

**REPORT OUTLINE FOR AREA PLANNING COMMITTEES****Report No.**

<b>Date of Meeting</b>	7 <sup>th</sup> August 2019
<b>Application Number</b>	18/11596/FUL
<b>Site Address</b>	Land adjoining Wessex Water, Westmead Lane, Chippenham, SN15 3HZ
<b>Proposal</b>	Climbing centre and skate park with associated landscaping and development of the Westmead recreation ground and open space.
<b>Applicant</b>	Chippenham Borough Lands Charity
<b>Town/Parish Council</b>	CHIPPENHAM
<b>Electoral Division</b>	HARDENS AND ENGLANDS
<b>Grid Ref</b>	390534 174014
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Charmian Eyre-Walker

**Reason for the application being considered by Committee****1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

The application has been called to Committee under the Scheme of delegation where although it would be possible to deal with certain applications under delegated powers but where the Director for Economic Development and Planning considers it inappropriate to do so, having considered any public representation and consultee responses.

**2. Report Summary**

Issues to be addressed:

- Principle of the development.
- Impact on flooding/flood storage capacity.
- Drainage
- Impact on Chippenham Conservation Area
- Access and parking/Impact on highways
- Design and impact on visual residential amenity
- Ecology

- Noise
- Lighting

17 letters of objection received together with 174 letters of support and a further 38 letters of comment.

Chippenham Town Council support the application subject to the following:

Support in principle subject to the following being provided:-

- Revised timetable of hours of operation for the skate park element.
  - Noise assessment to cover the community hub element.
  - Robust traffic management plan.
  - Lighting strategy.
  - Evidence of detailed flood mitigation.
  - Commitment by the applicant (CBLC) to carry out regular reviews on this facility, consulting residents and users.
  - Security measures to prevent anti-social behaviour.
  - Habitat and tree survey to cover flood compensation works area.
  - Flood risk assessment to cover the community hub element.
- Transport assessment to cover the community hub element

### **3. Site Description**

The site lies immediately to the south of Chippenham Town Centre, bounded by the River Avon to the west, Avenue La Fleche to the South. The redeveloped Hygrade factory – now retirement complexes and Wessex Water lie to the North with Flowers Yard and the Paddocks to the East.

The field is primarily a large open sports field, regularly mown with a small copse in the South East Corner forming a tree planted embankment to Avenue La Fleche and larger trees more sporadically along the river bank. There are a series of older buildings presently used for storage and a scout hut with parking for 44 cars on the existing Westmead car park to the north of the buildings. There are a number of key service and utility routes which must be maintained that run across the site.

There is a public cycle way which connects the site to the adjacent riverside millennium walkway and the larger Westmead open space beyond Avenue La Fleche. Access is via Westmead Lane although pedestrian access is possible along the cycleway and from Little Englands, via a small wooded copse.

The residential development of South West Chippenham (approx. 1000 dwellings) will have a route that passes by linked via the extensive country park further providing access to the proposed facilities.

### **4. Planning History**

N/95/02273/FUL – Change of use of land for playing fields/car parking & associated works use land for car parking.

N/94/01115/OUT – Erection of single storey prefabricated building together with car parking and vehicular access.

N/04/02148/DP3 – Creation of static skate park.(withdrawn)

N/05/02887/FRC – Consultation on woodland grant scheme application.

N/07/00155/FUL – Retention of temporary car park adjacent Wessex Water depot and pavilion.

15/12208/FUL – Existing access and hardstanding converted to community car park.

17/00334/FUL – Demolish hall building.

## **5. The Proposal**

The application was originally submitted in hybrid format. The outline element of the application comprised a large community hub, with a diverse range of uses. This aspect was subsequently withdrawn. The detailed element, now for consideration, comprises a skate park, indoor climbing centre (D2), outdoor climbing wall and associated café, works and landscaping.

The activity zone the skate park is proposed as a concrete landscape with accents in the form of brick quarter pipe and various landscaping features, including coloured concrete ledges and rails.

The climbing facility is a range of 3 buildings of heights varying from the building housing the café, changing and associate facilities, which measures approx. 24m x 8.5m at a height of approx.10m (incorporating the plinth required to lift the facility out of the flood plain). A covered bike shelter measuring approx. 4.7 m in height lies to the east. There is a first floor bouldering section above part of the building. This building is linked at first floor level to another building which contains the main bouldering section linked to a taller building containing an indoor climbing wall with an outdoor climbing wall on its west face.

Together these 2 buildings measure approx. 25m x 13m together with a further approx. 3m external overhang over the outside climbing wall. The two buildings are approximately 16.5m and 13.7m in height. The external climbing wall backs onto the skate park.

The land to the south is to be developed with an adventure play zone, water play zone, exercise trail and boule pit. The land to the east will be used for bike storage, drop off areas and a covered BBQ facility. Details of the exact facilities will need to be controlled by way of planning condition.

Parking for 9 cars is provided on the actual site to the north of the buildings together with the parking as described in section 8.

## **6. Planning Policy**

### Wiltshire Core Strategy

CP1 Settlement Strategy

CP2 Delivery Strategy

CP3 Infrastructure  
CP9 Chippenham Central Areas of Opportunity  
CP 10 Spatial Strategy: Chippenham Community Area  
CP56 Contaminated Land  
CP57 Ensuring High Quality Design and Place Shaping  
CP58 Ensuring Conservation of the Historic Environment  
CP60 Sustainable Transport  
CP61 Transport and New Development  
CP67 Flood Risk  
CP68 Water Resources

#### Saved Policies from North Wiltshire Local Plan 2011

NE18 Noise and Pollution

#### National Planning Policy Framework

Achieving Sustainable Development – Core Planning Principles (paras 7, 14 and 17)

Chapter 12

Chapter 14

Chapter 15

Chapter 16

Planning Practice Guidance (PPG) for flood risk and coastal change was launched as a web based resource in March 2014. It provides guidance on how policies in The Framework are to be implemented in practice. It replaced a wide range of circulars, planning guidance and good practice guides, including the Technical Guidance to The Framework on development in areas at risk of flooding (March 2012).

Table 2 Paragraph 066, of the *Flood Risk and Coastal Change* section of the PPG (**Reference ID: 7-066-20140306**) classifies residential institutions such as rest bite accommodation and restaurants as a 'more vulnerable' flood risk land use and Café's and community spaces as 'less vulnerable' the sports facilities are identified as 'water compatible'. Table 3 Paragraph 067 (**Reference ID: 7-067-20140306**) shows that more vulnerable uses are acceptable in Flood Zones 1 and 2 but not Zones 3b (the functional floodplain). It also shows that more vulnerable uses will only be acceptable in Zone 3a if the Exception Test has been satisfied.

With regards to applying the sequential test to individual planning applications, Paragraph 033 (Reference ID:7-033-20140306) states:

*“For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test access will be defined by local circumstances **relating to the catchment area for the type of development proposed as set out in our methodology**. For some developments this may be clear, for example, the catchment area for a school.*

*In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of*

flooding) and ***development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.***” (highlighted and underlined text – authors emphasis)

*“When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for development elsewhere. For nationally or regionally important infrastructure the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary.”*

Chippenham Vision Masterplan promotes a mix of uses that will contribute to the sustainable development of Chippenham. Policy 4.1 is concerned with maintaining, consolidating and improving sport and recreation provision in the town centre, in particular utilising the river corridor.

Policy 6.2 states that there is potential to enhance community uses in the Westmead area of the town.

## 7. Consultations

Chippenham Town Council - support the application, but comment as follows:

Support in principle subject to the following being provided:-

- Revised timetable of hours of operation for the skate park element.
- Noise assessment to cover the community hub element.
- Robust traffic management plan.
- Lighting strategy.
- Evidence of detailed flood mitigation.
- Commitment by the applicant (CBLC) to carry out regular reviews on this facility, consulting residents and users.
- Security measures to prevent anti-social behaviour.
- Habitat and tree survey to cover flood compensation works area.
- Flood risk assessment to cover the community hub element.
- Transport assessment to cover the community hub element.

Environment Agency - Raises objections as follows:

The site lies in Flood Zone 3b (the functional floodplain) and therefore has a high risk of flooding. National Planning Guidance confirms that this zone comprises land where water should flow or be stored in times of flood. The Environment Agency has objected to the proposal. However, they have also gone on to say that although they provide technical advice, they appreciate that the LPA has multiple issues to weigh up in the determination of an application. Flood risk is just one of those issues. As an area of land in flood zone 3b the site is an area where flood water **has** to flow or be stored at times of flood”. For this reason the only types of development allowable in flood zone 3b, under the NPPF guidance, are ‘water

compatible' development and essential infrastructure. They have interpreted the development proposed as less vulnerable, because it includes a proposed café.

Even if the proposed development were to be defined as 'water compatible' those types of application must pass the exceptions test where uses should be designed to:

- Remain operational and safe for users at times of flood
- Result in no net loss of floodplain storage
- Not impede water flows and not increase flood risk elsewhere

They therefore must maintain their policy objection based on the NPPF guidance. The type of development proposed may endanger users of the site and/or increase flood risk elsewhere.

They are aware that the LPA may wish to approve the application against this advice for other reasons of community benefit. It is the responsibility of the LPA in this instance to formulate those conditions.

Drainage Engineer - originally objected, but following meetings and a revised FRA he has withdrawn their holding objections and suggests conditions.

Highways Officer does not object subject to conditions, following the submission of a revised Transport Assessment. The background to this recommendation is contained in the Impact on Highways and Parking section in the Planning Assessment below.

Sport England - does not object to the proposal.

Ecology - states that the application details including the Extended Phase 1 Habitat Survey report by Ellendale Environmental (December 2017). The report and its recommendations within Section 5.0 Conclusions are considered suitable. The retention of the 20m buffer to the River Avon corridor is welcomed. We note, however, that the external lighting plan appear to indicate that there would be light spill onto the river corridor and this could disturb wildlife including Otters and bats. We therefore recommend that the lighting scheme should be amended to significantly reduce and preferably avoid light spill onto the river and its 20m buffer corridor. This may be achieved through alternative lighting design and/ or locations so that any spill onto the river and its corridor are below a level of 1 lux. This information should be provided before determination.

The following are recommended to be secured by condition, where appropriate:

- A Construction Environmental Management Plan (CEMP) to include measures to protect the river corridor and protected species protection measures including In relation to nesting birds, during the clearance and construction phases.
- Details of biodiversity enhancement in line with Section 5 of the ecology report. It is recommended that this is extended to include details of management of the river corridor habitat.

Landscape officer - supports the proposal and states:

*"I note the application is supported by the submission of a Landscape and Visual Impact Assessment (LVIA), prepared by Elkins Architects.*

*I observe the submitted LVIA includes assessment of landscape and visual receptors without actually defining whether these assessed effects are negative, positive or neutral in nature. I also observe that these effects are assessed in terms of 'significance'. The current guidelines for LVIA (GLVIA 3<sup>rd</sup> Edition) steer landscape practitioners engaged in carrying out LVIA not to assess effects in terms of their 'significance' for Non EIA development such as this (highlighted within GVLIA3 Statement of Clarification 1/13 (para. 4). The reason for this is because if an assessor identifies any 'significant' effects during evaluation of non EIA Development, then this in itself could subsequently trigger or indicate the requirement for an Environmental Impact Assessment.*

*To be clear, while this development proposal could result in some adverse landscape and visual effects, the scale and nature of development and the resulting magnitude of change would not result in any 'significant' environmental effects (landscape or visual) and would not constitute EIA development if EIA Screening opinion were to be requested. As the description of development does not meet any qualifying EIA threshold criteria (i.e. Schedule 1 or Schedule 2 development) and the types and characteristics of potential impacts resulting from the construction and future operation of this development would not result in any potential for any 'significant' environmental impacts to arise or be generated.*

*The proposed development will result in the loss of a small part of an existing recreational field, which is currently available to the public. The development will result in some permanent change effects to the site itself and to views from surrounding POS areas. However, the new development is complimentary in terms of its use for recreation, health and enjoyment located within an existing area of POS (recreation field). The new buildings will be visible from a number of public visual receptors including the adjacent footpath/cycleway users (North Wiltshire Rivers Route) and by road users travelling along Avenue La Fleche. However, while these effects would be permanent and adverse in nature they would also be limited and localised and the residual effects would reduce slightly with the passage of time, as and when the new tree planting matures.*

*I did provide some pre-application landscape advice in relation to this proposed development highlighting particular concern about the use of steel cladding materials to the elevations of these new buildings etc. The proposals have responded positively in this regard with introduction of timber cladding, but I defer further definitive consideration of appropriate building design and use of building materials to this Council's Urban Designer.*

*While the new development proposal will result in some obvious and permanent localised adverse landscape and visual change effects, I do not consider the magnitude of these to result in any particularly harmful effects to existing landscape features, landscape character or to public visual amenity. I note the inclusion of broadleaf native tree planting fronting the river with some ornamental tree planting lining the access and fronting the recreation field. I suggest this is an appropriate soft landscaping proposal in the context of the site. This new tree planting, should help provide some immediate new landscape structure and in my opinion will provide an appropriate interface with the adjoining areas of POS and the local Public Rights of Way network, as this new planting matures and blends into the framework of existing trees and vegetation adjoining the application boundary and riparian corridor.*

*Despite my comments and observations made regarding the submitted LVIA, I do not identify a need or requirement for the applicant to revisit or revise their LVIA submission in this instance, as it would serve little or no further advantage in assessing this application in my opinion. The*

*Photomontages included within the submitted LVIA show some selected viewpoints both existing (before) and with proposed development (after). These would be useful for Elected Members to view if this application is to be determined by the Planning Committee.*

*If the LPA is minded to grant planning permission for this development then I confirm that the landscape proposals as currently illustrated on the submitted 'Landscaping Plan' provide an acceptable detailed landscaping scheme.*

*I recommend that it will be necessary for the 'landscaping scheme, as currently illustrated and specified on the submitted 'Landscaping Plan' (dwg. no. **493/PL/18 rev: A**) to be conditioned to be implemented in full within an agreed and clearly specified timeframe, or agreed trigger point. (Please use standard Wiltshire Council 'Implementation of landscaping' Condition) incorporating 5 year maintenance period and annual plant replacement clause for any failed planting etc."*

Tree Officer - states: *"Whilst I have no objection to the proposal itself, the trees surrounding the Wessex Water site will need to be afforded some sort of protection during construction so that the roots and canopies are not damaged. The trees themselves are not particularly good specimens however as a group provide a level of screening and amenity value and the developers need to consider their retention at this stage of the planning application."*

Subsequently an Arboricultural Method Statement and Tree Protection Plan were submitted which are considered to be acceptable and should be conditioned.

Urban Design Officer - commented on the original and more information was submitted (The original response is available on line).

Comments on the revised application are as follows:

*The applicant's revised DAS adds additional information which clarifies the urban design rationale, and revised elevation plans show all visible façade materials which, noting that landscape and conservation officers have raised no objection to them, I deem as acceptable and will help create a distinctive and characterful facility on this gateway location from park to town. I would concur with the design conclusions set out in the DAS as evidencing compliance with CP57 in particular i, ii, iii, vi & ix.*

*Helpfully, the phasing plan has been updated to include the bike stand in Phase 1, which is positive, and positively, I note that the Town Council, and Sport England also support the application and the applicant has undertaken substantial community consultation and gained a lot of local support.*

*Assuming the principle of building a recreational facility within recreational open space has been justified satisfactorily to the case officer, then I would have no objection on design grounds.*

Police Liaison Officer - states following a meeting between Officers and the applicant's agent that matters to be considered are upgrading the fence along the boundary with Wessex Water, the standard of lighting along the footpath leading to the terrace and the possibility of including a window which overlooks the covered barbeque areas. The reassurance that the facility is to be run by an experienced operator is welcome, as was the information relating to parking restrictions that are put in place to prevent on-street parking on the approach.

Archaeologist - supports the proposal subject to a condition securing a programme of archaeological investigation.

Public Protection Officer - is concerned with 2 aspects of the proposal:

Lighting: Following submission of a revised lighting plan/strategy and confirmation that the any lighting will fall into Zone E2 levels, he raises no objections.

Noise: The application was accompanied by a Noise Assessment. Additional information has been sought and supplied and the Officer is now satisfied subject to conditions.

The Chippenham Civic Society - strongly in favour of this application. We think this is an excellent use of the land for the benefit of all the town. With the development of the Springfield Sports ground Westmead is no longer used as it has been in the past. The layout of the skate park, protected from houses by the climbing centre and near the river and road, is ideal. Noise will not be a problem. The town badly needs more facilities for young people to be active and engaged and this scheme should be applauded and encouraged. Chippenham is lucky to have this opportunity!

## **8. Publicity**

The application was advertised by way of site notice, press advert and neighbour notification.

17 letters of objection received together with 174 letters of support and a further 38 letters of comment (Those referring to FUL application alone are noted).

The reasons for objecting are summarised as follows:-

- Lack of information on hours and noise levels.
- Noise from the skate park surface – Is there a better surface?
- Loss of green space and spoiling the natural beauty of the park and floodplain.
- The climbing building is very tall and intrusive.
- There is only one access, Westmead Lane, which runs past a recently completed retirement complex. Traffic flow would be put under strain.
- Do not agree that it is an easily accessible location for people in Chippenham.
- If permitted – additional landscaping is required.
- The land floods a lot (Photos supplied to support).
- Anti-social behaviour.
- Loss of trees recently.
- Loss of ecology
- Loss of scout facilities
- Light pollution
- Out of hours security?
- Query about investment and quality of company who will run the facility.
- Can the acoustic survey be relied upon?
- Have other site been robustly considered such as Stanley Park?
- Westmead will no longer be available for other sports such as cricket

- Blight residential development of Wessex Water site
- Will promote reliance on the private car

## 9. Planning Considerations

Section 70 (2) of the Town and Country Planning Act 1990 and the Compulsory Purchase Act 2004 require that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy (WCS), including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Chippenham Area.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations, which can accord substantial weight.

CP1 of the WCS sets out the settlement strategy for the area, identifying Chippenham as a Principal Settlement, a focus for new development. CP2 confirms a presumption in favour of sustainable development within the defined limits of development.

### Principle of the development

The site lies within the Chippenham Conservation Area as an open and relatively flat mown playing field. The site is bounded by the River Avon to the west, Avenue La Fleche to the South. The redeveloped Hygrade factory – now retirement complexes and Wessex Water lie to the North with Flowers Yard and the Paddocks to the East. There is a small copse in the South East Corner forming a tree planted embankment to Avenue La Fleche and larger trees more sporadically along the river bank.

As identified above, Chippenham is identified as a Principal Settlement within the WCS. Principle settlements are identified within the WCS as being a primary focus for development in Wiltshire. The site is central to Chippenham, within its settlement boundary, and is considered to be in a sustainable location with access possible by means other than the private car. In principle the development proposed is acceptable, subject to compliance with policies as set out below.

### Flood risk

The site lies in Flood Zone 3b (the functional floodplain) and therefore has a high risk of flooding. National Planning Guidance confirms that this zone comprises land where water should flow or be stored in times of flood. The Environment Agency has objected to the proposal on this basis. However, they have also gone onto to confirm that whilst they provide technical advice, they do appreciate that the LPA must consider and weigh multiple factors when coming to a conclusion on the acceptability of the proposed development. Flood risk is merely one of those many factors.

As an area of land in flood zone 3b the site is an area where flood water **has** to flow or be stored at times of flood. For this reason the only types of development allowable in flood zone 3b, under the NPPF, are 'water compatible' development and essential infrastructure. Critically, the EA have interpreted the development proposed as being 'less vulnerable', because it includes a proposed café.

In such a circumstance, it is merely the café element that falls foul of the definition of 'less vulnerable' development. Recreational/sport use falls within the definition of 'water compatible', but due to its relationship with the café, the whole facility is considered by the EA as "Less Vulnerable". Whilst a simple removal of this element from the proposal could overcome the EAs concerns, it is understood that the café is, however, integral to its success and provides a vital staff presence at all times that the facility is open. Indeed, its presence allows overseeing of potential misuse of the facility (particularly the skate park) and anti-social behaviour.

The scheme is designed to compensate for loss of flood storage created by both the buildings and skate park, so that the overall flood storage capacity, all be it re-designed, remains the same. Flooding in the locality and any areas further down river is not considered to be affected to an extent that would warrant a refusal. The Council's Drainage Officer (with Wiltshire being the lead Authority) is satisfied with the arrangements proposed. The ways in this is achieved are:

- In accordance with Environment Agency requirements the FFLs of the proposed building will be set at a level of 44.45m Above Ordnance Datum, more than 600mm above the existing 100-year return period flood level.
- The proposed development shall register with the Environment Agency's flood warnings service to receive flood warnings. The receipt of a flood warning will initiate the flood emergency plan for the site.
- Appropriate signage would be provided, and a formal flood evacuation plan would be prepared and adopted by the management of the proposed development. This would allow site users of the car park to evacuate the site, either on foot or by driving their vehicles out of the site into Flood Zone 1, which would be via Westmead Lane to the north of the site.
- External levels for the vehicular access will generally be raised to a level of 43.80m AOD. This will ensure that the access/egress is above the 100-year return period flood level and will remain dry. Access into proposed buildings will be via modular steps and ramps so that Part M compliant access is provided without having to raise levels unnecessarily within the floodplain.
- In order to mitigate against any potential loss of floodplain storage volume below the proposed buildings, skate park and vehicular access, the development will include for floodplain compensation to give an equivalent volume of floodplain storage on a level-for-level basis.
- The proposed development will incorporate a positive surface water drainage system that will intercept run-off from roofs and paved areas.
- The proposed drainage system will incorporate Sustainable Drainage Systems (SuDS) to manage surface water runoff sustainably and in accordance with current best practice.
- The drainage proposals shall also ensure that in the critical storm events for the 1 in 100-year return period (plus 40% allowance for future climate change) there will be no flooding of any buildings within the site boundary and ensure that properties off site are not exposed to an increase in flood risk as a consequence

Even if the proposed development were to be defined as 'water compatible' those types of application must pass the exceptions test where uses should be designed to:

- Remain operational and safe for users at times of flood
- Result in no net loss of floodplain storage

- Not impede water flows and not increase flood risk elsewhere

The application is accompanied by an FRA and a Sequential Test analysis, which considers other available sites within Chippenham. All are discounted, and for a variety of reasons (land ownership, housing other facilities, poor location etc.) and it is considered that this analysis is robust enough to ensure the Exceptions Test is passed. The Environment Agency states that it is for the Local Planning Authority to make the judgement as to whether the sustainability benefits of the proposal outweigh the flood risk. It is also necessary to show that the development will be safe for its lifetime, taking into account the vulnerability of its users and that it won't increase flooding elsewhere.

The area of search for sites was confined to the development boundary of Chippenham, which, by definition, makes the siting in a sustainable location. This means that Stanley Park, which falls outside the development boundary, was not considered. It is accepted that this is the correct viewpoint to take, given that the central location proposed will encourage transport by means other than the private car, whereas, Stanley Park, in particular would not be so readily accessible.

The original proposal included a community hub that incorporated, amongst other things, retail units, starter units for business. This element was withdrawn leaving just the skate park, climbing wall and centre together with the landscaping, café and outdoor recreational facilities for determination.

### *Balance*

Whilst the EAs objection is unequivocal, weighing in favour of the grant of planning permission is the fact that the proposed development will deliver to Chippenham an invaluable facility for young people in an accessible location. Indeed, the site is extremely well located being close to the town centre and areas of dense population with access via footpaths and cycleways from the wider area. The café element will give a level of surveillance, but also a meeting and community facility.

In an effort to perhaps minimise the potential for users of the facilities to be trapped in the event of flooding, a permission could be subject to a planning condition which requires a strategy to be agreed and put in place so as to protect occupants/users of the café in the unlikely event that there is an unexpected flooding incident.

The benefit of the scheme to the community (perhaps best demonstrated by the number of supportive representations received) as well as the ability to impose planning conditions to minimise risk, is considered to be a significant material consideration and one which is considered to outweigh the Environment Agency's objection., especially given the Council's own Drainage Engineer raises no objections.

It is therefore considered that the exceptions test is met and passed in this particular instance. It is considered that policy CP67 is complied with and other material considerations outweigh the objection on flooding grounds.

### Impact on Chippenham Conservation Area.

The character of this part of the conservation area is as open land and the introduction of both building, together with other built form and a change in intensity of the use of the land will alter its character significantly. Notwithstanding this the surrounding areas are built up, including the former Hygrade Factory, which is now a significant development of retirement flats.

The Planning (Listed Buildings and Conservation Areas) Act 1990 provides powers for the designation, protection and enhancement of conservation areas and the preservation of listed buildings. The Act requires that special regard should be given to the desirability of preserving a listed building or its setting (s. 16 and 66) as well as giving special attention to preserving or enhancing the character or appearance of the conservation area (s.72).

Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by the proposal (including any development affecting the setting of a heritage asset). Paragraphs 195 and 196 require local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. Core Policy 57 requires, amongst other things, that new development must be sympathetic to and conserve historic buildings. Core Policy 58 requires that development should protect, conserve and where possible enhance the historic environment.

Whilst the open space provides for a significant greening effect to this part of the Conservation Area, the development would not entirely lose such attributes and much of the works to improve the area for recreation will enhance the area. It is considered that less than substantial harm will be caused to the character of the area and this is greatly outweighed by the benefit to the community that the provision of the skate park and climbing wall will deliver.

Whilst policy CP58 is not strictly complied with, other material considerations outlined in the NPPF paragraphs 195 and 196, outweigh this and fall in favour of the development.

#### Access and parking/Impact on highways

Access to the site is via Westmead Lane, which has seen significant development in recent years, with former factory buildings having been replaced by retirement flats, extra care housing and general housing to the east (Flowers Yard). At its southern end, Westmead Lane serves a Wessex Water depot, an enclosed yard where vehicles and equipment are stored. Westmead Lane terminates at entrance to the CBLC (Chippenham Borough Lands Charity) car park, which surrounds a pavilion and scout hut in community uses.

Westmead Car Park is owned by CBLC and managed by the Chippenham BID. A Cheaper Parking Initiative is operated from the site, to reduce the cost of parking for low income employees during working hours in Chippenham town centre. This arrangement will continue once the development is in operation. In total there are currently 79 spaces.

The transport Statement submitted with the application has been updated since the original submission to address the concerns of the Highways Officer, including addressing details of management of all car parking on the site; details of competition day parking; audit of vehicle, cycle and pedestrian routes; dedicated pedestrian provision on site; provision of trade waste collections and a travel plan statement.

Access to the car park is restricted by barrier, with disabled visitors accessing staff at the climbing centre facility by intercom.

The provisions of the proposal will mean that the 79 spaces will reduce to 62 to allow for the dedicated pedestrian route, although the plans need adjusting to further demonstrate that this is feasible.

On a daily basis the actual site will have 7 spaces for staff with a further 2 disabled spaces, which will only be accessible for staff of the centre. The Transport Statement (TS) does include the arrangements for competition days, which will be infrequent (once every 6 weeks in winter (4-5)) and 1 in the summer break. Such events may lead to 100 visitors which could demand approx. need for 35 parking spaces. The TS suggests that competitions would be arranged for when the car parking is least busy and parking would be wholly pre-booked. The Travel Plan would promote alternative means of getting to the site.

Additional cycle routes are shown on the site, which would need to be subject to planning condition to ensure that they are maintained or dedicated as public open space. 32 cycle "parking" spaces are to be provided. Parts of Westmead Lane to access the development are in a poor state, but the remedial works required are part of the retirement complex requirements.

Off-site parking would need to be in one of the town centre car parks on-street parking is very limited. The predicted peaks in car parking (as borne out by a comparable facility in Bristol) are evenings, when the majority of the town centre car parks are emptying. Whilst Saturdays are likely to be busy for both uses, it could lead to linked trips and the Highways Officer is content to accept this.

However, further information has been requested to clarify the swept path analysis for the existing car park to confirm that its informal layout does, in fact, work as stated.

The Council's Structural engineer has raised concerns about the potential increase in use of the river bridge to the west of the site. However, The TS states that current usage is very low with the development only predicted to lead to 9 movements an hour on foot and 2 by bicycle per hour. Any contribution cannot be justified at this stage.

#### Design and impact on visual residential amenity

Following additional information the Council's Urban Designer does not object to the proposal. The facility is undeniably large (with a maximum height of approx. 16.5m), but the design of the buildings has sought to break up the massing by having 2 units of differing heights and the tallest is not overly wide and is at the "back" of the development when viewed from houses to the east, which are themselves on land which is significantly higher. This together with the distance of approx. 80-90m between the buildings and the houses, means that they will be more readily assimilated into the view.

The outlook of these residential properties will inevitably change, but this must be weighed against the significant public benefit of providing a managed recreational facility for the young people of Chippenham and the wider area

The buildings will be constructed from a mixture of materials ranging from thermally treated timber cladding, to Kingspan Cladding and insulated roofing panels in colour to match the walls and some polycarbonate elevations. The final specification of materials to be used can be adequately controlled by way of planning condition.

## Ecology

The Council's Ecologist raises no concerns subject to planning conditions to secure a Construction Environmental Management Plan (CEMP) and details of bio diversity enhancement in line with the submitted ecology report, including details of management of the river corridor habitat

## Noise

Noise is an issue associated with outdoor recreation, particularly skate parks, from the sound of the wheels on the surface to the music frequently played and the shouting associated with such an activity. The application has been accompanied by a Noise Assessment which has been updated following initial comments by the Public Health Officer. The applicants' acoustic consultant has confirmed the remaining issues raised and the Public Protection officer is satisfied that noise will not be an issue that cannot be controlled by way of planning condition or that would justify refusal of planning permission.

It should be noted that with Avenue La Fleche running along the southwestern boundary, background noise is significant for much of the day. This combined with the shielding of the nearest dwellings in The Paddocks by the climbing wall building and the distance of over 100m to the nearest dwelling together with the facility being controlled to the hours of 08:00 to 20:00 for the use of the outdoor elements of the scheme ( ie the skate park and external climbing wall) means that the intrusion by noise will be kept to a minimum. The skate park area in particular, but also other areas are overlooked by the café, which will be staffed at all times that the facility remains open. This will mean that any activity likely cause a disturbance will be able to be supervised and managed.

It is not considered that the facility would generate a noise that would justify a refusal on planning grounds. The proposal is considered to comply with saved policy NE18 of The North Wiltshire Local Plan 2011.

## Lighting

The site lies on the edge on the suburban area and for the purposes of the overall lighting scheme is to be set at environmental zone E2, to take this and the ecological value of the site into consideration. This is accepted by Public Protection and is not raised as a concern by the ecology officer.

Any external lighting can be the subject of a suitably worded planning condition.

## Procedural Matters

The recommendation being made is contrary to the advice of the Environment Agency. In certain circumstances this would mean that the application would need to be referred to the Secretary of State for the Environment for determination. However, those circumstances are that the application for major development which, for the purposes of this application, is non-residential development with a new floorspace of 1,000sq or more, or a site of 1 hectare or more.

The agent has confirmed that all the built development 830sqm and even if the carpark and the area used for flood compensation is included, the area is 9800sqm.

If the officer recommendation is agreed, then no referral to the Secretary of State is required.

## **10. Conclusion**

Whilst the objection from the Environment Agency is acknowledged, material considerations in the form of the delivery of a long sought after facility for the town with a demonstrable public benefit and an ability to impose planning conditions which would minimise the risks identified by the Environment Agency to an acceptable level, are considered to outweigh those objections.

In all other respects and subject to the imposition of suitably worded planning conditions, the proposal is considered to comply with policies CP1, CP2, CP9, CP10, CP57 CP58, CP60, CP61, CP67 and CP68 of the Wiltshire Core Strategy as well as relevant paragraphs of the NPPF.

## **11. Recommendation**

**That Planning Permission be GRANTED subject to the following conditions:**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 3 All soft landscaping comprised in the approved details of landscaping ( shown on plan dwg. no. 493/PL/18 rev: A) shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning

Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

REASON: For the avoidance of doubt and in the interests of proper planning.

- 5 The use of the outdoor climbing wall and skate park hereby permitted shall only take place between the hours of 08:00 time in the morning and 20:00 in the evening on any day.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 6 No development shall until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

- 7 The development shall be carried out in complete accordance with the Arboricultural Method Statement and Tree Protection Plan received on 18th January 2019.

REASON: To protect the trees on site.

- 8 No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored, and no machinery shall be stored, within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

REASON: To ensure the safe retention of existing trees on and adjoining the site.

- 9 Prior to the commencement of the development hereby permitted, details of the biodiversity enhancement as set out in Section 5 of the ecology report, together with details of management of the river corridor, shall be submitted to and approved in writing by, the Local Planning Authority. The enhancements and management shall be carried out as set out in the approved documents.

REASON: To protect and enhance the biodiversity of the area.

- 10 No development shall commence on site until a detailed scheme for the flood risk amelioration and defences, as proposed in the FRA, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately defended against flood risk.

- 11 Prior to their construction and notwithstanding that shown on the approved plans, full and complete details of the outdoor play and recreation areas shall have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the permitted plans.

REASON: To define the permission.

- 12 Prior to the first use of the climbing facility or cafe hereby permitted, details of a robust flood evacuation procedure together with situations where it would be deployed and means of temporary closure of the facility, shall be submitted to and approved in writing by, the Local Planning Authority. The operation of the climbing facility and café shall be carried out at all times in complete accordance with the flood evacuation procedure agreed.

REASON: To protect users of the facility.

- 13 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

- a) An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
  - b) A description of management responsibilities;
  - c) A description of the construction programme;
  - d) Site working hours and a named person for residents to contact;
  - e) Detailed Site logistics arrangements;
  - f) Details regarding parking, deliveries, and storage;
  - g) Details regarding dust mitigation;
  - h) Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- and

- i) Communication procedures with the LPA and local community regarding key construction issues - newsletters, fliers etc.
- j) measures to protect the river corridor and protected species protection measures including In relation to nesting birds, during the clearance and construction phases.

There shall be no burning undertaken on site at any time.

REASON: To protect the local amenity from any adverse effects of noise, dust, smoke and odour.

- 14 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 15 No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

- 16 Noise from skate park activity (LAeq 60min) Shall not exceed the prevailing Background level (LA90) as measured at the boundary of the nearest sensitive dwelling.

REASON: Core policy 57, Ensuring high design and place shaping such that appropriate levels of amenity are achievable.

#### INFORMATIVE TO APPLICANT:

The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

#### INFORMATIVE TO APPLICANT:

Tree roots are normally located in the first 600mm of soil. Roots that are exposed should be immediately wrapped or covered to prevent desiccation and to protect them from rapid temperature changes. Any wrapping should be removed prior to backfilling, which should take place as soon as possible. Roots smaller than 25mm diameter can be pruned back making a clean cut with a sharp tool. Roots occurring in clumps or over 25mm should be severed only following consultation with a qualified arboriculturist, as such roots might be essential to the tree's health and stability. Prior to backfilling retained roots should be surrounded with topsoil or uncompacted sharp sand (builders sand should not be used because of its high salt content, which is toxic to tree roots).