, were the appeal to succeed. The third of the Nortoft tests, whilst perhaps not perfect (as indeed Nortoft acknowledges),³³ is nonetheless a reliable indicator of current and future demand and need. Importantly, it yields an outcome which is consistent with the first two tests, as Nortoft itself recognises.³⁴

17. The conclusions in the Nortoft Report are reliable. They demonstrate that, when all three models are considered together and as a whole, the 18 hole golf course in this location cannot be seen to be surplus to requirements. Rather, even without the appeal scheme and its effect, at 2031 there will be a need for an additional 1 x 18 hole course or 2 x 9 hole courses in the Bicester sub-area, together with an 8 bay driving range.³⁵ If the appeal were to succeed, this level of future need will become all the greater. It is important in this context to have regard to the fact that participation rates in golf have increased in recent years³⁶ and England Golf is actively seeking, through its strategies, to grow the sport.³⁷ These factors too will increase demand and therefore need. The Nortoft report, we submit, gives no support for the Appellant's scheme. Indeed, it points to the need to protect rather than remove 9 of the 18 holes at the Bicester course.

18. The recognition by Nortoft within its *general* conclusions that "there may be a need to replace or redevelop some of the existing 18 hole courses to enable shorter game formats ..." ³⁸ does not displace the conclusions that an additional 18 hole course or 2

³² Ashworth PE para 3.6 and 3.7

³³ CD 7-2A p.189 para 11.46

³⁴ See para 11.46-11.48

³⁵ CD 7-2A p. 189 para 11.48.

³⁶ CD16C-9

³⁷ CD16C-16

³⁸ CD 7-2A para 11.49

x 9 hole courses are required in Bicester. Moreover, and as we have submitted, a 9 hole game can be readily played now on the Bicester course.

19. The Appellant suggests that there is a surplus in supply now and in the future. It makes its case in reliance on two documents. First, it relies on the Report produced by CBRE.³⁹ CBRE's approach is fundamentally flawed. It seeks to project forward a downward trend in participation in golf generally from 2000 and 2007 which is flatly inconsistent with more up to date data on participation rates⁴⁰ and with England Golf's strategy.⁴¹ It is a desk based report. It was not an assessment that had any input from Sport England, England Golf (unlike the Nortoft report) or the Council. Nor was it derived from discussion with members of the Club.

20. Secondly, the Appellant relies on the 2020 England Golf Facility Planning Report.⁴² However, that report and the conclusion within it do not support the Appellant's case. Nowhere in that report does England Golf expressly or by implication suggest that either now or in the future the 18 hole course at Bicester is surplus to requirements or that the loss of 9 of the current 18 holes at Bicester is acceptable. Importantly, England Golf does not do any projection as to future need having regard to planned population growth. England Golf notably do not express in that report or elsewhere support for these proposals.

21. The Appellant has come nowhere close to demonstrating that the 9 holes to be lost is surplus to requirements. And we remind the Inspector that it is on the Appellant that the policy burden in this respect lies. In contrast, the evidence, in particular the Nortoft report, points the other way. Exception (a) in paragraph 97 has not been met.

(b) The Appellant's alternative 9 hole or 9 hole x 2 courses are not "equivalent, or better, provision" to the existing 18 hole course, for the purposes of paragraph 97(b) of the NPPF.

³⁹ CD1-22

⁴⁰ CD16C-9 (2020 is, as Mr Darlington confirmed, an outlier given the implications of COVID restrictions).

⁴¹ CD16C-6

⁴² CD 10-13

22. Existing golf courses should be protected unless the tests in paragraph 97 of the NPPF are met. The Appellant therefore needs to show that their alternative arrangement provides no loss or a net benefit to players and game. Whilst there is no doubt that the improvements proposed by the Appellant (the driving range, short course and academy course) are positive in and of themselves, they cannot make up for the loss of the full 18 hole course. As Mr Darlington said, there is no reason why these facilities could not be provided by the Club now in any event.⁴³ Mr Swan gave an estimate of a capital cost of c. £150,000 for such works based on his experience.⁴⁴ There is no evidence as to why the delivery of these facilities is not within the capacity of the owner of the existing club and the suggestion that his circumstances are such as that to do so would be prohibitively costly is speculation.⁴⁵ Mr Ashworth and Mr Swan confirmed that they had not considered – indeed had no knowledge of – the owner’s capital reserves or loan facilities. No assessment as to the financial position of the Club has been produced. Mr Goddard’s Appendix 2 – Mr McPherson’s letter of March 2020 – is singularly lacking in this detail, it takes no account of the income from golf-related and other activities (including from the hotel spa, gym or lake), it refers only to membership and its decline and makes no reference to visitors. It also fails to explain why membership at Bicester is declining but is increasing at many other Cherwell clubs. The cost of the improvements to the driving range etc., we submit, cannot be found to be prohibitively expensive or undeliverable, were an owner willing to invest in the future of the Club. They do not require the Great Wolf resort as enabling development.

⁴³ The Club already has its own driving range and putting green, and a couple of practice bunkers.

⁴⁴ This figure came from works carried out at Stirling Golf Club. However, as Mr Bateson said, from photographs and the information provided by Stirling Golf Club’s General Manager, Garry Bowman (CD16-11B (a) to (c)), the Stirling facilities would appear to be something above and beyond the drawing for the proposed Great Wolf academy course in Figure 4 of Mr Swan’s Appx (p. 11). The driving range and academy course suffer from having to be used interchangeably. Furthermore, they are neither flood lit nor covered and so cannot be used after dark. The only real improvement from the existing is the laser tracking of golf balls (see Ashworth Appx p. 11 para 5.9). The existing range has capacity for up to 10 mats (the number of mats at present appears to vary). The proposed range will only enhance that slightly to 12 bays, including two tuition bays.

⁴⁵ Mr Swan posited a view (in cross examination) that these improvements would only come forward with the Great Wolf scheme. He accepted that they could physically come forward absent the Great Wolf scheme. The issue is funding. However, Mr Swan’s view was a personal one and he agreed that his evidence had not derived from any detailed discussion with the owner. There has been no evidence put forward to suggest that the golf course owner would be unable to fund the improvements, absent the Great Wolf scheme.

23. The Appellant has referred to a suggestion that the current predominance of the 18 hole format may be a disincentive to wider participation. That may well be right as a generality but is certainly not the position on the particular characteristics and opportunities at Bicester. It is possible to play 9 holes of the 18 hole course at present and arrive back at the clubhouse. There is thus no disincentive to ‘beginners’ using the existing course. The principal point is that the standard and accepted format for competition golf is 18 holes. That will always be what players aspire to, and that is what 95% of golfers enjoy “a lot”, according to the Golfer Enjoyment Survey.⁴⁶ There is no clear evidence that the driving range and academy course will significantly increase the use of the Club and, as we have submitted, these can be delivered independently of the scheme.⁴⁷ However, the loss of a competition standard 18 hole course is likely to very significantly affect the attractiveness of the Club. Thus, the replacement of an 18 hole course with a 9 hole course cannot possibly be said to be ‘equivalent or better provision’, even with some additional facilities such as the academy course.

24. The alternative 9 hole x2 course proposed⁴⁸ also cannot be said to be “equivalent, or better” than the existing 18 hole course. True, players will be able to play 18 holes (the 9 holes being played twice from different tee positions). However, the experience will be significantly sub-standard and much less flexible and convenient.

25. In simple terms, as is set out at the Drawing at CD 10-28, a player will play 9 holes and then the same 9 holes again, albeit from different tee positions. The fairway, green and bunkers will be identical. Mr Ashworth accepted that, once 100 yards out from the green, the experience would be the same. Of course, second time around, a player may be in a different position when he or she tees off and because of where the ball has

⁴⁶ Ashworth Appx p. 32/99

⁴⁷ C.f. Ashworth PE para 4

⁴⁸ For the first time in with the exchange of proofs of evidence in January 2021, although the Drawing (CD10-28) was first issued on 7 October 2020. The layout has never been discussed with the Council or any members of the golf club. Mr Swan was not in fact aware if the golf club owner had approved the layout. There must therefore be questions about its deliverability, in any event. The proposals appeared to be at a ‘conceptual’ stage (Mr Swan’s word). None of the changes e.g. to the position of the water bodies from the original 9 hole course layout have been discussed with the drainage engineers, the landscape architectures (Mr Swan had apparently ‘touched base’ with Mr Waddell), or with the arboriculturalist.

landed when struck from the tee position. However, the general environment will feel repetitive. It is notable that in respect of many of the 9 holes, on the Appellant's arrangement, the second tee will be on the same line and at only marginally different distance from the principal tee (see Tees 1/10 and 11/2).

26. Of no less significance in terms of qualitative and quantitative loss is that – however it is calculated (and Mr Swan changed his position from answer to the Inspector's question to the evidence produced in his note submitted to the inquiry on 2 March 2021⁴⁹) – there will be significant periods of time during the day when no new rounds can commence. This is to ensure that all players can get around the course twice without conflict. The capacity in terms of number of rounds for the 9 hole x2 course is half that of the current standard 18 hole course.⁵⁰ In terms of the no-play periods (which seem to be at least for the two hour periods between 10am and 12 midday and 2pm and 4pm every day) a huge inconvenience and qualitative deficit will be introduced, which does not arise with the ability to play 18 different holes now. This will also be a minimum in terms of periods when new rounds can start, given that Mr Swan's best case assumes all groups will complete their first 9 holes in 2 hours and encounter no delay. As Mr Bateson confirmed, this will simply not be the case in practice and the no-tee off periods will unavoidably be longer than the two hours Mr Swan eventually identified.

27. In addition to the compromised experience of the 9 hole x2 course, there are remaining safety concerns due to its constricted space. For example, less accomplished players, who have an acknowledged disposition to 'slice' to the right, are in very close proximity to the green for tees 7 and 16 when teeing off from tee 8. Mr Swan sought to suggest that only handicapped players would be allowed on the course. There is no evidence of

⁴⁹ In oral evidence, Mr Swan said that no new rounds could start between 10am and 2pm each day. In his subsequent note for the inquiry, he provided a schedule of 8 min tee off times whereby there can be no new rounds between 0952 and 1200 or after 1352. This rigid timetable only works in an ideal world if a club competition is on and the tee times are block-booked throughout the entire period. It requires everybody to stick rigidly to the timetable, with no late arrivals and no slow play, which is unlikely in the real world, especially for a course which has aspirations to attract new, less experienced players. As Mr Bateson said in evidence in chief, whilst it is typical for tee times to be let on 8 minute intervals, a course quite quickly ends up congested if all the tees are occupied because it takes on average 13 minutes 20 seconds to complete each hole. It is for that reason that Mr Almond and Mr Darlington drew concerns about players waiting on tees or on fairways in the desire line for those various holes.

⁵⁰ 43,640 rounds as opposed to 87,280 for the existing

this and, in any event, it again runs contrary to the aspirations to attract novice players, including hotel guests and younger people. They may well have some basic tuition on the driving range and academy course first, but the course – to constitute equivalent or better provision than the existing – must not compromise the safety of players, including novice players, to any greater extent than the current course; no concerns have been raised or demonstrated that the current 18 holes is other than a safe arrangement.⁵¹

28. In sum, the 9 holes x2 proposal is an obvious afterthought in acknowledgement of the fact that replacing an 18 hole course with a 9 hole course can never be seen as ‘equivalent, or better’ provision, even when taken together with the expanded driving range, academy course and practice area (which should attract little weight as part of the package for the reasons we have given).⁵² It is a highly compromised solution which will be far less attractive to players than the existing 18 hole course and comes with inherent safety concerns. The Appellant has failed to show that this exception in paragraph 97(b) is met.

(c) The provision of the Great Wolf waterpark does not, and cannot, outweigh the loss, in the words of paragraph 97(c) of the NPPF.

29. The Appellant has sought to argue that the Council has not considered the positive provision of leisure facilities and the wider leisure value of the proposals put forward by Great Wolf and suggests that this would meet the test in NPPF paragraph 97(c). Mr Darlington made clear that informal recreational facilities are not within his remit and he was solely considering the loss of a formal sports facility. There are sound reasons for this approach. As he explained,⁵³ the Council does not have any evidence base to demonstrate a deficit of or need for these type of leisure uses. Furthermore, nothing approaching an assessment of need (as opposed to commercial appetite) to deliver an indoor waterpark and hotel has been offered in evidence by the Appellant to

⁵¹ Mr Swan’s suggestion that it was somehow normal, or to be expected, to be hit by a golf ball at some time is not good enough.

⁵² It is notable that the current proposed arrangement has been acknowledged by Mr Swan to be no more than a concept plan. It has not been generated with the involvement of any landscape, arboricultural, drainage or other consultant. It was not the subject of discussion with club members or the Council before it was issued with Mr Swan’s proof.

⁵³ In cross examination

counterbalance the harmful effect of the loss of a full 18 hole course. Such evidence would be required for proviso (c) in NPPF paragraph 97 to be engaged here.

30. In any event, just looking at what Great Wolf are proposing, and in particular the evidence of the architect, Mr Rayner, and the DAS,⁵⁴ this is not going to function as a conventional swimming pool with opportunities for lane swimming and swimming lessons for children. It is also not clear the extent to which it will be available to any meaningful extent for use by local people at affordable prices. There is already a swimming pool for use in the Bicester Hotel which does provide membership for local people and opportunities for children to learn to swim. Thus, it cannot be said that there is a need for Great Wolf as a swimming pool in the area. Relatively little weight should be attached to the nature walk.⁵⁵

31. The Appellant has failed to discharge the burden of showing that any of the three exceptions to the prohibition on building on an existing sports facility in NPPF paragraph 97 are met. The development is in breach of Policy BSC10 of the Local Plan and this should be given full weight. The development would result in reduced opportunities for improved health and wellbeing and a loss of opportunity for active engagement in sport, which – as we set out in opening – is of particular importance at the current time as we emerge from the restrictions of the lockdown.

Issue 2(a): Locational Sustainability

32. The appeal site is a rural location in open countryside. It is not served by any public transport modes at present, as the Appellant acknowledges.⁵⁶ The Appellant has not denied that the main driver in site selection has been proximity and accessibility to the

⁵⁴ CD1-7

⁵⁵ There is already a PROW passing through the site and a wider network of PROWS in the area. No open space deficiency which could or would be met by the nature walks has been identified. By far the most prominent features of the Great Wolf resort are its indoor attractions, by contrast with a tourist destination such as Centre Parcs.

⁵⁶ Planning Statement CD1-22 p. 12 para 2.14: “The Site itself is not readily accessible by public transport ...”.

M40 particularly for guests using the resort.⁵⁷ The Appellant also accepted, through Mr Bell, that for guest trips, access to and from the resort will “be predominantly by car mode”.⁵⁸ It is thus perhaps unsurprising that the TA adopted trip generation data from three resorts in the US, but notably without any acknowledgement of what the US mode share for these sites was.⁵⁹ The recorded mode share of a Centre Parcs resort in Norfolk⁶⁰ has been introduced by the Appellant as a sensitivity test. That records a 98% car mode share when drivers and passengers are aggregated but a mode share of 2% (rounded) for public transport and other non-car modes.⁶¹ The Appellant now seeks to distance itself from the mode shares at Centre Parcs but without having expressed any such reservations when introducing this mode share analysis in its TA. It is unclear as to why the Appellant says now that Centre Parcs is not a reliable indication as to likely mode share at the appeal site. And most conspicuously the Appellant has resolutely refused to identify what any alternative and its predicted car mode share will be. Mr Bell said that the exact mode share for Great Wolf would be surveyed as part of the Travel Plan process, although notably there are no mode share increase targets in the Framework Travel Plan.⁶² That the car park is to provide some 902 spaces is perhaps enough by way of confirmation that the car mode share will be very substantial indeed, as is the Appellant’s reasons for its choice of location.

33. In terms of staff mode share, the position is no more favourable. The staff car mode share used in the TA is 80%⁶³ and it is assumed that, of the 200 staff who travel to the site by car, 160 of them will park.⁶⁴

34. It is surprising at the very least that, on the Appellant’s case, the Inspector is left in the position of having no confirmed likely mode share for the scheme for guests or

⁵⁷ See Mr Bell’s PE at para 3.10 – “chosen by the Appellant in part” because of its “ideal strategic location” adjacent to the M40; see also Mr Goddard’s Appx 11 (TVAC report) paras 2.1 and 3.2.

⁵⁸ See Mr Bell’s cross examination

⁵⁹ TA CD1-24 p. 15 para 5.10-5.12

⁶⁰ The Woburn Centre Parcs TA which was in fact based on a different Centre Parcs in Elvedon

⁶¹ CD 1-14 Appx H p. 3.

⁶² CD1-17 para 6.3 – 6.4

⁶³ TA Appx H paras 2.21 and 3.5

⁶⁴ TA Appx H para 3.5

therefore overall, although, as we have said, given that Centre Parcs has a 98% car mode share there is no basis to assume that Great Wolf will fare any better.

35. We turn then to the likelihood of any non-care modes of travel being utilised by either guests or staff to the Great Wolf resort.

Walking and Cycling:

36. There are unlikely to be any material levels of walking or cycling for hotel guests, as Mr Bell conceded. Walking and cycling mode therefore will only have potential for hotel staff.

37. Considering first the opportunities for cycling, a contribution of £70,000 for improvements to cycle accessibility has been sought. It became established that these improvements could not be delivered; the County Council, as local highway authority, have no control over the land. The County Council maintain their request and the Appellant has agreed to it. It is now intended that the contribution will be used together with other contributions to provide cycle improvements along the A41 into Bicester (see OCC CIL compliance statement). However, what is clear is that the funds for the completion of a cycleway along that entire route are not presently available. Moreover, and importantly, a cyclist seeking to travel to or from the appeal site would be required to negotiate the A4095 or other rural routes that are and will remain, in the main, devoid of any segregated cycle facilities and lighting. This will be a significant limiting factor to the attraction of cycle as a mode of access. The benefits therefore are present but, we would suggest, are limited in value.

38. In terms of walking, realistically, staff could only walk if they lived in Chesterton (Bicester is too far away).

Train:

39. Bicester North and Bicester Village are the closest stations. However, a journey to the Great Wolf resort would be far from straightforward by rail. A substantial part of the 125 mile drive time catchment is outside even a 2.5 hour public transport isochrone, as

was demonstrated in cross examination of Mr Bell.⁶⁵ It is therefore highly unlikely that guests travelling to the resort from the outer parts of the predicted market would use the train. Not only is the journey likely to take longer by train but it may well be more expensive, especially for groups of people.

40. Even for closer locations within the catchment, the values presented by Mr Bell are calculated from the centre of the origin location resulting in the most attractive journey times.⁶⁶ Furthermore, they ignore the need, for example, to travel within a city such as London to reach the mainline station in the first place. Take Reading as an example. To travel from the centre of Reading to Bicester takes 1 hour 50 minutes by public transport (train, bus, walk) and just 40 minutes by car. From Swindon, again within the Appellant's catchment, the journey by public transport would take 2 hours 30 minutes (involving multiple stages, including two trains) compared to 1 hour 30 minutes by car. These figures take no account of any interchange penalty when changing between trains or between modes of public transport. It is plain that the choice of train as a mode for many guests to access Great Wolf will be singularly unattractive when compared to the ease of car borne access via the M40.

41. The Appellant places reliance on the proposed shuttle bus service which it intends to operate from each station, and which is to be secured via the s. 106 agreement. The frequency of the service is unknown at present although the travel plan suggests an hourly service; the train services to both station are half hourly.⁶⁷ However, whatever the potential benefits of a free bus to the site from the stations may be, the reality is that there is no disincentive whatsoever for people to drive to the site. Even if the shuttle bus is in practice a carrot (which we doubt), it is accompanied by no stick. The 902 car parking spaces meets the parking demand in full, equating to 1.8 spaces per room, with an allowance of 160 spaces for staff.⁶⁸ It has clearly not been part of Great Wolf's model

⁶⁵ See TA CD1-24 p. 17 para 5.24 and Fig 5.7 (shows the guests' catchment) and Mr Bell's Appx A and PE paras 3.26-3.28 in respect of the PT isochrone.

⁶⁶ See Mr Bell's Appx B

⁶⁷ Various frequencies have been mooted in the evidence: hourly, two hourly, to coincide with trains and at the beginning and end of staff shifts. Visitors using the "sustainable day passes" will also be required to travel to the site via the shuttlebus, although exactly how this will be enforced is unknown.

⁶⁸ TA CD 1-24 para 4.17 and Appx H

to control the availability of carparking, for example, in order to provide a disincentive to driving to the site.

42. The NPPF requires that: “significant development should be focused in locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes” (para 103). The appeal site offers no opportunity for public transport now, and the Appellant accepts this. The Appeal proposal is a massive trip generator and this, as the Appellant accepts, will be largely by car mode and those trips will be generated from a 2.5 hour drive-time catchment. The attractiveness of public transport as a mode for guests is highly limited particularly when compared to the ease of access by the car. The appeal proposals cannot credibly be claimed to “limit the need to travel”. Rather they positively encourage travel and by car mode at that. Moreover, the offer of public transport as a mode for guests is neither realistic nor genuine. The proposal cannot rationally be said to comply with NPPF paragraph 103 nor with policy ESD 1 of the Local Plan 2015, which seeks to “distribute growth to the most sustainable locations”, “reduce the need to travel” and “encourage sustainable transport options”.

**Issue 2(b): The Effect on the Safety and Free Flow of Traffic on the Highway Network:
The Impact on the Middleton Stoney Junction**

43. Visitors to the site who arrive via the M40 southbound (leaving at Junction 10) and the A43 southbound (from Brackley) will approach the site via the B430 and through the Middleton Stoney junction. This junction will also be used by traffic accessing the Heyford Park development - a Local Plan allocation with planning permission for Phase 1 (1,075 dwellings) and a resolution to grant permission, subject to a s. 106 agreement, for Phase 2 (1,175 dwellings).
44. As we set out in opening, the policy test is clear enough. It requires a conclusion as to “whether the residual cumulative impacts on the road network would be severe” (NPPF paragraph 109). There is no reference in the policy test to cumulative impacts “of the development” in isolation, as seemed to be suggested, at one stage, by the Appellant during the inquiry. The focus here is on the performance of the Middleton Stoney junction and whether the development traffic when considered cumulatively, and

therefore with baseline growth and that associated with the Heyford Park development, would be “severe”.

45. Even at the current time (without either the Heyford Park or Great Wolf developments), the junction is already constrained in its operation and will only become more so with the Heyford Park development.
46. The Appellant’s assessment demonstrates that, when considered cumulatively, the exceedance of practical capacity at the junction and the queue lengths are such that the outcome will be severely adverse. The results of the various assessments are set out in Mr DeVenny’s document presented to the inquiry: ‘Middleton Stoney Junction – Summary of Traffic Modelling Results’.⁶⁹ Scenario 8 (which assumes the Heyford Park development will be mitigated and does not take account of any traffic from Great Wolf) shows that the DoS (Degree of Saturation) is already over 100% during the AM peak on the B430 (south) and B4030 (east) approaches. The PRC (Practical Reserve Capacity) for both AM and PM peaks are substantially negative. This shows that there is a severe adverse impact on the junction even without the Great Wolf resort. Scenario 9, which then includes the Great Wolf scheme with mitigation, worsens the situation with a PRC deficit of 20.8% in the AM peak and 6% in the PM peak. When a junction is already operating way above its capacity, any small changes have a disproportionate effect,⁷⁰ as indeed the Appellant accepts. There can be no conclusion other than that the residual cumulative impacts on the road network as a result of the Great Wolf traffic (along with traffic from the Heyford Park development) will be severe.
47. Realistically, drivers cannot be diverted away from the Middleton Stoney junction. The Appellant’s suggestion of the use of conditions to control guest arrival times is unenforceable and cannot be relied upon. The suggestion that signage along the A43 could be introduced to discourage drivers from using A430 takes no account of the almost universal reliance on in-car GPS navigation systems and is, again, wholly unrealistic.

⁶⁹ CD16C-17

⁷⁰ See LinSig software cited at DeVenny PE para 3.59

48. The main focus to address impact on the junction is on physical mitigation to the junction itself. Mitigation for Heyford Park Phase 1 has been secured by condition and has been taken into account in the assessments.⁷¹ Mitigation for Phase 2 is still unresolved. However, it is common ground that it is reasonable to assume that there will be some mitigation and this has been accounted for in the modelling.
49. The County Highway Authority is not satisfied that the mitigation proposed by the Appellant is operationally acceptable and would operate safely, in particular for pedestrians. An agreed statement⁷² has now been produced by Mr DeVenny and Mr Bell. It has been agreed that the issue of taper lengths can be addressed at the detailed design stage. With regard to the relocation of the pedestrian refuge island, although the Appellant has now moved the island 1m to the west, which has improved to some degree the swept path tracking from large vehicles, OCC remains concerned in respect of the margins for error, over-sailing of white lining and footways and an unorthodox movement of an HGV making the west to east movement. The new pedestrian island and introduction of the left-turn lane at the junction exacerbates an already tight situation (especially with the Heyford Park mitigation) and the resultant position is not safe. Furthermore, the sub-standard footway widths at the junction are unacceptable in a situation where a new desire line is created by the pedestrian refuge island which involves - indeed encourages - use of those substandard footways. Instead of providing an improvement to the junction, the Great Wolf mitigation scheme in fact introduces new road safety concerns.
50. The development is thus contrary to Local Plan policy SLE 4 (Improved Transport and Connections), Saved Policy TR7 and Local Transport Plan Policy LTP4 (Making best use of existing and planned infrastructure), as well as the Framework at paragraph 109.

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

51. The site, it is agreed, is located in open countryside. True, it is a managed landscape. However, golf courses are inherently rural in their nature and the appeal site and the

⁷¹ And see also Mr Bateson's Note to the Inquiry on the Heyford Park Development and Planned Highway Improvements dated 25 February 2021 (CD 16C-14)

⁷² Dated 25 February 2021

wider golf course has an attractive, open and rural character. As Mr Huskisson said, the character of the course is quite open with very attractive views across the fairways, of individual and groups of trees and various waterbodies. That in itself is apparent from a visit to the site. It has a pleasant visual amenity and the fact that one cannot see out beyond the site boundaries does not detract from that. It was described by the Inspector in the Hale decision as “itself rural in character despite its manicured appearance”.⁷³ Mr Goddard’s apparent suggestion that that Inspector’s description is not apposite to the appeal site is without foundation; there is little in character terms to differentiate the back 9 holes from the front 9 holes of the golf course. Similarly, the character of the A4095 corridor to the north of the appeal site is visually largely free of any built form and is, as Mr Waddell recognised, in character terms, dominated by mature vegetation and enclosed generally by hedgerows and a tree line between the M40 and Stapleford Lane.⁷⁴

Impact on the A4095 Corridor:

52. The sheer vast scale of the Great Wolf development in this rural landscape is perhaps best demonstrated by reference to its proposed entrance point from the A4095. Tellingly, no photomontage image or wireframe has been provided by the Appellant to consider this view.⁷⁵ However, what we do know is that the A4095 itself will be widened to provide the turning lane and a ghost island. A combined engineered cycleway and footway (with a footway only to the west of the current junction to the PROW) is proposed to be introduced into the existing verge.⁷⁶ A 40m⁷⁷ bellmouth

⁷³ CD8-1 at para 30

⁷⁴ Waddell Rebuttal para 4.7 and cross examination by CDC (see also LVIA view 1a).

⁷⁵ It may well be the case that none was required by the Council’s Landscape Officer. However, it is for the Appellant to satisfy the Inspector that the view is acceptable. The Appellant has accepted that the image in the DAS (CD1-7) on p. 42, which shows an illustration of what purports to be the view along the boulevard to the proposed development, is entirely unrealistic and misleading. It fails to show any of the carparking.

⁷⁶ The widening will take place along a 350m length of the road, in accordance with measurements taken from the Landscape General Arrangement Plans Sheet 4/4. This figure was put to Mr Waddell in cross examination. He has not disputed it, despite having the opportunity to do so. It must therefore be seen to be agreed. The exact details of the widening have yet to be agreed. Whether it can be assumed that the amount of vegetative cover will not be reduced is entirely dependent on the outcome of the detailed design process.

⁷⁷ For the extent of the hedgerow and vegetation lost to the access, see the Arboricultural Assessment (CD1-3) Appx F p. 74

access into the site will be introduced necessitating the removal of an extent of existing hedgerow of 40 m in length and 10 m in depth, including several tree groups.⁷⁸ It is expected that substantial vegetation growth will be required to be removed along the A4095 outside the site boundary to deliver the required visibility splays and cycleway/footway.⁷⁹ The DAS⁸⁰ divides the site in three zones on the plan on p. 27. Zone 3, which is the north east part of the site next to the A4095 where the boundary will be opened up to deliver the proposed new access, is described as “the ... most visible” part of the appeal site.

The access itself will be comprised of two carriageways divided by a central reserve within which will be 4m high lighting columns.⁸¹ Signage⁸² would be introduced “to meet the requirements of the Great Wolf brand”.⁸³ If the appeal is allowed the Appellant will be entitled to seek consent for such signage. Experience elsewhere (e.g. in Kansas⁸⁴) suggests that such signage will be far from recessive.

⁷⁸ AIA CD1-3 Tree Protection Plan Appx F and Waddell cross examination.

⁷⁹ Landscape General Arrangement Plan CD 1-19 drawing 4/4. This is contrary to Mr Waddell rebuttal para 4.5 where he says that the proposal would not require the removal of vegetation off site. Based on a 66mph recorded speed, the visibility splays will need to be 44m by 239m.

⁸⁰ CD1-7 p. 27 para 4.1

⁸¹ A series of 6 lighting columns are identified at the entrance as seen on the Landscape Maintenance and Management Plan (CD1-20). The lighting strategy (CD1-21) suggests that these will be lighting columns 4m in height along the access. There is also lighting proposed within the car park itself. This is intended, save at the south east quadrant, to be higher at 6m high for each lighting column. The lighting along the boulevard will be clearly visible from the A4095.

⁸² Whilst signage will be subject to a separate application, it must be reasonably assumed that there will be some form of clear signage proportionate to such a large development. The DAS (CD1-7 p. 57) contains a signage and wayfinding strategy. It provides that signage will be provided at the main entrance designed to suit the context of the site and the requirements of the Great Wolf brand. It is clear that whatever signage is applied for will need to be appropriate in terms of advertising the presence of the facility. The General Arrangement drawings sheet 4/4 shows the physical components of the access including two signs on either side of the bellmouth (coloured purple on the plan). These have been measured by Mr Cook to be about 7m in width. Furthermore, no vehicular control signage has been identified on the General Arrangement Drawing. This is also subject to post-planning design development. However, it must be assumed, at the very least, that there is potential for vehicle control directional signage to be introduced.

⁸³ DAS CD 1-7 p. 57 para 6.6.4

⁸⁴ Mr Cook’s Appx 9 and Concept Lighting Plan CD 1-21 p. 32

53. The vegetation which currently contains the A4095 corridor and the rural approach to Chesterton will not be capable of containing the development as a walker, cyclist or driver approaches and passes the entrance. The access itself, with signage and associated paraphernalia, will substantially change the rural character of the road. This will be worsened by clear views down the vehicular access towards the monolithic hotel development across the car park. This will generate a moderate substantial adverse effect, as Mr Huskisson said. It is plain we suggest that the character of A4095 – a principal approach to Chesterton – will be very substantially changed and adversely so.
54. From Great Wolf's perspective, there has been no real attempt to screen the development from this location. The series of six elm trees on either side of the boulevard and the oak and small group of retained trees on the north-west side of the pond cannot possibly prevent or indeed soften materially the view of a 21.3m high hotel. The other vegetation and hedges proposed in the car park are comparatively low in scale.⁸⁵ Furthermore, it is all deciduous and will not heavily 'filter' views of built form, contrary to Mr Waddell's assumptions. On the contrary, the deliberate intention appears to be to advertise the Great Wolf presence to passers-by. There is a vision to create an "iconic landscape", a vista⁸⁶ and a strong sense of arrival with the entrance boulevard and avenue of elm trees. The entrance and approach are a key part of the Great Wolf experience, as is apparent from other examples of Great Wolf resorts. Despite Mr Waddell's suggestion that the intention is to screen the development from the road but then gradually create a sequential revealing of the resort as one moves up the boulevard towards the porte cochaire, the reality is that, when walking, driving or cycling down the A4095 the view will be stark, imposing and urban. It will be a wholly alien feature in this currently rural landscape.

The Diverted PROW:

⁸⁵ The trees proposed in the DAS (CD1-7) p. 60 at 6.3 are not substantial when compared to the height of the central portion of the hotel behind the porte cochaire which rises to 21.3m. Even the porte cochaire itself is 12.1m (see the spot height plan at CD10-29). The hedges in the car park are only about 1.2-1.5m high.

⁸⁶ See LVIA para 13.5.21

55. The current experience for users of the PROW 6/10 is a walk across an open golf course with attractive views across the fairways, including of individual and groups of trees and various waterbodies. Mr Waddell's suggestions that the existing PROW is potentially dangerous due to conflict with golfers are without merit. There is nothing unusual about a PROW running across a golf course, as Mr Swan acknowledged, and there is no evidence of any danger associated with this PROW. The DAS acknowledged the existence of the PROW as a sensitivity of the site.⁸⁷

56. The scale of built form of the Great Wolf building and car park requires the diversion of the PROW to the edge of the site. When using the diverted PROW, the user entering the route from the A4095 will be confronted by a 2m high acoustic fence with 4m high lighting columns beyond, within the car park.⁸⁸ There will be a large bund (3m) on the left. The walker progresses past another 4m bund and thereafter will be hard adjacent to a 1.8m weld mesh fence with the north-east corner of the hotel beyond.⁸⁹ Mr Waddell's assertion that the 1.8m fence will soon become absorbed into the hedge (to be cyclically maintained at 1.8-2m⁹⁰), internal to the service road/car park, should be treated with caution. Visually, far from being a "serene woodland walk" as suggested by Mr Waddell, the footpath will have "a nasty, mean backland character", as Mr Huskisson said. Walkers will be aware of vehicles to the north and also the vast scale of the Great Wolf building, best seen by reference to the pre-application wireframe viewpoint 3,⁹¹ which was accepted by Mr Rayner to be "broadly comparable" to the current proposal.

57. Users of a PROW are accepted by the Appellant to have a medium sensitivity. The visual impact on the users of the diverted PROW, Mr Waddell has acknowledged, at the outset, will be a moderate adverse visual effect reducing to minor to moderate adverse effect at year 15. A moderate adverse effect is one which amounts to "an

⁸⁷ CD1-7 p. 25

⁸⁸ DAS p. 62 and (re lighting columns - see General Arrangement Plan sheet 4/4 CD1-19).

⁸⁹ DAS p. 62.

⁹⁰ CD 1-20 p. 9 and Waddell cross examination.

⁹¹ CD16C-3, viewpoint 3. Bunding and landscaping will not significantly adjust this view. In particular, at the outset, only the bund will provide any form of mitigation. There may well be a filtering effect by year 15, but this still will not substantially block views of the building.

obvious deterioration to a view of a receptor of medium to high sensitivity that would constitute a clear change in the view ...”.⁹²

Other Viewpoints:

58. Mr Huskisson made clear that, whilst he acknowledged that the viewpoints used in the LVIA⁹³ were agreed with the Council, certain local views are unrepresented.⁹⁴ The other views of primary importance are those that will be available for users of Green Lane, the A4095, the local footpath and the M40. The Inspector is invited to consider all of these views again at his further site visit. In respect of the Green Lane overbridge, the photomontages do not show a winter level of vegetation coverage and the baseline image included ground works associated with the introduction of the outdoor pool, which are now complete. The photomontage should be considered in this context. Although the perception of the development from these locations may be lesser than from the A4095, from the PROW and from within the golf course itself, these are not without importance and aggravate the harmful effects of what is proposed.

59. It is acknowledged that the site benefits from visual containment. However, this is not comprehensive and, as we have submitted, where the development is visible, the harm is extensive.

Middleton Stoney Junction:

60. There are no wireframes of the Middleton Stoney Junction area. Its current character is acknowledged to be “very pleasant”.⁹⁵ The mitigation works proposed for Heyford Park Phase 1 will be quite damaging in their own right. The Great Wolf proposals will remove further sections of verge on the west side of the junction and the trees at the bottom of the south eastern verge will also be removed.

Other Matters:

⁹² Waddell rebuttal table p. 29 and GLVIA Methodology ES App.13.1 p.xvii.

⁹³ See ES Chapter 1 Vol 13

⁹⁴ Huskisson PE para 2.25

⁹⁵ Mr Huskisson examination in chief

61. The Appellant seeks to draw support from the advice of the Landscape Officer. They are entitled to in part, there being no wider landscape impacts. However, the Appellant ignores repeatedly the full range of comments by the Landscape Officer in the Committee Report,⁹⁶ in particular that “concerns are raised regarding the scale of development and an overdevelopment⁹⁷ of the site especially when compared to the adjacent Bicester Golf Hotel and Spa”.⁹⁸

Conclusion on Landscape and Visual Impact:

62. Overall the Great Wolf proposals cannot possibly be said to be “landscape-led”,⁹⁹ as suggested by the Appellant. The chronology of site selection and entering into the option to purchase before instructing landscape consultants speaks for itself. A true landscape first approach would have either ruled out the site on account of the size, scale and mass of the development, or would have materially sought to reduce its size to one that could be considered to sit comfortably within the site and local area, in a way in which the existing main buildings of the Bicester Hotel and Spa do. The site is relatively self-contained, but given the vast scale of the Great Wolf development, it ends up being overdeveloped.

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

⁹⁶ CD3-3

⁹⁷ Para 9.92. See also CD16C-13 which are the comments of the Landscape Officer. Another symptom of overdevelopment is the fact that swales are provided in the car park (see ES Appx 12.2). Swales are intended to perform a function of ditches and the impact on the overall layout and appearance of the car park is unexplained. The photograph of swales provided by Mr Waddell (CD16B-12), he confirmed, is not an image of a feature that has been approved by the Appellant’s drainage consultant.

⁹⁸ Para 9.92

⁹⁹ See Planning Statement (CD1-7) at 1.7

requires that decisions should contribute to and enhance the natural and local environment.

Issue 4: The Implications for Drainage and Flooding

64. The drainage solutions have now been accepted by the Lead Local Flood Authority as being satisfactory subject to conditions. However, it is not accepted that they are a 'significant benefit' of the scheme so far they relate to downstream flooding in Wendlebury and Little Chesterton.¹⁰⁰ The parties agree that restricting the discharge from the site to QBar is an acceptable way of controlling flows from the site and mitigating the risk of flooding downstream.¹⁰¹ However, it does not automatically follow that conditions will improve for those villages. No full catchment model has been undertaken for these areas to take into account the other sources of flooding in order to measure the impact of the Great Wolf development.

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

65. The Council has agreed the proposed s. 106 agreement and the draft list of conditions.

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

66. We have identified already the conflicts with the development plan which arise by reason of the various adverse effects which have been addressed. In and of themselves these give rise to a strong policy conflict with the development plan.

67. Other policy conflicts however arise.

68. The Local Plan Spatial Strategy is contained within the 2015 Cherwell Local Plan.¹⁰² Consideration of the appeal site by reference to this Strategy is instructive. By contrast with large areas around Bicester, the appeal site is not allocated for any development.

¹⁰⁰ As was asserted in cross examination of Mr Bateson

¹⁰¹ Drainage SOCG para 3.6

¹⁰² CD5-3, adopted 20 July 2015, post the publication of the NPPF

It is certainly the case that no development of the scale here proposed is contemplated within the Spatial Strategy. There is no dispute that the site is in open countryside¹⁰³ in policy terms and the proposals should be considered in that context.

69. The Local Plan Spatial Strategy for the District directs the majority of growth to within or immediately adjoining the main towns of Banbury and Bicester.¹⁰⁴ As Mr Goddard acknowledged, the appeal site is neither within nor immediately adjoining Bicester. Away from those two towns, the major single location for growth will be at the former RAF Upper Heyford base. Kidlington's centre will be strengthened and economic development will be supported close to the Oxford airport and nearby at Begbroke Science Park. The appeal site has no relationship to Upper Heyford or Kidlington. The Strategy provides that growth across the rest of the District will be "much more limited" and will focus on "meeting local community and business needs". Mr Goddard accepted that the Great Wolf development is not seeking to meet such local needs – it is a strategic development catering to a much wider catchment area (in addition to local people). Finally, the Strategy provides that development in the open countryside, which includes the appeal site, will be "strictly controlled". When considered in the context of the Spatial Strategy of the Plan, the appeal site is one where *any* development must be strictly controlled. This is of itself an important factor which weighs strongly against approving development of a leisure resort, and certainly one of the scale proposed, on the appeal site.

70. The expectations of the Spatial Strategy in respect of development on the appeal site also provide an important context for the interpretation and application of the policies of the Local Plan, which are plainly formulated to deliver that Strategy.

71. Policy SLE3 concerns tourism growth. Unsurprisingly, that policy encourages growth in visitor accommodation and attractions. However, that support is not unqualified.¹⁰⁵ The Council's support is expressly limited to new attractions "in sustainable locations" and where the development "accords with other policies in the Plan". We have already

¹⁰³ The caveat is that it is plainly and correctly in leisure use. We have already discussed the issue of the use of the site as a golf course and its rural character.

¹⁰⁴ CD5-3 p. 27-29

¹⁰⁵ Mr Goddard accepted in cross examination that it was not a 'free for all'.

set out why the appeal site's location is neither sustainable in locational terms nor capable of being made so. Mr Goddard sought to suggest that this includes 'economic sustainability'. We suggest that the policy focus is on locational sustainability as those are the words used in the policy itself. Moreover, the emphasis on and importance of sustainable tourist growth within policy SLE3 is consistent with strategic objective SO5¹⁰⁶ which is to "encourage *sustainable* tourism". Given that the appeal site is not a sustainable location for the development proposed and given the range of policy conflicts which arise, the appeal proposals are not consistent with policy SLE3.

72. Saved policy T5 of the 1995 Local Plan¹⁰⁷ does not assist the Appellant. The policy itself, in so far as relevant, concerns extending existing hotels, etc. This appeal proposal does not do that. The support that Mr Goddard seeks to derive from paragraph 7.17 of the old 1995 plan is misplaced. First and foremost, it is text and not policy. The thrust of that text now needs to be treated with caution given it significantly pre-dates the NPPF and the emphasis within the Framework on reducing the need to travel and other aspects contributing to sustainable development. In any event, all that explanatory text suggests is that new hotels in the open countryside will need to be considered against policies generally and exceptional circumstances are likely to be required to support such a proposal. As we have submitted, strong policy conflicts arise and there are no exceptional circumstances here.

73. Mr Goddard sought to rely upon (perhaps even weaponise) other hotel developments recently permitted by the Council on the grounds that he claims each is the equivalent or worse in locational sustainability terms to the appeal site. Mr Goddard substantially misses the point and ignores the context of the decisions to approve those proposals.

74. The Bicester Heritage Hotel¹⁰⁸ is on a site abutting the edge of Bicester where there is a significant heritage interest in terms of the preserving the residual RAF buildings.¹⁰⁹ It lies within Policy Bicester 8 where the Council: "will support heritage tourism uses, leisure, recreation, employment and community uses. The development of hotel and

¹⁰⁶ Local Plan p.31

¹⁰⁷ CD 5-5

¹⁰⁸ See Goddard Appx 6

¹⁰⁹ It is in fact in a Conservation Area.

conference facilities will also be supported as part of a wider package of employment uses”. The grant of planning permission was thus for a hotel within and consistent with a policy allocation, and one which plainly seeks to introduce tourism uses, including a hotel, to provide a future use for the heritage assets which comprise the former RAF base. That in itself is sustainable development in accordance with paragraph 11 of the NPPF. The approval of a hotel at Bicester Heritage was not by reason of its sustainable location *per se* but by reason of its compliance with the site-specific policy and the objective of that policy, namely to secure a future use for an important heritage asset. There is no similar site-specific (or other) policy support here; nor is there a similar heritage focused objective capable of supporting the development proposed.

75. The planning permission for development at Bicester Gateway comprising employment based buildings plus a hotel,¹¹⁰ was again granted in the specific context of an allocation in the Local Plan (Bicester 10). Officers advised Members that, although the hotel element was in conflict with Policy Bicester 10, it had the ability to help facilitate further B1 development on the site and deliver on the wider long term policy objectives.¹¹¹ The hotel was acknowledged to be a catalyst consistent with the objectives of policy. It was recognised in addition that an out of centre hotel would deliver benefits to the town centre in particular through evening linked trips. The Great Wolf hotel does not act as and is not meaningfully advanced as a ‘catalyst’ or ‘enabling’ development. Linked trips to the Bicester Town Centre from Great Wolf – a contained leisure resort – would realistically be remote.

76. Other attractions referred to and relied upon by Mr Goddard are justified by location-specific considerations. The observation tower and learning centre at Upper Heyford is intended, consistent with policy, to attract visitors to explore and enjoy the heritage aspects of the site¹¹² and the new Centre Parcs at Woburn, by virtue of the nature of the proposals, requires a woodland setting.¹¹³ The expansion of the Bicester Golf Course

¹¹⁰ Goddard Appx 9

¹¹¹ Paras 8.2 and 8.15

¹¹² Goddard PE para 9.24

¹¹³ Goddard Appx 8

hotel approved in 2015 is consistent with saved policy T5 and the appeal site was acknowledged then to be an “unsustainable location”.¹¹⁴

77. Policy SLE2 (Securing Dynamic Town Centres) seeks to ensure that Bicester (and Banbury) have a strengthened role in achieving economic growth including as a destination for visitors.¹¹⁵ This policy seeks to ensure that leisure and tourism (as well as other ‘Main Town Centre Uses’) are “directed” towards the town centres. It is noted that Bicester town centre has seen less growth than Banbury. The policy requires an impact assessment for a development of the scale proposed. This is common ground. Against that, the Appellant’s reluctance, bordering on hostility, to production of an impact assessment is surprising. It may well be that there are no direct comparators to the Great Wolf resort in Bicester (or indeed anywhere in the UK). However, the requirement for an impact assessment in Policy SLE2 is not discretionary and the failure to provide one of any substance, certainly at application stage, is a stark breach of the policy. The Council was right, we submit, to raise the point.

78. It is noteworthy that Mr Goddard sought, somewhat tentatively, to suggest that there would be ‘knock on’ economic benefits for Bicester town centre from Great Wolf guests going out in the evenings in the town or to the cinema. That type of economic boost for existing businesses arising from tourism is indeed important and is recognised in paragraph B63¹¹⁶ of the supporting text to Policy SLE 2. However, in this case, the suggestion that businesses in Bicester town centre would benefit from the presence of Great Wolf guests is fanciful and would appear entirely contrary to the business model of Great Wolf that everything is provided ‘under one roof’. It should be given very limited, if any, weight. The reality is that the Great Wolf resort would be entirely self-contained and would provide very little, if any, wider tourism and economic benefits for Bicester Town Centre.

¹¹⁴ Goddard Appx 7 para 7.25 (p.75)

¹¹⁵ CD5-3 p. 47 para B49

¹¹⁶ P. 51: “Valuable expenditure associated with overnight stays is potentially being lost, meaning that tourism has scope to play a significant wealth-creating role for the District.”

79. Let us then take stock. The impact of the appeal proposal and its location generate substantial policy conflicts and are flatly inconstant with the strategy of the Local Plan, including policy SLE3.

80. What are the material considerations which arise?

81. First, there is the NPPF. Properly considered the development conflicts with rather than attracts support from the Framework. It constitutes “significant development” which should be focussed on locations which are or can be made sustainable, in accordance with paragraph 103. The appeal site, as we have set out, is not a sustainable location and the Appellant’s measures cannot make it so. The residual cumulative impacts on the Middleton Stoney junction are severe, contrary to paragraph 109. The prohibition on building on existing sports land in paragraph 97 is the starting point unless one of the three exceptions in (a), (b) and (c) of that paragraph are met. The burden is very much on the Appellant to show why the general principle should be departed from by reference one or other of those exceptions. The Appellant has failed to do so. Moreover, the development does not meet the three objectives of sustainable development in paragraph 8. True, there are economic benefits but sustainable economic benefits are about ensuring that development is “available in the right places and at the right time to support growth, innovation and improved productivity”. This development is simply not in the right place. It does little to support a social objective for strong, vibrant and healthy communities (and the loss of 9 holes of the existing course actively harms these aims) and it also actively harms the environmental objective by harming the landscape and visual environment and running entirely contrary to the drive to mitigate and adapt to climate change, including moving to a low carbon economy. The proposal attracts no support from the Framework as a material consideration.

82. What then of other considerations advanced by the Appellant?

83. First, the Appellant relies on there being no other identified sequentially preferable site. As a consideration, that does not get them very far. It may well be that in terms of relationship to a town centre there is no identified suitable or available site which is closer to a centre. However, this certainly does not excuse lack of locational sustainability which arises nor the other policy conflicts.

84. Second, the Appellant seems to advance some case as to need. We accept of course that there is no policy requirement to demonstrate need. However, where, as here, a conflict with the development plan arises, if there is demonstrated to be a need for the development, that may amount to a material consideration in favour of the grant of planning permission. However, other than the commercial desires of an operator, nothing approaching evidence of a need for a new water park and associated large hotel has been produced. There is certainly nothing to support the introduction of such a development in open countryside here and with the adverse impacts to which it gives rise. Moreover, given the catchment area for the resort (2.5 hour drive time equating to a geographic area extending from Norfolk to South Wales¹¹⁷) there is nothing in terms of need to justify the location proposed, certainly given the conspicuous harm which arises.

85. The scheme will generate 460 FTE jobs.¹¹⁸ Whilst there can be no dispute that job creation is in itself a good thing and as an outcome it is in accordance with the Council's strategic objectives for delivering a sustainable local economy,¹¹⁹ the weight to be afforded to this as a benefit must be seen in the context of the very substantial allocation of land for job generating B class uses in the Local Plan, in particular around Bicester. There is no reason to doubt, as Mr Goddard accepted, that these allocations will be brought forward and will deliver substantial new job opportunities. Nor is there any reason to consider that this large amount of B class floorspace will not yield the types and quality of jobs which are appropriate for those who would otherwise seek employment at the proposed development. The substantial levels of job creation which the Local Plan will deliver consistently with its policies provides a context for the weight to be attached to job creation through the appeal proposal. That benefit cannot we submit excuse the policy conflict with arises.

86. Beyond that, the majority of the planning benefits relied on by the Appellant (e.g. biodiversity net gain) are simply policy requirements of any new development and are

¹¹⁷ TA (CD 1-24) Fig 5.7

¹¹⁸ CD1-22 (Planning Statement) at p. 6. This is referred to as 420-450 FTE jobs in the TA Appx H para 3.4.

¹¹⁹ CD5-3 p. 31

thus not benefits that could ever be capable of justifying a scheme that is in breach of the development plan for other reasons.

87. The right conclusion therefore is that the development fails to accord with the development plan and the balance of material considerations point against rather than towards the grant of planning permission.

88. The appeal should be dismissed and the Inspector is respectfully asked to determine accordingly.

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