DELEGATED REPORT

Application Reference:	PL/2023/08746
Application Type:	Removal / Variation of Conditions

Site Address:	The Arc, Land Adjoining Wessex Water, Westmead Lane, Chippenham, Wiltshire, SN15 3HZ
Proposal:	Variation of Condition 4 of 21/00472/VAR – to extend opening hours of the approved skatepark from 8pm to 10pm daily
Recommendation:	Planning Permission be GRANTED subject to Conditions

SITE

The site, which is comprised of the now completed skatepark and climbing wall, lies within walking distance of the town centre of Chippenham. It is bound by the River Avon to the west and to the immediate south and east by playing fields, beyond which to the east is the residential development of The Paddocks. To the north of the skatepark and climbing wall facility is the Wessex Water Treatment Works, beyond which is a retirement complex on Westmead Lane and residential development of Flowers Yard.

The site is located in the Chippenham Conservation Area and flood zone 3 but is not subject to any other relevant designations.

PROPOSAL

This application seeks to vary Condition no.4 on planning permission 21/00472/VAR which relates to the hours of opening of the skatepark facility. Condition 4 on 21/00472/VAR states:

> *4. 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.*

The proposal thus seeks to amend this to:

> *4. 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 22:00 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.*

POLICIES

Development Plan Policy

Wiltshire Core Strategy (2015)

CP10 The Spatial Strategy: Chippenham Community Area
CP38 Retail and Leisure
CP57 Ensuring High Quality Design and Place Shaping
CP58 Ensuring Conservation of the Historic Environment
CP60 Sustainable Transport

North Wiltshire Local Plan (Saved Policies)

NE18 Noise and Pollution

Material Policy Considerations

National Planning Policy Framework (2023)

Section 2 Achieving sustainable development
Section 6 Building a strong, competitive economy
Section 7 Ensuring the vitality of town centres
Section 8 Promoting healthy and safe communities
Section 12 Achieving well-designed places
Section 16 Conserving and enhancing the historic environment

Chippenham Neighbourhood Plan 2023 – 2036 (CNP)

The Chippenham Neighbourhood Plan (CNP) has passed through examination and the examiner has confirmed that it can proceed towards referendum, subject to modifications. Although the plan still awaits referendum and formal adoption ('making') by Wiltshire Council before it can become a statutory Development Plan Document, paragraph 48 of the NPPF allows weight to be attributed to it. The following emerging policies are relevant to the proposal:

- Policy TC4 – Development within the Chippenham Conservation Area

ISSUES

The principal considerations in the determination of an application would be related to the acceptability in principle of the proposal, and the material considerations of:

- principle of development
- amenity impacts
- highways, access and parking

PLANNING HISTORY

The site has been subject to the following recent planning history (more historic planning history is set out in Officer Report for 18/11596/FUL):

- **PL/2021/10915 –** 2no. backlit illuminated signs to be displayed on the premises for the purpose of advertising that a company is carrying out a (recreational) business at those premises.– Approved – 03/02/2022

    - **PL/2022/02558** – Discharge of Condition 7 (Outdoor play/recreation areas) of planning application 21/00472/VAR (Variation of Condition 4 of 18/11596/FUL Relating to Approved Plans)
    - **PL/2021/10706** – Discharge of condition 8 of 21/00472/VAR
- **21/00472/VAR** – Variation of Condition 4 of 18/11596/FUL Relating to Approved Plans – Approved – 18/03/2021
- **20/01280/VAR** – Variation of condition 4 of planning permission 18/11596/FUL (Climbing centre and Skate Park with associated landscaping and development of the Westmead recreation ground and open space) to allow for revised locations of the climbing centre and skate park – Approved – 23/04/2020
    - **19/12105/DOC** – Discharge of conditions 6, 9, 10, 14, 15, 16, 17, 18, 19, application reference 18/11596/FUL.
- **18/11596/FUL** – Climbing centre and Skate Park with associated landscaping and development of the Westmead recreation ground and open space – Approved – 19/08/2019

CONSULTATIONS

Chippenham Town Council – No objection, comment as follows:

> *"The Town Council understand from the submission that there is no existing or proposed external lighting connected to the external skate park, and therefore the extended opening hours for this element would only, in effect, operate during the summer months. This is deemed to be acceptable providing there is some oversight of the area by the venue operators to ensure that any evening noise and anti-social behaviour is minimised. It is hoped that the issue raised by a local resident about lights being left on all night at the building/EV chargers can be resolved separately by the Applicant.*

Public Protection Officer – No objection, following receipt of further information, initial and further comments were as follows:

> ***Initial comments***
> *I have reviewed the noise report dated February 2019 and have the following observations to make.*
>
> *Page 20 of the noise report refers to the monitoring location being shown in figure 3. However figure 3 shows predicted stake park noise emissions. Please can the applicant confirm where the monitoring location is?*
>
> *The report uses WHO 1999 and BS8233:2014 as standards to assess skate park noise for this application and states that " the predicted noise levels are below the proposed criterion of 50dB LAeq (1 hour)". However, both these standards state that they should only be used to assess steady external noise sources such as road traffic and as such do not adequately represent noise impact from stake boarding and people noise which is impulsive and distinguishable by its nature. The use of these standards to assess noise from skate parks is therefore inappropriate.*

I question the noise data provided in section 5 of the noise report which uses noise data from an existing stake park in Somerton, Somerset with a measured noise level of 68 dB LAeq feee-field. Please can the applicant confirm over what time period this is measured? In any case, based on my experience of concreate skate park noise in Wiltshire, I would suggest a more appropriate noise level to model would be 82 dB LAeq 1 minute.

As such, I will require the applicant to revise their predicted noise calculation based on a source noise level of 82 dBA at 5 metres calculated over a one minute period and ask for the following in addition:
1) Background noise levels between 8pm and 10pm. This will enable impact for a sensitive evening period to be fully assessed.
2) Predicted LAmax levels created by landing skate boarding jumps and tricks both at source and at the nearest noise sensitive receptors."

Further comments
"I have reviewed this application again following the submission of the revised noise assessment dated 07/02/24. The noise assessment does a better job of representing the noise levels expected from a stake park and the relationship with the extension of hours from 8pm to 10pm. The noise report confirms that worse case background levels will be above the specific sound of the stake park even up to 10pm. As such the noise levels are unlikely to cause an adverse impact on nearby residential occupiers and I have no further comments to make."

REPRESENTATIONS

2no. representations were received with regard to this application, both in objection raising the following points:

- Concerns regarding current running of the site (flashing lights on until the early hours)
- The approved use is expanding: extended hours / licensing / private bookings
- Original permission was based on a closure time of 8pm
- Noise when skaters leave the area is an issue

ASSESSMENT

Principle of development

The principle of development has been established through the granting of planning permission 18//FUL. This being a Section73 application seeking to varying a Condition attached to that previous planning permission, it does not raise matters of principle.

Amenity impacts

Core Policy 57 requires that proposals have due regard to the compatibility of adjoining buildings and uses, as well as any impacts on the amenities of occupants. Similarly, Section 12 of the NPPF states that planning policies and decisions should: *"… f) create places that are safe,*

inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience" (paragraph 135).

Set in this policy context (and mindful of third-party representations), the Public Protection Officer raised a number of queries regarding the originally submitted Noise Assessment. Following those, the Applicant submitted an updated Noise Assessment which provided further technical detail and clarification. In response to this revised Noise Assessment the Public Protection Officer confirmed that they were satisfied that: *"… the noise levels are unlikely to cause an adverse impact on nearby residential occupiers,"* and raised no objection accordingly.

It is noted that Condition no.9 on the previous planning permission provides a maximum noise threshold from skate park activity, and that Condition remains in force (as Condition 7). Clearly, the Council needs to balance the needs and requirements of operators of these types of community facilities with the impact such facilities can have on immediate neighbours, whose concerns are noted. The facility is located in a central area and, whilst the planning regime cannot control general noise and disturbance, i.e. from outside of the site (as per some of the neighbour representations, which are acknowledged), the later closing time does provide the ability for that noise to not 'spill-out' during these hours.

The Applicant has been made aware of the comments made by local residents with regard to the amenity impacts and has offered a willingness to engage with any interested neighbours to establish and agree the best way to minimise any potential impacts through, for example, signage relating to request for respect for neighbours when patrons depart the site; this is noted as an informative below.

In terms of the lighting impacts, Condition 14 on planning permission 18/11596/FUL relates to the requirement for lighting details to be submitted and those details have since been submitted and approved under application 19/12105/DOC. That Condition remains in force (through Condition no. 2) and any non-compliance with these details can be pursued through the enforcement process.

On this basis, coupled with the lack of any maintained objection from the Public Protection Officer, it is considered that, on balance, the extended hours would not lead to any specific policy conflict with Core Policy 57 or Section 12 of the NPPF.

Highways, access and parking

The varying of Condition no.4 relating to the hours of use of the facility is not considered to give rise to any further specific highway safety and / or parking considerations.

CONCLUSION

The application proposal does not give rise to any issues of principle based on the previous planning permission, and related subsequent Section 73 applications. The potential amenity impacts have been given full and due consideration and, following receipt of further technical

information the Public Protection Officer has confirmed no objection. The additional opening hours are thus not considered to give rise to any additional amenity, or other, impacts which would warrant refusal of the application against Core Policy 57 and the application is recommended for approval accordingly.

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

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

   Site context plan 493/PL/7B; proposed activity zone site plan 493/PL/6B; location plan 493/PL/4A; proposed site context plan 493/PL/35B; landscaping plan 493/PL/18B; skate park drainage plan 493/PL/11B received 11th March 2020 (under reference 20/01280/VAR)
   together with :-
   237-S501 Civil Detail.pdf
   237-P702 Visual.pdf
   237-P701 Visual.pdf
   Bike shelter plans
   Bins store plans
   Example BBQ plans
   Ground Floor Plan 493/PL/8
   1st Floor Plan 493/PL/9
   237-P401 Proposed Site Plan.pdf
   237-S501 Civil Detail.pdf
   237-P702 Visual.pdf
   237-P701 Visual.pdf
   Ground Floor Plan 493/PL/8
   1st Floor Plan 493/PL/9
   Site in Context Plan 493/PL/35 received 23/07/2019
   (all submitted 30/11/2018 under 18/11596/FUL)
   493-CO-104 Hard Landscaping - Site Plan
   493-CO-110b Ground floor plan S
   493-CO-111c Ground Floor N
   493-CO-112a First Floor Plan S
   493-CO-113a First Floor Plan N
   493-CO-115a Roof plan N
   493-CO-116a Roof Plan S
   493-CO-130b West and North Elevations S
   493-CO-131c East and South Elevations N
   493-CO-132a West Elevation N
   493-CO-133b North Elevation N
   493-CO-134b East Elevation N
   493-CO-135c South Elevation N
   received 15th January 2021

Reports :
Acoustic -
Updated report - 30/05/19 Ref - 7412 Westmead Climb and Skate Park RevD.pdf; and
Environmental Noise Assessment: Proposed extension of hours - 10700/DO dated 07/02/24

Transport -
Updated statement and travel plan submitted 17/06/19 - Ref - Wmd Hub TS v3-3A

Drainage -
FRA - 08/02/19 - Ref 657-RO1-2 Westmead
Sustainable drainage - 06/02/19 -657-D03-B Sustainable Drainage StrategyA1.pdf
Updated Sequential Test - 20/02/19
Update Exception test issued 13/03/2019 - 657-R02-1 Westmead Hub Phase 1 Exception Test[1].pdf

Soil Investigation - (PART 1 - 5) - 30/11/19
Site Waste Audit - 30/11/19
Landscape and visual impact assessment - 30/11/18
Statement of Community Involvement - 30/11/18
Design and Access Rev B - 20/02/19
Arb Statement - 18/01/19
Westmead Playing Fields Assessment PART 1&2.pdf
J765 Westmead Playing Fields mag survey report.pdf
J765 Westmead Playing Fields geophysics WSI.pdf
Archaeological statement - Mike Stone.pdf
EEL120R171222SP Westmead Hub Extended Phase 1 Survey Report CIC v1.0.pdf
EEL120 - Areas to avoid for bats.pdf
(As approved under 18/11596/FUL)

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

2. The development shall be carried out in accordance with the details approved for conditions 2, 6, 9, 10, 14, 15, 16, 17, 18 & 19 of 18/11596/FUL under application 19/12105/DOC; condition 7 of 21/00472/VAR under application PL/2022/02558 and condition 8 of 21/00472/VAR under application PL/2021/10706.

   REASON: To define the permission.

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 use of the outdoor climbing wall and skate park hereby permitted shall only take place between the hours of 08:00 in the morning and 22:00 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.

5. The development shall be carried out in complete accordance with the Arboricultural Method Statement and Tree Protection Plan received on 18th January 2019. Any changes necessary as a result of addressing the requirements of condition 10 on 18/11596/FUL shall have been submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of the development hereby granted planning permission.

   REASON: To protect the trees on site, including those trees adjacent to the proposed area of flood water compensation.

6. 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.

7. 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.

INFORMATIVES

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.

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 un-compacted sharp sand (builders sand should not be used because of its high salt content, which is toxic to tree roots).

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

Due to the facilities and activities being brought to the town by the development, it is requested that the developer and/or operator engage with the Chippenham Town Council so as to ensure the development presents and maintains the greatest potential enhancement to the town and its community whilst minimising the potential for unsociable behaviour to occur at the site.

The Applicant is strongly encouraged to undertake dialogue with interested neighbours and local residents to ensure that any unsociable behaviour which is within the operators control is minimised and effectively managed both on, and as far as is practicably possible, off site.