

Cherwell District Council

Planning Committee

10 December 2020

Great Wolf Public Inquiry

Report of Assistant Director Planning and Development

This report is public.

Purpose of report

This report is being presented to Members to address suggestions made by the Appellant (Great Lakes UK Limited) that the Council's decision to refuse planning permission and its reasons for doing so were arrived at, in some respects, without regard to information which had been provided at the end of the application process, by the then Applicant.

The report's purpose is to seek Member endorsement that notwithstanding additional information provided by the Appellant regarding potential alternative golf course re-provision at the Bicester Hotel, Golf & Spa (as referenced at paragraph 5.5 of the Appellant's Rule 6 Statement) and the queries raised by the Appellant (at paragraphs 5.9, 5.14 and 5.35 of their Rule 6 Statement) concerning sustainability, Middleton Stoney cross-road junction mitigation works and drainage matters – see attached document link: <https://planningregister.cherwell.gov.uk/Document/Download?module=APP&recordNumber=1692&planId=0&imageId=3&isPlan=False&fileName=GW%20Bicester%20FINAL%20Statement%20of%20Case%2010092020%20no%20appendices.pdf>

The Council still wishes to maintain its first, second, third and fifth reasons for refusal of application Ref: 19/02550/F (whilst also still maintaining refusal reasons 4 and 6) and will continue to argue at the forthcoming Inquiry on 9th-17th February 2021 that appeal APP/C3105/W/20/3259189 should be dismissed for all the reasons specified in its original decision notice, dated 12th March 2020.

1.0 Recommendation

The meeting is recommended:

- 1.1 Notwithstanding the information submitted on behalf of the Appellant regarding potential alternative golf course re-provision at Bicester Hotel, Golf & Spa (paragraph 5.5 of the Appellant's Rule 6 Statement) and the further submissions (made in paragraphs 5.9, 5.14 and 5.35 of the Appellant's Rule 6 Statement), which suggested the District Council had failed to appropriately consider or interpret relevant evidence and planning guidance, the Council still wishes to maintain its first, second, third and fifth reasons for refusal at the forthcoming Inquiry on 9th-17th February 2021.

2.0 Introduction

Golfing Issues – Refusal Reason 1

- 2.1 One-day before application Ref: 19/02550/F was refused on 12th March 2020, the Appellant's representatives suggested that the nine golf holes to be lost as a consequence of their redevelopment proposals for the land to provide a new leisure resort incorporating waterpark, family entertainment centre, hotel, conference and restaurant facilities and car park could potentially be re-provided through a reconfiguration of the remaining 9-hole course to provide a smaller 18-hole facility with two holes sharing each fairway, plus a suggested s106 obligation to provide enhanced practice facilities and a new scholarship scheme for up to twenty under-16 golfers. At the time, such a belated suggested alteration to an application proposal that was already deemed unacceptable on several grounds was considered inappropriate for consideration and contrary to the Council's adopted Negotiating Protocol.

3.0 Report Details

- 3.1 Subsequently, Paul Almond, the Council's Street Scene & Landscape Manager who has extensive golf course management and design experience, was consulted on the Appellant's suggested course redesign proposals and commented as follows:
"My comments are as follows:

- 1. The Council has evidence from the independent study carried out by Nortoft, that we have a deficiency in golf facilities within the District and that we should be protecting the facilities we have.*
- 2. The appeal as submitted reduces the provision by 9 Holes, therefore, will increasing the deficiency within the District.*
- 3. Due to the location of this particular golf course, being the nearest facility to Bicester which as we know has significant housing development, the need for a golf facility for residents will increase not decrease.*
- 4. Furthermore, the reduction to a nine-hole facility, is likely to have a negative effect on membership, golf club members playing competitions enjoy a 18 hole par 70+ course to play on (Bicester Golf Course is currently par 71, 6249 yards in length).*

On this basis I feel that we should continue to defend our position of refusal because of the reduction of golf facilities within the District.

Supplementary information [provided on 11th March 2020] on the potential of fitting 18 holes on the footprint of the back 9-hole course [by accommodating two holes on each fairway, with several new tees and greens], this proposal consists of adding 9 additional tees at different positions on the existing holes my comments are as follows:

- 1. This option does not address the loss of the par 36, 3228 yards front nine holes, the additional holes will have to be significantly reduced, meaning it could not be classed as a course suitable for competition as 18-hole courses should have a Par between 69 and 74.*

2. *The addition of second tee boxes on the same hole will slow play down, meaning the time needed to play a round will significantly increase above the average 4 hours to play a normal 18-hole course.*
3. *There seems to be no design in the proposal as to where the additional tee positions have been proposed, Golfers not only have long walks between greens to the next tees, but also have to cross fairways where other golfers will be teeing off or playing.*
4. *Due to the positioning of the additional tee boxes, I feel that Health and Safety is a concern, as golfers could be hit by golf balls being played by the other golfers on the same hole.*

For these reasons, in my professional opinion, this proposal is impractical, unworkable and not a viable solution.”

Other Matters:

Sustainability – Locational & Bicester Town Centre impacts – Refusal Reason 2

- 3.2 At paragraph 5.9 of the Appellant’s Rule 6 appeal statement, it is argued that the Council did not address in its assessment of the planning merits of the proposals the application sustainability evidence presented at paragraphs 6.58-6.63 of the application Planning Statement. Also, that the Council improperly assessed issues of sustainability of location and potential impact on the vitality and viability of Bicester town centre such that the conclusions reached in respect to Refusal Reason 2 were inappropriately derived, contrary to NPPF guidance in paragraphs 80-87.
- 3.3 The Appellant’s contentions are refuted, since reference to the relevant evidence and guidance was contained in the main Committee report of 12th March 2020 at paragraphs 9.9-9.10, 9.17-9.20 and 9.29-9.51. Accordingly, Officers seek Member endorsement for maintaining Refusal Reason 2 as a ground of objection to the appeal proposals.

Highway Matters – Refusal Reason 3

- 3.4 At paragraph 5.14 of the Appellant’s Rule 6 appeal statement, it is argued that the Appellant’s latest suggested highway mitigation works for the B430/B4030 cross-road junction in the centre of Middleton Stoney (which were presented to OCC on 27th February 2020 on behalf of the Appellant by Motion) ought to have overcome the County Council’s highway objection referenced at Refusal Reason 3 with respect to traffic impacts. The proposed mitigation works comprised an additional northbound left turn lane at the junction, with widened carriageway kerb lines on the southeast side of the junction and modified road markings. However, the County Council confirmed in their updated consultation response on 3rd March 2020 that it maintained its objection in respect to the Middleton Stoney junction, i.e. that existing severe congestion at the Middleton Stoney signalised junction would be exacerbated by the additional trips generated by the proposed development contrary to paragraphs 103, 108 and 109 of the NPPF, Cherwell Local Plan Policy SLE4 and Oxfordshire Local Transport Plan 4 Policy 17. That objection was confirmed in the Supplementary Agenda Papers. OCC as Highway Authority has instructed Systra to refute the Appellant’s claims at the forthcoming Inquiry that their

proposed junction works would result in no material impact in the operation of that junction.

- 3.5 Appellant suggestions made in respect to public transport contributions and pedestrian and cycleway enhancements, which could be addressed in a new s.106 Deed, have satisfied the County Council with respect to sustainability matters. Accordingly, Officers seek Member endorsement for maintaining Refusal Reason 3 as a ground of objection to the appeal proposals.

Drainage issues – Refusal Reason 5

- 3.6 At paragraph 5.35 of the Appellant's Rule 6 appeal statement, it is argued that the supplemental drainage evidence submitted by Curtins on 9th March 2020 on the Appellant's behalf, in response to a critique of its drainage submission undertaken on behalf of OCC by Tyréns, was not considered by the Council in either the main Committee report or the supplementary report, when it resolved to refuse planning permission and included a specific drainage reason at Refusal Reason 5. In fact, on page 2 of the Supplemental Report, Committee Members were advised about the receipt of additional drainage submissions, and the report suggested that in the absence of an updated further written response from OCC, that compliance with relevant drainage policies could likely be achieved by conditions.
- 3.7 However, it was verbally reported to Members at the Committee meeting that despite the latest submissions made on behalf of the Applicants (now Appellants) that OCC had confirmed no substantive change had been made to the drainage proposals since its concerns were originally highlighted at pre-application stage. Rather than accept the guidance issued to utilise SUDS methods with ponds and swales, the Appellants chose to stick to their original drainage design methodology incorporating a 2,000m³ underground storage tank and extensive culverted connection pipes. A small section of proposed culverting was removed from the Appellant's initial designs, but the drainage proposals remain largely as originally proposed at pre-application stage, despite the County Council's repeated confirmed objections. Since refusal, the Appellant's agents have continued to liaise with the County Council on drainage matters but despite repeated promises that they would provide amended drainage details to reflect the County Council's concerns and despite numerous deadlines having been set for submission of such amended proposals, nothing had been received from the Appellants. Accordingly, OCC has confirmed that they still wish to maintain its drainage refusal. Therefore, this Committee is asked to endorse its fifth reason for refusal.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The Appellant's suggested alternative re-provision of lost golfing facilities would not be acceptable for the reasons specified in paragraph 3.1 above.
- 4.2 In accordance with the reasons specified above in paragraphs 3.2–3.7, this Committee is asked to endorse its Reasons for Refusal 2, 3 and 5.

5.0 Alternative Options and Reasons for Rejection

- 5.1 Not applicable.

6.0 Implications

Financial and Resource Implications

- 6.1 Failure to consider up to date information that was not available at the time the original decision was taken to refuse planning permission could potentially be deemed to be unreasonable by the Inspector if it were pertinent and could leave the Council at risk of a partial costs award at the forthcoming Public Inquiry.

Comments checked by:

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Legal Implications –

- 6.2 Whenever refusing a planning application the Council has to give reasons, and if there is an appeal has to be prepared to justify those reasons or abandon them. The above report, which has been reviewed by Counsel, sets out that Officers are satisfied that what has been agreed, and what Members are asked to confirm, accords with this. Therefore there are no legal implications that are not already addressed in the report.

Comments checked by:

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Risk Implications

- 6.3 None.

Comments checked by:

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